

Tuesday – October 3, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

Mayor Manheimer asked for a moment of silence for the families and friends of victims from the Las Vegas shooting and for all the people who struggle through every day.

**A. PROCLAMATION PROCLAIMING OCTOBER 5, 2017, AS "ENERGY EFFICIENCY DAY" IN THE CITY OF ASHEVILLE**

Councilwoman Mayfield read the proclamation proclaiming October 5, 2017, as "Energy Efficiency Day " in the City of Asheville. She presented the proclamation to Sustainability Officer Amber Weaver, who updated Council on some activities taking place during the day.

**B. PROCLAMATION PROCLAIMING OCTOBER 7, 2017, AS "WOMANSONG DAY" IN THE CITY OF ASHEVILLE**

Vice-Mayor Wisler read the proclamation proclaiming October 7, 2017, as "Womansong" in the City of Asheville. She presented the proclamation to Assistant Director Althea Gonzalez and Debbie Blackman, Wise Woman on the Ruling Council, and others, who sang about how social change can happen through music.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 12, 2017**

**B. RESOLUTION NO. 17-220 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PARTICIPATE IN DUKE ENERGY PROGRESS' SMALL BUSINESS ENERGY SAVER PROGRAM AND TO ENTER INTO SOLE SOURCE PROVIDER CONTRACT WITH LIME ENERGY FOR THE PURCHASE AND INSTALLATION OF ENERGY EFFICIENT LIGHTING IN FIRE STATION #2 AND FIRE STATION #7/NORTH ASHEVILLE COMMUNITY CENTER**

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 Fire Station #2 and Fire Station #7/North Asheville Community Center.

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.

Fire Station #2 and Fire Station #7/N. Asheville Recreation Center provide an opportunity to utilize the SBES program while yielding a combined estimate of \$2,945.06 in annual energy savings. In terms of carbon reductions, the project will yield 21.3 MTCO<sub>2e</sub> towards our 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 significant up front capital funding from Duke Energy Progress. The total cost to the City for Fire Station #2 would be \$7,525.74; however, utilizing Duke Energy Progress' utility incentive program, the project offsets the cost by 36%. The total cost of the project, to the City, is \$4,780.80. The total cost to the Fire Station #7/N. Asheville Recreation Center would be \$12,435.50; however, utilizing Duke Energy Progress' utility incentive program, the project offsets the cost by 32%. The total cost of the project, to the City, is \$8,511.36. These costs include parts, labor and project management. Funding for these projects will come from the Green Revolving Fund in the amount of \$13,292.16.

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. 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."

Pros:

- Supports Resolution 11-77, reducing the City's municipal carbon footprint
- Leverages a DEP incentive which contributes to \$6,669.08 of the total project cost

Con:

- None Identified

As noted above the total cost of both projects is \$8,511.36, with funding utilized from the Green Program budget. Once complete, the upgrade will produce a combined estimated of \$2,945.06 savings on energy per year.

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.

#### **RESOLUTION BOOK NO. 39 - PAGE 141**

#### **C. RESOLUTION NO. 17-221 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A CONTINUUM OF CARE CONSOLIDATED GRANT APPLICATION AND, IF AWARDED, TO SIGN ALL NECESSARY DOCUMENTS WITH THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT TO ACCEPT THE FUNDS SUBSEQUENTLY AWARDED**

Summary: The consideration of a resolution authorizing the submission of the Fiscal Year (FY) 2017 Continuum of Care Consolidated Grant Application and authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the funds subsequently awarded.

Approval for submitting the FY 2017 Department of Housing and Urban Development Continuum of Care (CoC) Consolidated Grant Application for the annual CoC Competition on behalf of NC 501 Asheville-Buncombe Continuum of Care (CoC), accepting any funds subsequently awarded and authorizing the City Manager to sign awarded HUD contracts. The City of Asheville serves as the Continuum of Care (CoC) Lead for the Asheville-Buncombe CoC (NC 501). Each CoC Lead is responsible for submitting the community's consolidated application for project funding during the CoC Competition. For FY 2017-18, the Asheville-Buncombe CoC is eligible to apply for \$1,170,932 in renewal funding. The renewal projects currently assist in housing more than 141 formerly homeless individuals with case management support. HUD CoC funding also provides the financial support necessary to operate the Homeless Management Information System (HMIS) in NC 501. An additional bonus of \$70,256 is available to expand a Permanent Supportive Housing project and \$35,128 is available for a CoC Planning Grant. The Planning Grant assists the Community and Economic Development Department in staff costs for CoC responsibilities related to homelessness.

The Homeless Initiative Advisory Committee (HIAC) appoints annually an ad-hoc Finance Subcommittee, comprised of individuals and agencies who did not apply for CoC funds, to review, score and rank the Continuum of Care project applications and make funding recommendations to the HIAC with an order of project priority. The Finance Sub-Committee's funding and ranking recommendations were approved unanimously by the HIAC. The HIAC recommended the following projects and order of priority to the Housing and Community Development Committee for the 2017 CoC Consolidated Grant Application.

<b>Tier 1</b>	<b>GIW/ Funding</b>	<b>Project Type</b>	<b>Rank</b>
Shelter Plus Care Asheville-Buncombe: Homeward Bound of WNC	\$ 315,742	Permanent Supportive Housing	1
Permanent Supportive Housing Extreme Needs: Homeward Bound of WNC	\$ 218,798	Permanent Supportive Housing	2
Homeless Management Information System: City of Asheville	\$ 67,500	HMIS	3
Permanent Supportive Housing Extreme Needs 2: Homeward Bound of WNC	\$ 56,244	Permanent Supportive Housing	4
Permanent Supportive Housing Extreme Needs 3: Homeward Bound of WNC	\$73,311	Permanent Supportive Housing	5
Permanent Supportive Housing Extreme Needs 5: Homeward Bound of WNC	\$ 152,197	Permanent Supportive Housing	6
Bridge to Recovery: Homeward Bound of WNC (Straddle between Tier I and Tier II)	\$ 216,884	Permanent Supportive Housing	7

<b>Tier 2</b>	<b>GIW/Funding</b>	<b>Type</b>	
Bridge to Recovery: Homeward Bound of WNC	\$ 70,135	Permanent Supportive Housing	
New Project: Expansion for Shelter Plus Care (Bonus) Homeward Bound of WNC	\$ 70,256	Bonus Project	8

<b>No rank required</b>	<b>Funding</b>	<b>Type</b>	

CoC Planning Project: City of Asheville	\$ 35,128	Planning Grant	n/a
---	-----------	----------------	-----

NC-501 Annual Renewal Demand (ARD) is determined by HUD: \$1,170,932

Project Applications must be ranked as part of the Consolidated Grant Application into Tier I or Tier II. The Tier percentages are pre-determined by HUD annually and a project may straddle between two Tiers to maximize an award of total funding:

- Tier I: is 94% of NC-501's ARD (\$1,100,676)
- Tier II: is the difference between Tier I and NC-501's ARD (\$70,135) plus the amount available for the CoCs permanent housing bonus (6% of NC 501's ARD = \$70,256)
- CoC Planning Project (\$35,128) – No rank required for Priority Listing
- Total of all grants for FY 2017 if awarded: \$1,276,195

The Permanent Supportive Housing, the expansion bonus project, HMIS, and the CoC Planning grants, all support or subsidize quality affordable housing and align with the 2036 Council Vision on ending chronic homelessness and supporting an effective network of community service providers in the CoC. This recommendation also complies with the goals of the Five Year Strategic Plan on Homelessness in Buncombe County. The Housing and Community Development Committee recommended the approval of the order of project priority and submission of the FY 2017 Consolidated Grant Application; the adoption of a resolution approving the submission of the FY 2017 Continuum of Care Consolidated Grant Application and authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the funds subsequently awarded.

Pro:

- Continuum of Care funding is a key funding resource for permanent supportive housing for homeless individuals and families, as well as operating the Homeless Management Information System, which is necessary for NC 501 to receive this vital funding.

Con:

- Program funding does not meet the full demand for the housing subsidy needed to assist all the low-income homeless households in the community that need secure permanent housing.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development division staff will administer the program. Matching funds for the CoC Planning Grant will come from Buncombe County. No general funds are requested to support this program.

Staff recommends City Council adopt a resolution authorizing the submission of the FY 2017 Continuum of Care Consolidated Grant Application and authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the funds subsequently awarded.

**RESOLUTION BOOK NO. 39 - PAGE 142**

**D. ORDINANCE NO. 4615 - FIRST READING OF ORDINANCE GRANTING A FRANCHISE AGREEMENT TO HERE TO THERE ADVENTURES FOR THE OPERATION OF A PEDAL BICYCLE TAXI SERVICE WITHIN THE CITY OF ASHEVILLE**

Summary: The consideration of an ordinance granting a second franchise agreement for the operation of a pedal bicycle taxi service within the City of Asheville.

Asheville Bike Taxi, LLC has been operating a pedal bicycle service in downtown Asheville since November 2012 and there have been no reported traffic-related safety issues with the service. Asheville Bike Taxi, LLC has recently changed ownership and staff is currently working with the new owner to finalize the paperwork.

Staff has been working with an individual that is interested in starting another pedal bicycle taxi service within the City of Asheville under the business name of Here To There Adventures, LLC that would operate in the same service area as Asheville Bike Taxi, LLC. That service area includes the Central Business District, the River Arts District, and the Historic Montford District. In addition, it would be allowed to use SR 3548 (Clingman Avenue) from Clingman Avenue Extension to Hilliard Avenue in order to gain access to the River Arts District. The North Carolina Department of Transportation has confirmed that the subject service can use state-maintained streets except for fully-controlled access streets like the interstate system.

The service is prohibited from operating on public streets that have a speed limit of 35 mph or higher. The one exception is the section of Clingman Avenue that provides access to the River Arts District. This section of street has a bicycle climbing lane and the pedal bicycle taxis are required to use it.

The hours of operation would be Monday through Thursday 4:00 pm until 12:00 am with three vehicles operating, Friday 4:00 pm until 3:00 am with three vehicles operating, Saturday 12:00 pm until 3:00 am with one vehicle operating between 12:00 pm and 4:00 pm and three vehicles operating between 4:00 pm and 3:00 am, and Sunday 12:00 pm until 12:00 am with three vehicles operating.

A total of three vehicles will be available; two 2-seaters and one 4-seater and the business will employ five individuals.

The business owner understands and acknowledges that third-party advertising is not allowed on the outside of the vehicles.

This item was reviewed by the Public Safety Committee on August 28, 2017 and they unanimously recommended that it move forward to City Council for review and approval.

Franchise agreements require two readings at City Council meetings with the first one scheduled for October 3, 2017 and the second one scheduled for October 24, 2017.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of \$365 per year.

Con:

- Could impact vehicular traffic flow.

The City of Asheville receives franchise agreement fees in the amount of \$365 per year.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Here To There Adventures, LLC for the operation of a pedal bicycle taxi service within the City of Asheville.

**ORDINANCE BOOK NO. 31 - PAGE 332**

**E. ORDINANCE NO. 4616 - BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION FOR THE SECTION 5310 PROJECTS**

Summary: The consideration of a budget amendment, in the amount of \$324,507, across the Transit Operating and the Transit Project Funds, from the Federal Transit Administration, to set up the project budgets for the Enhanced Mobility of Seniors and Individuals with Disabilities Federal grant, Section 5310.

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

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

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

The plan was approved on March 29, 2012 by the French Broad River MPO's governing body (the Board), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the region's priorities and identifies needs; the projects were selected on January 26<sup>th</sup>, 2017 through a competitive process led by the MPO.

City Council adopted Resolution No. 17-58 on March 28<sup>th</sup>, 2017 authorizing the City Manager apply to the French Broad River Metropolitan Planning Organization for Section 5310 Funds, and if awarded, to sign all the appropriate agreements.

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

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Land of Sky -	Senior Companions Program	\$23,706	\$23,706
Henderson County	Vocational Solutions	\$22,500	\$22,500
Buncombe County	Supplemental Elderly and	\$90,000	\$22,500

	Disabled Assistance		
City of Asheville	ADA paratransit	\$90,000	\$22,500
Buncombe County	RIDE Program	\$65,850	\$65,850
City of Asheville	Program Administration	\$32,451	N/A

Description of Projects:

Land of Sky (Senior Companions Program) - Provides companionship services to senior adults who are homebound and need additional assistance to stay independent in their homes for as long as possible.

Henderson County (Vocational Solutions) - Provides career and life skills training for adults with disabilities.

Buncombe County (Supplemental Elderly and Disabled Assistance) - Medical, shopping, and other trips for demand-response general public passengers who are disabled.

City of Asheville (ADA Paratransit) - Supports public transportation to meet specific needs for seniors and individuals with disabilities and ADA Paratransit services from Mountain Mobility.

Buncombe County (RIDE Program) - A curb-to-curb, subsidized transportation program that allows eligible participants to purchase private transportation services at a significant discount.

City of Asheville (Program Administration) - The funds will be used to administer the projects funded by this program and ensure compliance.

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

As the Designated Recipient, the City will be responsible for the Program Management to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As Designated Recipient the City will use \$32,451 for administration purposes, which will cover the program management expenses for approximately one year.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The City is provided \$32,451 for administration purposes, which does not require a local match.

Con:

- The grant totals \$481,563, of which \$324,507 are federal funds and \$157,056 are the sub-recipient's matches.

The budget amendment, which reflects the Federal Funds totals \$324,507 in the Transit Operating and Transit Project Funds. \$32,451 will be reimbursed to the city for administrative costs. Asheville's local match for the provision of ADA paratransit services totals \$22,500 and is already included in the existing FY 2017-18 Transit Operating Fund budget.

Staff recommends that City Council adopt a budget amendment in the amount of \$324,507 from Federal Funds to budget for program cost for the 5310 projects funded.

**ORDINANCE BOOK NO. 31 - PAGE 337**

**F. RESOLUTION NO. 17-222 - RESOLUTION ACCEPTING SHELburnE DRIVE AND SHELburnE WOODS DRIVE AS CITY STREETS**

Summary: The consideration of a resolution to accept Shelburne Drive and Shelburne Woods Drive as City streets.

Shelburne Woods Development, LLC has developed a 9-unit single-family residential community off of Shelburne Drive in West Asheville that will be served by a newly constructed street known as Shelburne Woods Drive. In order to gain access to the nearest public street, which is SR 3412 (Sand Hill Road), Shelburne Drive, an existing privately-maintained street, had to be upgraded to current City standards.

Shelburne Drive from SR 3412 (Sand Hill Road) to Shelburne Woods Drive is a developer-constructed street that has an average width of 20 feet with 24-inch curb and gutter on the north side of the street, grass shoulder on the south side of the street, a length of 0.09 mile, and a right-of-way width of 25 feet (The right-of-way at the end of Shelburne Drive as it connects with Shelburne Woods Drive is 40 feet as shown in plat book 164 page 174).

Shelburne Woods Drive from Shelburne Drive to its dead-end (on both sides of Shelburne Drive) is a developer-constructed street that has an average width of 20 feet with grass shoulders, a length of 0.05 mile, and a variable right-of-way width of 35 to 37.5 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the streets.
- The streets provide access to residential properties.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the streets.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Shelburne Drive and Shelburne Woods Drive as City streets.

**RESOLUTION BOOK NO. 39 - PAGE 143**

**G. RESOLUTION NO. 17-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FITCH AND ASSOCIATES TO**



## **PROVIDE MASTER PLANNING SERVICES FOR THE ASHEVILLE FIRE DEPARTMENT**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Fitch and Associates, in the amount of \$44,995, to provide master planning services for the Asheville Fire Department.

On April 21, 2017, the City issued a request for proposal (RFP) seeking a qualified consultant to develop a master plan for the Asheville Fire Department. Two firms, Fitch and Associates and Brooks Innovative Solutions, responded to the request. Representatives from the Fire Department reviewed the proposals and felt that both firms were qualified and should be interviewed. An RFP review committee was assembled utilizing internal and external resources to conduct interviews.

The group conducted phone interviews of both firms and scored their responses on a number of criteria including: demonstrated ability to perform the work, examples of data analysis and presentation, completeness of the proposal, and cost. Additionally reference checks were completed to confirm the information gathered from the proposals and the interviews.

After the interviews and reference checks, Fitch and Associates is being recommended to complete the Fire master plan work. Fitch and Associates scored the highest and although price was only one criteria for selection, they presented the lowest price proposal at \$44,995.

Fitch and Associates will perform master planning services which include a review of community characteristics, current services, and community expectations for service. They will complete and validate a risk assessment for the service area and measure the systems historical performance. They will also perform an analysis of the financial sustainability of the department. All of this will be completed using a comprehensive public engagement process.

The International Association of Fire Fighters (IAFF) has reached out to the City to offer the services of master plan development at no cost. This is a service that they provide to their member agencies. While the IAFF has been performing master planning in other communities and is trusted to produce good reports, the City has decided to pursue the completion of this work through a contract with Fitch and Associates. Working with Fitch provides a third party validation of past planning and will present a product that limits suspicion of bias that may be associated with working closely with groups that have a past affiliation with AFD.

This recommendation will be reviewed by the Finance Committee at the October 3, 2017, meeting and if there is anything other than unanimous support, it will be brought up at the Council meeting.

### Pros:

- Allows the City to get a third party analysis of its Fire resources and operations.
- Evaluation of the inventory of stations and staffing to ensure that efficient and complete coverage is available.

### Con:

- Expenditure on this analysis will impact the City funding availability for other expenditures.

Funding for this contract is included in the adopted general fund budget.

City staff recommends City Council authorize the City Manager to execute a contract with Fitch and Associates in the amount of \$44,995 to provide master planning services for the Asheville Fire Department.

**RESOLUTION BOOK NO. 39 - PAGE 145**

**H. RESOLUTION NO. 17-224 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE FOR THE SALE OF 10.37 ACRES OF REAL PROPERTY LOCATED AT 550 NEW AIRPORT ROAD TO AVL HOLDINGS, LLC; AND IF NO OTHER BIDS ARE RECEIVED OR ACCEPTED, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONVEY REAL PROPERTY SUBJECT TO AN EXISTING GROUND LEASE**

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 10.37 acres of real property located at 550 New Airport Road to AVL Holdings, LLC; and if no other bids are received or accepted, authorizing the City Manager to execute any and all documents necessary to convey real property subject to an existing ground lease.

The City of Asheville owns 10.37 acres of property located at 550 New Airport Road. In 1980, the City entered into a 60 year ground lease for the property to be developed as a hotel. The property was improved with a 152 room facility containing approximately 32,217 square feet and opened in 1983 as a Holiday Inn. The existing lease has been assigned to different entities since its inception and the current tenant, Fletcher Hospitality, Inc. came into place in 2013 to operate the hotel as a Clarion Inn. The lease is structured as a gross sales lease and the City receives a 4.5% percent of gross receipts per year in ground rent. In fiscal year 2016-2017, the City received an annual sum of \$161,250 to the City's General Fund.

The lease commenced once the original hotel improvements were completed and currently, the lease term has 26 years remaining within the total 60 year lease period. With the current configuration and age of the hotel improvements, it is evident that the property is not fully developed to its maximum capacity. The ground lease allows for further development of undeveloped site area; however, in conversations with the current tenant, the existing term and structure of the lease are prohibitive for development of the outparcels. The tenant cites concerns with being able to achieve financing for the type of dense improvements that the site could support and the inability to use ownership of the underlying land as collateral. The property was formerly part of the airport property and as such is subject to certain FAA requirements regarding development, of which the tenant is aware.

The tenant has come forward with the desire to purchase the site in fee simple under a different entity name-AVL Holdings, LLC. The City procured an appraisal of the site that included specific assumptions, as follows: (1) the hotel improvements are wholly owned by the tenant and therefore the appraisal is of the value of the land only and (2) the appraisal assumes that the land is unencumbered by the existing ground lease. The appraisal established a fair market value of the free and clear land as \$7,164,000 and AVL Holdings, LLC has come forward with a bid to purchase the land at that price point.

If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of \$7,164,000. The statutes require that a qualifying bid must increase the current offer by 10% of the first \$1,000 and 5% of the remainder (i.e., \$7,522,250 or higher). The property is to be sold subject to the existing lease. If the current bidder succeeds within the upset bid

process, they will have the ability to terminate the lease, which will be assigned by the City as part of the purchase transaction, and redevelop the property to its highest and best use if they choose to do so.

Pros:

- Sale of the real estate asset allows for a one-time receipt of revenue in the amount of \$7,164,000.
- The purchase price is at fair market value.

Con:

- If the property is sold, annual rental funds will cease and operating budget will need to be reduced by \$160,000.

Should the upset bid conclude and the sale go through, the City will receive \$7,164,000 in proceeds. This revenue is currently unbudgeted and further policy direction will be requested at the appropriate time to determine the allocation of those funds. Also as noted above, the City's General Fund would see a reduction of approximately \$160,000 in annual revenue.

Staff recommends directing the City Clerk to advertise for upset bids for a property located at 550 New Airport Road, subject to an existing ground lease; and if no other bids are received or accepted, authorizing the City Manager to execute any and all documents necessary to convey real property.

#### **RESOLUTION BOOK NO. 39 - PAGE 146**

#### **I. RESOLUTION NO. 17-225 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR EXTENSION WITH RIVERTOP CONTRACTING INC. FOR THE DOWNTOWN CLEANING PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a one year extension in the amount of \$250,026 plus a contingency of 15% (\$37,504) with Rivertop Contracting Inc. for the contract known as Downtown Cleaning, and further authorizing the execution of any change orders to said contract which may arise during execution of said contract up to the budgeted amount of \$300,000.

Rivertop Contracting started working the current extension on October 1, 2016, and will exhaust the funding by October 31 2017. The proposed extension will take effect at that time and will continue until the current funding is exhausted.

The City may elect to renew the contract for one additional one year period. Renewal shall be subject to approval by City Council.

Pros:

- Will result in the most heavily used areas of the CBD being pressure washed completely 4 times in the life of the contract and the lesser used areas being pressure washed completely 2 times in the life of the extension.
- Will result in undesirable vegetation being removed from City sidewalks, curblines and tree grates

Con:

- Contract management and contract administration will consume staff time.

\$300,000 was budgeted for Downtown Cleaning in the general fund. This amount was approved by City Council and included in the Fiscal Year 2017-2018 budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a one year extension of the current Downtown Cleaning contract in the amount of \$250,026 plus a contingency of 15% (\$37,504) with Rivertop Contracting, Inc. for the contract known as Downtown Cleaning and further authorizing the execution of any change orders to said contract which may arise during execution of said contract up to the budgeted amount of \$300,000.

**RESOLUTION BOOK NO. 39 - PAGE 147**

**J. RESOLUTION NO. 17-226 - RESOLUTION APPROVING A FEE GRANT PROGRAM FOR AFFORDABLE HOUSING DEVELOPMENT IN THE CITY OF ASHEVILLE**

Summary: The consideration of a resolution authorizing the City Manager to accept the revised Fee Grant Program for Affordable Housing.

This staff report summarizes recommendations for revised Affordable Housing fee grant program including both federal HOME for-sale price limits with gap subsidy, and a lower for-sale price limit to encourage other housing homeownership models with limited or no gap subsidy. The Affordable Housing fee rebate program was implemented by the City to support a long-standing City goal to create and preserve Affordable Housing in the City. The fee rebate program was suspended in June 2017 by the Housing and Community Development Committee (HCD) due to lack of use as well as the need for City staff to explore alternative ways of funding this incentive. Since then, the Affordable Housing Advisory Committee (AHAC) has explored the HOME for-sale price limits and has suggested incorporating these price limits in a revised program. This policy proposal incorporates those for-sale price limits as well as those that encourage additional housing-types for home ownership.

The HCD reviewed this proposal at its September 19, 2017, meeting and recommends City Council approve the Fee Grant Program for Affordable Housing. Additionally, the AHAC and staff will continue to explore ways to increase capacity for incentivizing affordable homeownership.

Proposed Fee Grant Program:

1. Program Requirements: The City of Asheville's fee grant program provides a flat rate grant for City services including building permits, water connection and sewer facility fees associated with the construction or preservation of new affordable housing. In order to qualify for the program, the following criteria must be met:

a. Participation: Available to developers who currently participate in a federal, state, or local affordable housing program and for-profit developers, sole-proprietors, 501c3's not participating in a local or federal affordable housing program with a minimum fifteen (15) year affordability period mechanism in place.

b. Grant Amount: Over the last five years, there have been 116 for-sale rebates for a City average of \$1,075 per unit and 261 rental rebates with a City average of \$640 per unit. Based on these figures, staff proposes the following flat grants for the fee grant program:

	Rental (per unit)	For-Sale (per unit)
<b>100% AMI</b>	-	\$2,000
<b>80% AMI</b>	\$1,000	\$2,500
<b>60%AMI</b>	\$2,000	\$3,000

c. Affordability Period: The unit(s) must have an affordability period based on the following criteria:

Housing Type	Affordability Period
Rental	25 Years
For-Sale	15 Years*

*\*City preference for for-sale properties is that affordability periods are held in perpetuity, and will take unique lending structures whose intent is perpetuity, into consideration.*

d. For Sale Price: The eligibility for for-sale units shall be based on the sales price of the unit with evidence of a closing statement and verified income eligibility of the buyer by City underwriting process. Household must have annual income of 100% AMI or less with household expenses no more than 30% of the total household income. To qualify, the for-sale price limits must either:

- 1.) Fall at or below the current HOME Purchase Price Limit (published annually for the U.S. Department of Housing and Urban Development) with adequate gap subsidies from a third party to maintain affordability for the income eligible household, or
- 2.) Meet the City's for-sale housing price limits with no gap subsidy requirement.

Sale prices are adjusted annually and will be available via the Community and Economic Development Department. At the time of policy creation, the For-sale limits were as follows:

**1. HOME Purchase Price with Gap Subsidy Requirement**

No. of Units*	Maximum Sales Price with Gap Subsidy**
1-unit	\$224,000
2-unit	\$286,000
3-unit	\$347,000
4-unit	\$430,000

*\*Number of units is based upon number of units: single-family and attached housing.*

*\*\*Gap subsidy is provided by a third party, and keeps the for-sale price at market rate households' housing expenses at or below 30% of the household income, including utilities.*

**2. Sales price with no gap subsidy requirement**

No. of Bedrooms	Maximum Sales Price with No Gap subsidy**
0 Bedrooms (Efficiency)	\$124,000
1 Bedroom	\$145,000
2 Bedroom	\$172,000
3 Bedroom	\$200,000

*\*\*"No Gap Subsidy" assumes a 10% down payment by the buyer. Underwriting of the buyer is still a requirement.*

e. Performance Based Program: Fees are only granted following the receipt of evidence that the program requirements have been met. At any time should the unit be out of compliance, the City reserves the right to recapture grant fees and collect 10% interest on those fees.

f. Housing Types: All housing types will be considered, including rental units and homeownership units.

3. Enforceability: If the Participant defaults in any of the Program Requirements of the Affordable Housing Fee Grant Program, or, sells, assigns, transfers or conveys all or any part of the Property without notifying the City and submitting a release or transfer request prior to the end of the affordability period terms, then the City, at its option, may without further notice, declare the entire fee grant, together with all interest accrued thereon, immediately due and payable with a 10% per annum penalty until paid. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time.

Pro:

- The recommendations are consistent with City's Comprehensive Affordable Housing Strategy.

Con:

- None noted.

Staff will work with existing 2017-18 budget to implement this program, monitor financial impact and report back in 6 months.

Staff recommends City Council adopt a resolution adopting Fee Grant Program for Affordable Housing.

**RESOLUTION BOOK NO. 39 - PAGE 148**

**K. RESOLUTION NO. 17-227 - RESOLUTION APPROVING THE 2017 LIMITED OBLIGATION BONDS**

**RESOLUTION NO. 17-228 - RESOLUTION AND BOND ORDER FOR THE 2017 SPECIAL OBLIGATION BONDS**

Summary: The consideration of an approving resolution for the 2017 Limited Obligation Bonds (LOBs) and a bond order for the 2017 Special Obligation Bonds (SOBs) to refinance the City's installment financing obligations related to projects financed in 2016 through short-term Limited Obligation Bonds.

On September 12, 2017, City Council convened a public hearing for the 2017 Limited Obligation Bonds and Special Obligation Bonds to be sold on October 12, 2017.

- Limited Obligation Bonds. The City has the power, pursuant to North Carolina General Statutes, to (1) purchase real and personal property, (2) enter into installment contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price. The purpose of the 2017 LOBs is the refinancing of the City's installment financing obligations related to a portion of the 2016 Projects and, to the extent the City can achieve debt service savings, a portion of the 2012 Projects, in an aggregate principal amount not to exceed \$31,200,000.

The City's obligations related to the 2017 Limited Obligation Bonds are subject to annual appropriation and will be secured through the master indenture including the City Hall building, the Municipal Building and the Public Works Administration Building.

- Special Obligation Bonds. The City is authorized, under G.S. 159I-30 to issue, subject to the approval of the Local Government Commission, special obligation bonds of the City, for the purposes specified under the Act. The purpose of the 2017 SOBs is the refinancing of the City's installment financing obligations related to a portion of the 2016 Projects, specifically those located within the City's established Municipal Service Districts, or Innovation Districts, and meeting the criteria for special obligation debt.

Special Obligation Bonds are secured by taxes and fees not levied by the municipality. These include sales and utility taxes.

Debt Service costs are approximate until the final contract is complete; the true interest cost shall not exceed 5.00% for the LOBs and SOBs.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over the useful life of the asset.
- The financing conforms to the approved Financing Plan for capital expenditures.
- Debt Service savings on the 2012 LOBs.

Con:

- Financing the purchase increases nominally the lifetime cost of the acquisition due to the payment of interest and closing costs on the amount financed.

The annual debt service payments for this financing range between approximately \$949,000 in the first year and approximately \$819,000 in the fifth year. Funds are included in the City's FY 2017-18 proposed debt service budget to cover this cost.

City staff recommends that City Council (1) adopt the resolution approving the refinancing of a portion of the 2016 Projects and, to the extent the City can achieve debt service savings, a portion of the 2012 Projects, under the Contract, including Amendment Number Two, and the pay the costs of entering into financing, in an aggregate principal amount not to exceed \$31,200,000; and (2) adopt the bond order approving Special Obligation Bonds to be issued pursuant to the GS

159I-30 to raise the money required, in addition to any funds which may be made available for such purpose from any other source, to (a) refinance a portion of the costs of the 2016 Projects and (b) pay the costs of issuing the Special Obligation Bonds for a principal amount not to exceed \$20,000,000.

**RESOLUTION NO. 17-227 - RESOLUTION BOOK NO. 39 - PAGE 149**  
**RESOLUTION NO. 17-228 - RESOLUTION BOOK NO. 39 - PAGE 153**

**L. RESOLUTION NO. 17-229 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CHANGE ORDER WITH TENNOCO CONSTRUCTION COMPANY WHICH WOULD ALLOW FOR AN INCREASE FOR THE AUTHORIZED CONTRACT AMOUNT FOR THE CRAVEN STREET IMPROVEMENTS PROJECT**

Summary: The consideration of a resolution increasing the signature authority for the City Manager by \$28,854.96 to enter into a change order necessary for the final payment of seasonal pay items (plantings completed in the spring of 2017) and quantity over-runs for large pay item increases such as the soil nail walls associated with the greenway for the Craven Street Improvements Project with Tennoca Construction Company for a total contract amount of \$7,115,425.62.

On June 12, 2012, City Council approved a contract with ColeJenest & Stone for professional services for the design of the Craven Street Improvement project. This project includes improvements to the existing two lane roadway by implementing a complete street approach to the design. The new facility includes bike lanes, sidewalks, stormwater improvements, stream restoration, greenway, parking areas and roadway improvements. The bids for the project were opened on June 17, 2014 and the City of Asheville determined Tennoca Construction Company to be the lowest responsive and responsible bidder for the project. On June 24, 2014, City Council approved the contract with Tennoca Construction Company, Inc. for \$6,001,365.79 and authorized the City Manager to enter into change orders to this contract not to exceed \$900,204.87 for a total budget amount of \$6,901,570.66. On February 23, 2016, City Council authorized the City Manager to negotiate and execute change orders not to exceed \$185,000 for a total amount of \$7,086,570.66.

The City has five funding partners on this project, Golden Leaf Foundation has provided \$300,000, the Economic Development Administration from the Department of Commerce has partnered to provide approximately \$1.12M, the Clean Water Management Trust Fund through RiverLink has provided \$365,000 and the Tourism Development Authority (TDA) has provided \$150,000 toward this great project. Also, Metropolitan Sewerage District (MSD) partnered for \$35,000 for efforts associated with the sewer line improvements along the greenway. The remaining cost of the project is being paid through the Stormwater Fund, Water Fund, Parking Funds and General Fund utilizing a combination of pay-go funds and debt proceeds.

Tennoca Construction Company has performed the construction services necessary to provide improved transportation connections (including pedestrian, bike and vehicular) to the Craven Street area.

The City and New Belgium Brewery (NBB) has an existing Memorandum of Understanding (MOU) in place, which has allowed the City and NBB to partner on cost saving measures for both the City project and the construction project of NBB.

The Craven Street Project is complete. This requested increase of \$28,854.96 in the City Manager's authority to enter into a change order for the construction contract will allow for final



payment of seasonal pay items (plantings completed in the spring of 2017) and quantity over-runs for large pay item increases such as the soil nail walls associated with the greenway. This change order will utilize unencumbered funds which will be allocated toward the contract.

This project follows the commitment made to New Belgium Brewery to make improvements in this area. The project further benefits the environment by placing Stormwater Control Measures in place to provide water quality treatment in the area. The project also helps to develop multimodal transportation connections.

Pros:

- The Project has made improvements to the transportation options in this area, including vehicles, pedestrians and bike facilities
- Allows the contractor to be paid for their services
- Provides safe access for the citizens that visit this area
- Improves the environment through water quality devices and stream restoration
- Makes safety improvements to the intersection of Hazel Mill Road and Craven Street
- Provides bike lanes, sidewalk and a greenway to the area

Con:

- None

The current authorized construction contract amount totals \$7,086,570.66. The additional contract authority of \$28,854.96 that is requested will bring the total construction contract authority to \$7,115,425.62. There is sufficient funds within the project to cover this change order.

City staff recommends City Council approve a resolution authorizing the City Manager to enter into a change order with Tennoca Construction Company which would allow for an increase in the contract amount from \$7,086,570.66 up to an additional \$28,854.96 for the existing contract with Tennoca Construction Company to a total authorized contract amount of \$7,115,425.62.

#### **RESOLUTION BOOK NO. 39 - PAGE 159**

#### **M. RESOLUTION NO. 17-230 - RESOLUTION ACCEPTING ADDITIONAL FISCAL YEAR 2016-17 EMERGENCY SOLUTIONS GRANT FUNDS AND PROVIDE FUNDS TO SELECTED AGENCIES**

Summary: The consideration of a resolution authorizing 2016-17 Emergency Solutions Grant additional awards.

The State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit has awarded Emergency Solutions Grant funds to the City of Asheville in order to fund local agencies to provide emergency shelter and rapid rehousing services for homeless individuals and families. Additional awards have been made for FY 2016-17 due to reallocation.

The State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit issued an Additional Funds Notification in early August with the following criteria:

- Request for additional funds for activities that grantees already have.
- Cannot request more funds than the current FY 2016-17 award.
- Ability to spend the additional funds by 12/31/17.
- Agency must have attended the recent requisition webinar.
- Funding priority determined by current grant expenditure rates.

Helpmate and Salvation Army have been awarded additional support for Emergency Shelter Operations. The City of Asheville is also eligible to receive Homeless Management Information System funds. Homeward Bound did not request additional funds for Rapid Rehousing given the requirement to expend them before the end of the calendar year. All of the State's criteria have been met by the agencies being recommended for the grant awards in the amounts listed below.

2016-17 ESG Awards					
	Emergency Response	Rapid Rehousing	HMIS	Additional Funds	Total
Homeward Bound		\$34,558			\$34,558
Salvation Army	\$20,125			\$15,176	\$35,301
Helpmate	\$28,671	\$28,000		\$17,801	\$74,472
City of Asheville			\$2,000	\$2,000	\$4,000
<b>TOTAL AWARD</b>	<b>\$48,796</b>	<b>\$62,558</b>	<b>\$2,000</b>	<b>\$34,977</b>	<b>\$148,331</b>

The Housing and Community Development Committee's recommended to accept an additional \$34,977 in Emergency Solutions Grant funds from the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for the projects awarded.

Pro:

- The Emergency Solutions Grant program is a key funding resource for emergency shelter and for rapid rehousing of persons experiencing homelessness.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development Division staff will administer the program. No general funds are requested to support this program.

Staff recommends City Council adopt a resolution authorizing the City Manager to accept an additional \$34,977 in Emergency Solutions Grant funds from the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for the projects awarded.

**RESOLUTION BOOK NO. 39 - PAGE 160**

**N. ANNOUNCEMENT OF A REQUEST TO RENAME THE MONTFORD RECREATION CENTER TO THE TEMPIE AVERY COMMUNITY CENTER AND TO ACCEPT THE DONATION OF A HISTORICAL PLAQUE TO BE PLACED ON THE SITE TO HONOR THE CONTRIBUTIONS OF TEMPIE AVERY**

Summary: Announcement of a request to rename the Montford Recreation Center to the Tempie Avery Community Center, a prominent African-American nurse and midwife who lived on the site of the Montford Recreation Center, and to accept the donation of a historical plaque to be placed on site to honor the contributions of Tempie Avery.

The City of Asheville has received a request from community member Cathryn McLeod, and Martha Warren (a descendant of Tempie Avery) to rename the Montford Recreation Center to the Tempie Avery Community Center, and to donate a historical plaque to be located on site.

Tempie Avery was a well-known and respected community member in both black and white communities in Asheville. She was a former slave of the Nicholas Woodfin family. After her emancipation, Avery worked as a nurse and midwife in both the black and white communities of Asheville. Avery was conveyed a plot of land at 34 Pearson Drive by the Woodfin family and resided there until her death in 1917. The present day Montford Recreation Center is located where her house was once located.

Pursuant to the City's policy on naming public facilities, Ms. McLeod submitted the renaming proposal including 200 signatures of people who reside within the city limits of Asheville. The City Clerk's office has verified with the Buncombe County Board of Elections that more than 30 signatures on the request are registered voters of the City.

Ms. McLeod presented the renaming proposal to the (1) Historic Resources Commission on August 9, 2017, (2) African American Heritage Commission on August 11, 2017, and (3) Recreation Board on September 11, 2017. The proposal received support from all three of the boards and commissions. The Recreation Board recommended the name become the Tempie Avery Montford Community Center as a means to retain the association to the Montford area.

The proposal was presented to the Montford Neighborhood Association on September 13, 2017, and received unanimous support.

Also pursuant to the City's naming policy, Council shall make the announcement at a scheduled public meeting as to provide for an opportunity to receive input from appropriate sources. Prior to voting, the Council may solicit the advice of surrounding property owners, residents, affected parties and other City officials or anyone else that the Council believes can contribute meaningful input.

In order to receive that input, Council will make a decision at its next regularly scheduled meeting.

The cost to the City to support the renaming of the Montford Recreation Center to the Tempie Avery Community Center is \$8,000 - \$10,000 for the center identification sign. The funds to support the cost are budgeted in the City's Capital Improvement Program for the Parks and Recreation Department. There is no cost associated with the historical plaque since it will be donated to the City.

The Historic Resources Commission and the African American Heritage Commission recommend renaming the Montford Recreation Center to the Tempie Avery Community Center, and to place a historical plaque on-site to honor Tempie Avery. The Recreation Board recommends the renaming of Montford Recreation Center to the Tempie Avery Montford Community Center, and to place a historical plaque on-site to honor Tempie Avery.

The following individuals spoke in support of renaming the Montford Recreation Center to the Tempie Avery Community Center in honor of Tempie Avery:

Mr. Joe Newman  
Ms. Sharon Fahrer  
Mr. Keir Walker, direct descendant of Tempie Avery  
Ms. Cathryn McLeod  
Ms. Martha Warren, direct descendant of Tempie Avery

Mayor Manheimer explained the pursuant to the City's naming policy, the public may provide input prior to Council's consideration of the renaming on October 24, 2017.

Councilman Young thanked those that did all the diligent work to bring this forward to Council. He was enamoured that African Americans have contributed so much to Asheville, and hoped that more stories will come out in the public eye and be encapsulated with recognition.

Councilwoman Mayfield hoped that this is the first of many opportunities to celebrate the history of people in our City that don't often get celebrated.

Councilman Bothwell noted that on October 9, 2017, at Noon at 68 Haywood, there will be a free public lecture on the African American history of Asheville.

**K. RESOLUTION NO. 17-231 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH PHILLIPS & JORDAN INC. FOR THE NORTH FORK SPILLWAY AND EMBANKMENT IMPROVEMENTS PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a Construction Agreement with Phillips & Jordan, Inc., for the bid amount of \$34,928,000.00 plus a contingency amount of \$5,239,200.00 for a total project budget in the amount of \$40,167,200.00 for the North Fork Spillway and Embankment Improvements Project.

The North Fork Dam was built in 1955 following a severe drought. Since that time, state regulations have been updated to require reinforcement of dams to ensure their integrity in the event of an emergency (e.g. severe flooding and damage from seismic activity). As a result, the North Carolina Department of Environmental Quality (NCDEQ) is requiring the City of Asheville to construct a second spillway at the North Fork Dam for two reasons: (1) the current spillway is not large enough to contain Probable Maximum Precipitation (or PMP, aka severe flooding from a major storm); and (2) growing concern with earthen dams needing to be buttressed, which are inflexible and will prevent the dam from falling over. Phase I of the project, which involved engineering and construction for the Intake Tower Structure and Water Conveyance Conduit Repairs, has been completed at a cost of \$2.7 million. This work was required in order to move onto Phase II, which is the larger part of the project - the North Fork Spillway and Embankment Improvements.

The original estimate for this work was \$40 million in 2012. After bidding the project, the actual cost for engineering, permitting, and construction will be approximately \$49 million. Over the six year life of this project, there has been \$14,594,925 set aside for the completion of a portion of the work. Additionally it has been planned that the balance of the project costs would be debt financed up to \$40 million. At this point it appears that the total of \$54,594,925 planned to fund the project will be more than enough to fully fund the work. This construction project must move forward to meet NCDEQ regulations and ensure the integrity of the dam.

On October 19, 2016, the Water Resources Department (WRD) issued a Request for Qualifications (RFQ) to prequalify general contractors for the North Fork Spillway and Embankment Improvements Project. The City's pre qualification process assesses contractors in several areas (e.g. experience, references, licensing, bonding, litigation/claims, safety record, historically underutilized business plan, etc.) to determine if they are qualified to bid on a project of this size and scale. Project engineers Schnabel Engineering South, P.C., and WRD staff prequalified 10 contractors to bid on the project.

On July 17, 2017, the WRD issued an Advertisement for Bids for the project. The scope of work for this project generally consists of excavation and construction of a new Auxiliary Spillway, installation of filter drains, seismic stability berms, and instrumentation on the main dam and saddle dam, construction of a parapet on the main dam, installation of a temporary raw water

bypass, construction of an extension to the outlet works conduit and associated piping and valving, construction of access roads and slope stabilization measures, erosion and sediment control, intake tower modifications, demolition of existing gates in the principal spillway and construction of new weirs and gate in the principal spillway, concrete overlay of the principal spillway chute, construction of a bridge over both spillways, and miscellaneous support structures, cofferdams, electronics, and mechanical systems at the North Fork Reservoir in Black Mountain, NC. The work will be performed within a period of 2.5 years.

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

1. Phillips & Jordan, Inc.; Knoxville, TN – Bid: \$34,928,000.00
2. ASI Construction, LLC; Pueblo West, CO – Bid: \$35,447,808.00
3. Crowder Construction Company; Charlotte, NC – Bid: \$37,935,209.50
4. Morgan Corporation; Duncan, SC – Bid: \$41,661,149.00
5. Thalle Construction Company; Hillsborough, NC – Bid: \$35,550,000.00
6. GLF Construction Corporation; Miami, FL – Bid: \$40,975,270.00

Following a review of the bids by City Staff and the project engineers, Schnabel Engineering, Phillips & Jordan, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of \$34,928,000.00. A contingency amount of \$5,239,200 has been added for a total project budget in the amount of \$40,167,200.

Pros:

- This project is required to upgrade the North Fork dam and spillway to comply with State regulations.
- 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:

- There will be an increase in construction traffic and noise near the project location for approximately 2-2.5 years. The project engineers and WRD, with guidance from the City's Communication and Public Engagement Division (CAPE), held several community meetings to educate local residents about the project, agree on a construction hours, answer questions, and alleviate concerns. The City also has a dedicated Projects Webpage that provides additional information to the public.

The funding needed for this agreement is currently allocated within the North Fork WTP Dam/Tunnel Repairs Project in the Water Resources Capital Improvement Projects (CIP) Fund. The cost of this project will be funded with the issuance of debt proceeds (up to \$40 million) and funds currently allocated in the CIP Fund Project Budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Construction Agreement with Phillips & Jordan, Inc., for the bid amount of \$34,928,000.00 plus a contingency amount of \$5,239,200.00 for a total project budget in the amount of \$40,167,200.00 for the North Fork Spillway and Embankment Improvements Project.

#### **RESOLUTION BOOK NO. 39 - PAGE 161**

- L. MOTION TO SUPPORT OF A PROMOTIONAL CAMPAIGN TO ENCOURAGE LOCAL RESIDENTS TO SHOP DOWNTOWN FOR THE HOLIDAY SEASON**

Summary: The consideration of a motion to support a promotional campaign to encourage local residents to shop downtown for the holiday season, including a program that would result in lost revenue to the Parking Enterprise Fund in the amount of \$4,500.

In coordination with downtown stakeholders including the Asheville Downtown Association, Downtown Commission and Asheville Grown Business Alliance, and in alignment with City Council's Strategic Priorities of supporting a Thriving Local Economy and Connected and Engaged Community, staff is proposing a promotional program to encourage shopping and patronage at downtown businesses this holiday season. This year's program will be treated as a pilot, helping to inform future recommendations and other tools for supporting City Council's Priorities.

The promotional campaign includes refurbishing the City's holiday wreaths and expanding the Downtown Winter Lights program. Additionally staff is proposing that vouchers be distributed that offer one additional free hour of parking in the City's garages on the six Saturdays between the Holiday Parade and Christmas. As proposed, Parking Services would sponsor a total of 3,000 vouchers with the intent for 500 to be distributed for each Saturday of the program. The vouchers would be marked with a special symbol, and distributed to downtown merchants interested in participating via the Asheville Downtown Association and Asheville Grown Business Alliance. The vouchers would then be given to customers directly by the merchant businesses. Parking Services staff would honor the vouchers during manned hours (10 AM - 7 PM) on the following six Saturdays of 2017: November 18, November 25, December 2, December 9, December 16, December 23.

Feedback from the Asheville Downtown Association, Downtown Commission and Asheville Grown is that finding parking is a hinderance to local citizens shopping and patroning downtown businesses. Offering parking incentives is a tool that other cities deploy successfully during the holidays to support businesses and encourage use of off-street structured parking facilities. Stakeholders have recommended consideration of this type of program for several years, and the Downtown Commission endorsed the idea in 2016 and 2017.

These activities are designed as a measure to support City Council's Strategic Priority of a Thriving Local Economy. With the development of a toolbox underway, the goal is to support a diverse and healthy economy, including support for small, local, homegrown businesses. In addition to the wreath refurbishment and Downtown Winter Lights expansion, the parking tool can be deployed and tested as part of a multifaceted approach to supporting these businesses.

This program is also a result of work and coordination with neighborhood non-profit organizations and local businesses, aligned with City Council's Strategic Priority of supporting a Connected and Engaged Community. Not only was the program conceived in coordination with these organizations, but it's execution and success is reliant on, and builds upon continued partnership.

The Finance Committee will be reviewing this item at their October 3, 2017, meeting and if there is anything other than unanimous support it will be brought up in the Council meeting.

Pro:

- Incentive to encourage downtown shopping and support downtown businesses

Con:

- Lost revenue of \$4,500 to the Parking Enterprise Fund

If approved, the parking voucher program will result in estimated lost revenue in the Parking Enterprise Fund of up to \$4,500. This fiscal impact was contemplated during the budget process, and revenue estimates in the Parking Enterprise Fund were adjusted accordingly.

City staff recommends City Council support this cross-departmental program and resulting potential \$4,500 loss of revenue to the Parking Services Enterprise Fund.

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

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

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

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

#### **A. FINAL REPORT ON THE ENTREPRENEURIAL IMPACT OF OUTDOOR SPECIAL EVENTS**

Mr. Jon Fillman, Economic Development Specialist, said that on August 25, 2015, Asheville City Council adopted a resolution authorizing an application for grant assistance from the Appalachian Regional Commission (ARC) to fund an innovative research study that would seek to identify and quantify the entrepreneurial impact of outdoor special events in Asheville, while also developing a model that could be shared with surrounding communities in Western North Carolina. The City Manager accepted a grant from ARC for the project in May, 2016. Syneva Economics and Chipley Consulting were selected to execute the study, titled The Entrepreneurial Impact of Outdoor Special Events. The project period was one year in length, from July 15, 2016 - August 31, 2017.

He said that at the time of the initial grant application in 2015, the frequency of special events and festivals in Asheville, along with demand for resources, had increased by 20% over a five-year period. Though much attention had been paid to the relationship between recreation, tourism, and special events, the entrepreneurial impact study aimed to examine how local government and entrepreneurs could best employ special events to encourage business growth, predict contributor intent, entrepreneurial activity, motivation, satisfaction, and spending.

Mr. Tom Tveidt, representing Syneva Economics, said that the the findings of the study revealed a diverse and dynamic vendor community not easily assigned to any single category. There were a few surprises discovered such as that on-site sales generated at special events and festivals were not the primary motivator for business participation. Yet the study also revealed that an annual sales premium of 3.9% was experienced by businesses who participated in special events and festivals over those that did not. Directly and indirectly, that premium related to an additional 54.4 jobs and \$2.7 million in annual economic impact. Overall, researchers found that vendors were extremely positive about the role of Asheville's outdoor special events to their business' success.

Recommendations from the study suggest a greater effort be placed on integrating vendor businesses into Asheville's business development ecosystem. This includes working with public and private partners to develop vendor training programs, the creation of an online vendor list and directory, making a targeted effort to encourage communication between vendors, and developing

incentive programs for event-producing organizations that assist in the effort - all of which help support City Council's goal to support small, local, homegrown businesses.

In response to Councilwoman Mayfield, Mr. Fillman said is their next steps are to focus on developing leagues. We have existing ecosystem for business development in Asheville. The problem is the vendors don't know what the resources are and they don't have those connections or inclinations to do the research. In creating these directories, and working with other local organizations, we will create these registration systems and to connect people to the existing resources. We want to help them grow their businesses from a financial perspective. Other organizations can disseminate information to local markets. We want to also establish a training league for mentoring, etc. and an environmental health and services league. We need to increase the services we provide as a community; and assign certain functions to our existing partners. He did not anticipate the need for an additional staff person to accomplish these next steps.

#### **B. CAPITAL PROJECTS COMMUNICATIONS UPDATE**

Interim City Manager Jade Dundas demonstrated from the City's website the Dashboard on Capital Projects and Bond Projects, and showed how accessible the information is for the different projects. We have soft launched this Dashboard and plan on having a larger outlet to market this via social media.

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

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

At the request of City staff, this public hearing has been withdrawn.

##### **B. HAYWOOD ROAD FORM CODE**

##### **PUBLIC HEARING TO CONSIDER A SERIES OF TEXT AMENDMENTS TO ARTICLE VIII OF CHAPTER 7 OF THE CODE OF ORDINANCES PERTAINING TO DEVELOPMENT STANDARDS FOR THE HAYWOOD ROAD FORM CODE FOUND IN SECTION 7-8-28**

Mayor Manheimer said that since the following two public hearings are related, she asked that the presentations be made simultaneously but that individual public hearings would be held.

Assistant Planning & Urban Design Director Alan Glines said that this is the consideration of an ordinance amending Article VIII of the Chapter 7 of the Code of Ordinance pertaining to development standards for the Haywood Road Form Code found in Section 7-8-28. This public hearing was advertised on September 22 and 29, 2017.

In September 9, 2014, the City Council adopted the Haywood Road Form Code as the first form district in the City. This applied to Haywood Road beginning almost at the French Broad River and proceeded for approximately 2.5 miles to Patton Avenue. The district established six zoning types based on the scale and characteristics of the area along the corridor.

Since the adoption of the ordinance, staff has reviewed a number of redevelopment proposals and have spoken with property owners, developers and design professionals concerning implementation of the code. Staff are proposing several changes to the code that affect the districts in the operation of the development requirements. For example, staff is seeking to



reduce the build-to-zone requirement, which is the percentage of the parcel that must be covered by a compliant building, from 80% to 90% (depending upon the district) to 70% to allow more flexibility for developers, while still retaining the intent of the requirement. The development must also provide sufficient parking by aligning the building size and uses with required parking.

Other development parameters are also being adjusted:

- **Build to zone – side street**-reduce the required percentage to a minimum building depth of 25 feet to provide more flexibility to redevelop a site
- **Building setbacks** – some adjustments in the form of minimum and maximum distance from the right-of-way line to account for overhead utility or other easements
- **Outdoor amenity space** - align it with other urban areas of the city for more consistency and to encourage redevelopment
- **Building height allowances** - lessen the minimum heights floor-to-floor for flexibility which is especially helpful for smaller building floorplates.
- **Building fenestration detailing** (such as windows and doors) - revise how to measure fenestration and adjust percentages to allow more flexibility in building design
- **Streetscape** - clarify limitations on changes to Haywood Road since it is a DOT roadway
- Allowing more **height options in HR4 Traditional** - parcels in this area are more limited in size and depth. Buildings would be allowed from one to three stories
- Allow a building setback of at least 10 feet to create a plaza space or expand sidewalks to satisfy the building **stepback requirement** for upper floors

The form code also includes a land use table, a parking standard and a sign allowance. The following changes are proposed:

- Allow Bed and Breakfast and Homestay in HR1 Core
- Remove use by right with special requirements for Live-work uses
- Remove single family use for the entire corridor area; add duplex to all districts
- Update for lodging facilities in the permitted use table to align with recent Council actions on review thresholds based on the number of guest rooms
- Add parking lots as a use in the use table
- Allow on-street spaces existing or proposed to count one-for-one toward the parking requirements
- Specify temporary use provision of the UDO are allowed in the district
- Some clarification for parking, bicycle parking and parking for newly established eating and drinking establishments

The draft code provides distinct red-line entries for the portions of the ordinance that are being adjusted. This will allow the specific changes to be distinguished individually in the review.

The current changes were reviewed on June 6, August 31, and September 19, 2017, with the West Asheville Business Association (WABA). There was interest in the code and some questions about the application of the ordinance. WABA was generally supportive of the changes.

Staff also reviewed the general concepts of this amendment with the East West Asheville Neighborhood Association (EWANA) at their meeting on June 14, 2017, and discussed changes to height for the HR4 Traditional district as well as the rezoning being contemplated for the same area along Haywood Road. There was some concern and questions about short term rentals as a permitted lodging use throughout the Haywood Road Form Code area.

Staff also mailed an informational letter outlining the proposed code and rezoning changes specifically in the area of Beacham's Curve in the HR4 Traditional and HR5 Live Work section to

neighbors within 200 feet of this specific area. This is the only section of Haywood Road where a rezoning is contemplated.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors as a long term development plan in the city. Changes to the UDO that further these goals are encouraged along with processes that involve public participation. The Haywood Road Form Code 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 proposed amendment aligns with input received from the community, design professionals and developers, while furthering the objectives of the Comprehensive Plan as noted above.

The Haywood Road Form District fits within City Council's vision for *A Well-Planned and Livable Community* and *A Thriving Local Economy*. The code provides a clear framework for reinvestment and redevelopment in an important area of the city. The code provides a greater level of clarity and predictability for both the community, property owners and developers. Lastly, the process used to develop the original code also aligns with Council's goal of a *Connected and Engaged Community*, through the high level of engagement and community outreach with property owners, business owners and residents.

The goal of the ordinance is to encourage development of a robust, mixed-use district that is transit oriented and pedestrian oriented.

Staff recommends the approval of the amendment for the Haywood Road Form Code and believes that the changes will provide a higher level of workability and flexibility in the code based on conversations with the community, developers, design professionals and other users of the ordinance since the adoption of the district in 2014. The Haywood Road Form Code amendment is reasonable and in the public interest and is consistent with the Comprehensive Plan by laying the framework for continued investment in mixed-use development, future job growth and housing.

The Planning and Zoning Commission reviewed the amendment and voted unanimously to recommend approval of the changes.

**PUBLIC HEARING TO REZONE PROPERTIES FOR A SECTION OF  
HAYWOOD ROAD WITHIN THE HAYWOOD ROAD FORM CODE AREA FROM  
HR5 - LIVE WORK DISTRICT TO HR4 - TRADITIONAL DISTRICT**

Assistant Planning & Urban Design Director Alan Glines said that this is the consideration of an ordinance to rezone properties for a section of Haywood Road within the Haywood Road Form Code area from HR5 - Live Work District to HR4 - Traditional District. This public hearing was advertised on September 22 and 29, 2017.

The area proposed for rezoning consists of 43 separate PINs along the north and south sides of Haywood Road closest to the French Broad River. The lots on the south side are mostly undeveloped except for several single family homes and a small restaurant. On the north side is a mix of uses including a new three-story structure and other older commercial, distribution and warehouse uses.

The parcels are zoned HR5 Live-Work and were zoned this way with the adoption of the Haywood Road Form Code on September 9<sup>th</sup>, 2014. The Haywood Road Form Code was developed with broad public engagement and a community charrette to develop the plan. The form code work came after the adoption of the Vision Plan report for Haywood Road.

During the development of the code, the consultant team was concerned about the potential limited amount of development interest along Haywood Road based on a market study that was performed. They did not want to have an unsuccessful corridor that might result if it was left with too many vacant parcels. Their recommendation was to create the HR5 Live-Work district to focus on small scale studio spaces and residential uses.

Staff has had approximately three years since the adoption of the original ordinance to study the operation of the code. Over this time staff have met with property owners, design professionals and other users of the plan to answer questions and hear concerns. Since this time the New Belgium Brewery was constructed and opened along Craven Street. In addition the River Arts District has expanded with additional energy and investment and the entire eastern end of Haywood Road is seeing a revival of new businesses and expansions of existing businesses. This area is also the location for new greenways and roadway improvements.

The HR5 Live-Work district permits a limited range of commercial activity and allows for multifamily housing. With the recent growth of activity located along Haywood Road at Beacham's curve and vicinity, the original concern that vacant underutilized parcels would reduce the economic success of the corridor seem to no longer apply.

This end of Haywood Road has recently received a lot of new investment with several eating and drinking establishments, a cider house and a brewery, a skin care company and an ice cream-making facility opening on the corridor.

HR4 Traditional allows a more complete range of commercial activities and is in place adjacent to the current rezoning request. A concurrent Haywood Road wording amendment for HR4 Traditional would permit new construction in the range of one to three stories which matches the HR5 Live-Work height allowance. The current standard for HR4 Traditional only permits two story buildings. There is a constraint unique to this section of Haywood Road to the east of Beacham's Curve in that there is insufficient space for on-street parking spaces. Any new development then, must provide for their parking needs on their own parcel which will moderate the scale of potential development.

In 2012 New Belgium Brewery was approved along Craven Street and was completed several years later. The Haywood Road Form Code was approved on September 9, 2014.

The normal process for reviewing rezoning requests is that they are considered by the Planning and Zoning Commission with a recommendation with final review by City Council.

Staff discussed the Haywood Road amendments and property rezoning at a meeting of the West Asheville Business Association (WABA) on June 6, August 31, and September 19, 2017. WABA asked questions about the operation of the code and what a zoning change would mean for the properties. Staff also attended a meeting of the East West Asheville Neighborhood Association (EWANA) on June 14, 2017, and answered questions about the rezoning and details about HR4 Traditional district. In early August 2017, staff sent an informational letter to property owners in the area of the proposed rezoning, expanding the area of coverage to the normal 200' notification buffer. Several neighbors and property owners called to get additional information.

The proposed zoning along Haywood Road to the west of the proposed zoning area is HR4 Traditional. The proposed rezoning is to HR4 Traditional from HR5 Live- Work. Surrounding neighborhood areas are zoned Residential Multifamily Medium Density District (RM8). The Haywood Road Form Code accounts for adjoining residential properties with both a planted buffer and height reductions adjacent to the residential edge. The proposed change will be compatible with the surrounding area.

There are policies throughout the 2025 Comprehensive Plan supporting the need for higher-densities and a mix of uses, where placemaking is an important goal and transit is in place to support new development. Other sections of the Plan recommend creating opportunities for economic development through higher densities while reinforcing a strong urban form that enhances the pedestrian environment.

The proposal aligns with the 2036 Council visions in the following areas: (1) *A Well-Planned and Livable Community* - through the enhanced community focused design standards that accompany the Haywood Road Form Code; (2) *Transportation and Accessibility* – due to the requirements for wider sidewalks, pedestrian-friendly design and densities to support expansion of transit; and (3) *Thriving Local Economy* - encouraging a wider mix of compatible commercial uses and opportunities for more intense development (including a higher residential density).

Considerations:

- Economic conditions in the rezoning area have changed supporting greater opportunities for investment and redevelopment
- The proposed zoning HR4 Traditional is adjacent to the rezoning area and will provide areas for community-scaled development
- Development requirements are in place to buffer residential areas from commercial impacts

Staff recommends approval of the proposed rezoning efforts to HR4 Traditional district finding that the request is reasonable and consistent with City-adopted plans and strategic goals for redevelopment in this area.

The Planning and Zoning Commission reviewed the rezoning request at their meeting on September 6, 2017, and recommended unanimous approval with a vote of 7-0.

The following is discussion both public hearings:

When Councilwoman Mayfield asked why are are not adding triplexes or quadplexes to all districts, Mr. Glines explained those are already allowed.

In response to Councilwoman Mayfield, Mr. Glines showed the Use Table and said that basically lodging is allowed along the entire corridor, except for HR-5 Live Work District.

When Councilwoman Mayfield asked about adding parking lots as a use, Mr. Glines said that the original Code requires parking for new developments, but does not allow them as a stand-alone use. There are lot of different parcels on Haywood Road, some that could be improved for parking, since parking seems to be an interim use for other development to happen.

Councilman Bothwell is interested in banning all whole house short term rentals. Perhaps there is a way to separate residential homes from the definition of other types of lodging.

Mr. Glines said we could have some form of HR-4 Traditional in the HR-5 Live Work District that does not permit the lodging use, but allow all the other uses. We currently have six district, but might end up with seven districts, and that seventh district might be what the properties would be rezoned to. He felt it would be good to keep the HR-5 Live Work District.

Mr. Glines said that with that change, it will need to be reviewed again by the Planning & Zoning Commission.

Councilwoman Mayfield asked if staff could also review banning all whole house (or unit) short term rentals for the entire corridor and that all lodging facilities 20 guest rooms or less would not be permitted by right. Mr. Glines said that he would like to see WABA weigh in on this change as well as noting the Planning & Zoning Commission would need to review the change.

Councilman Smith said that as far as future zoning changes coming forward, the more heads up Council can get about lodging uses in the zoning districts, the better. The areas where whole house short term rentals are legal, that conversation is more complicated since people have come in under the rules and are using this use. He didn't want to be punitive towards them who abided by the rules. That sounds like a more complicated conversation.

When Councilman Smith asked how we can get to zero on illegal whole house short term rentals citywide, Mayor Manheimer asked for a review on how we are staffing the enforcement and if we need to beef that up. City Manager Jackson said that regarding the enforcement update, he would provide the data that we have at the October 24, 2017, meeting.

Councilman Young said that we have many corridors in the City that are experiencing a high rate of growth. He would like to deal with short term rentals, auxiliary dwelling units and whole house rentals on a City-wide basis for some kind of continuity.

Vice-Mayor Wisler supported revisiting lodging facilities with an eye to eliminate the thresholds altogether and have all be reviewed by City Council.

Councilwoman Mayfield felt that Council is not trying to make all lodging more difficult, but they are concerned about short term rentals. She wondered if there is a way to break out short term rentals from other lodging.

Mayor Manheimer opened the public comment period at 6:34 p.m.

An adjacent property owner to the proposed rezoning area was glad Council was taking a bigger look at the short term rental issue. The East West Asheville's vision included preservation of single family neighborhoods, safe neighborhood environment, local businesses that are engaged and actively contributing to our community, etc. He did not support short term rentals in their community, especially when owners are from outside of North Carolina.

Mr. Casey Campfield spoke against whole house short term rentals City-wide, especially on the Haywood Road corridor.

Mr. Mike Collins, property owner on Haywood Road, supported rezoning the proposed property to HR-4, along with allowing short term rentals in that area.

Mr. Peter Landis felt that the same restrictions regarding whole house short term rentals should be applied to the downtown area as well. You risk downtown turning into more of a tourist area than it already is.

It was the consensus of Council to remand back to the Planning & Zoning Commission for their recommendation the creation of a new 7th zoning district for the parcels currently zoned HR-5 Live-Work that would mimic HR-4 Traditional District except that lodging facility 20 guest rooms or less would not be allowed by right.

It was the consensus of Council to direct staff to review lodging facilities 20 guest rooms or less along the entire Haywood Road corridor, with input from the West Asheville Business Association. City Attorney Currin said that that action will need to start from the very beginning.

City Attorney Currin announced that when the rezoning issue comes back to City Council, they will hold a public hearing that covers both the rezoning currently before Council now and the creation of the 7th zoning district. In addition, they will hold the public hearing on the amendment to the Haywood Road Form District as well.

**D. PUBLIC HEARING TO REZONE 671 SAND HILL ROAD FROM INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT**

**ORDINANCE NO. 4617 - ORDINANCE TO REZONE 671 SAND HILL ROAD FROM INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT**

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to rezone 671 Sand Hill Road from Institutional District/Conditional Zoning to RM-6 Residential Multi-Family Low Density District. This public hearing was advertised on September 22 and 29, 2017.

The applicant (Barry Bialik, agent) is requesting a rezoning of the property located at 671 Sand Hill Rd. from INST-CZ (Institutional-Conditional Zone) to RM6 (Residential Multi-family, Low Density).

The subject property is approximately 1.91 acres and currently is developed with a former church structure adaptively reused for a K-8 school. The property has frontage on Sand Hill Rd. but is accessed from a private road to the east that also serves a large apartment complex behind the school. Also included on site is a small (approximately 19 space) surface parking lot, open space and sidewalk along the private road. The property has mild to moderate topography sloping up from Sand Hill Rd.

The applicant has recently acquired additional acreage to meet the minimum lot size requirements for a school in the RM6 zoning district, and has requested to return to the original RM6 zoning so that it may have the flexibility to change its master plan and grow as resources are available.

The property was originally zoned RM6 consistent with the surrounding properties. The current owner, Classical Properties LLC, applied for a Conditional Zoning in 2013 to establish the school because the property failed to meet the two acre minimum lot size requirement for schools in a residential zoning district. The same applicant later amended the CZ in 2015 to include a new building expansion. Included in the conditional zoning amendment was a master plan and building elevations.

The purpose of the RM6 zoning district is to provide a limited range of low density multi-family housing types along with non-residential development that is "*normally required to provide the basic elements of a balanced and attractive residential area*". Schools are a use-by-right, subject-to-special-requirements in the RM6 zoning district and the property at 671 Sand Hill Rd. now complies with all special standards for the use.

The subject property is surrounded on three sides by other RM6 zoned property, most of which is developed with single family homes. To the rear of the property (north) is a moderately sized apartment complex conditionally zoned RM8-CZ in 2004 and 2007 (two phases).

The subject property does not lie within any special review areas or overlay zoning districts and does not require review by any other body. Standard rezoning requests are first reviewed by the Planning & Zoning Commission with final review performed by City Council.

The Asheville City Development Plan 2025 encourages compatible “adaptive reuse, redevelopment and infill development” and states, “areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure.” This property has been adaptively reused to provide a new school that helps to provide basic educational needs for Asheville’s youth.

This action is most closely aligned with the 2036 Council Vision goal of *A Well-Planned and Livable Community* by providing flexibility for a basic community service (school) to grow without special requirements, as resources are available.

Considerations:

- This rezoning would return the property to its original zoning designation.
- This rezoning would allow the school to be improved and grow unencumbered by Ordinance.
- Provides greater flexibility for future uses and development.
- Proposed zoning matches the newly acquired school property.

The Planning & Zoning Commission, by a 7-0 vote, recommended approval.

Mayor Manheimer opened the public hearing at 6:50 p.m., and when no one spoke, she closed the public hearing at 6:50 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 rezoning request from Institutional-Conditional Zone(INST-CZ) to Residential Multi-family, Low Density (RM-6) to assign a zoning designation that is more compatible with the majority of the existing property 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: the rezoning will (1) support smart growth goals through compatible infill development that takes advantage of existing infrastructure; and (2) removes the Ordinance attached to the property and returns it to the original zoning designation, providing more flexibility for future growth and development. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 31 – PAGE 339**

**E. PUBLIC HEARING TO REZONE 1568 BREVARD ROAD FROM INDUSTRIAL DISTRICT TO RM-16 6 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT**

Councilman Smith moved to continue this public hearing until November 28, 2017. This motion was seconded by Councilman Young and carried unanimously.

**F. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AMENDMENT TO THE 2017-18 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT TO ALLOCATE FUNDS TO ASHEVILLE HABITAT FOR HUMANITY AND GREEN OPPORTUNITIES**

**RESOLUTION NO. 17-232 - RESOLUTION TO AUTHORIZE A SUBSTANTIAL AMENDMENT TO THE 2017-18 CONSOLIDATED ANNUAL ACTION PLAN**

**FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT**

Community Development Director Heather Dillashaw said that this the public hearing to consider a resolution to authorize a substantial amendment of the City's 2017-18 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME Funds to the U.S. Dept. of Housing & Urban Development to allocate \$12,923 to Asheville Habitat for Humanity and \$27,989 to Green Opportunities from Contingency funds. This public hearing was advertised on September 22 and 29, 2017.

City Council approved the HCD Committee's recommendation to fund \$135,720 allocated to the Housing Authority in FY 2016-17 for Lee Walker Heights through another source. \$171,837 in FY 2017-18 CDBG funds are currently being held in reserve. This comes to a total of \$307,557. With 20% for Administration, this allows for \$253,557 in funds available for reallocation.

Funds to reallocate:		
16-17	Lee Walker Heights	135,720.00
17-18	Contingency	171,837.00
	Admin 17-18	<u>(54,000.00)</u>
	Total Available	253,557.00

The 2017-18 Annual Action Plan approved by City Council and submitted to HUD for approval fully funded project applications in all categories with the exception of Public Service activities. Projects in the Public Service category are limited according to HUD regulations. Due to HUD regulations governing the dollars available for Public Service activities, this category cannot be further expanded in 2017-18 funding. All other CDBG-eligible activities qualify for the \$253,557 in available funds.

Three (3) applications were received, one application was withdrawn and will be re-submitted in the next funding cycle. Asheville Habitat for Humanity is requesting \$12,923 in additional Housing Services funding; Green Opportunities is requesting \$27,989 in additional Economic Development funding.

After reviewing applications, hearing presentations by applicants and Board discussion, HCD recommends fully funding Asheville Habitat for Humanity's request of \$12,923 for Housing Services and Green Opportunities request for \$27,989 for a total of \$40,912, and \$54,000 in Administration to the City of Asheville. The balance of \$212,645 from 16-17 and 17-18 is recommended to be held in Contingency and made available in the 2018-19 CDBG funding cycle.

Pros:

- The recommendations are consistent with the priorities in the 2015-2019 Asheville Regional Consolidated Plan for the Use of CDBG and HOME Funds.
- Additional administrative dollars support the Community & Economic Development Department's management of CDBG projects.

Con:

- None noted.

All funds being reallocated in this process are federal CDBG funds received by the City of Asheville. No City of Asheville general funds are impacted by this substantial amendment.

Staff recommends City Council adopt a resolution authorizing the City Manager to approve the proposed Substantial Amendment #1 to the 2017-18 Annual Action Plan for CDBG and HOME funds.



Mayor Manheimer opened the public hearing at 6:53 p.m. and when no one spoke, she closed the public hearing at 6:53 p.m.

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

Councilman Bothwell moved for the adoption of Resolution No. 17-232. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

#### **RESOLUTION BOOK NO. 39 – PAGE 162**

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

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

#### **A. RESOLUTION NO. 17-233 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION**

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

The terms of Jeremy Goldstein, Laura Berner Hudson and Kristy Carter, as members on the Planning & Zoning Commission, expired on August 14, 2017.

The following individuals have applied for these vacancy: Paul Harkrider, Robert Carroll, Sandra Kilgore, Carter Webb, Joe Archibald and Nick Hinton. Ms. Berner Hudson was interested in reappointment.

At the August 22, 2017, City Council meeting, it was the consensus of Council to interview: Paul Harkrider, Robert Carroll, Sandra Kilgore, Carter Webb, Joe Archibald and Laura Berner Hudson.

After Council spoke highly of the candidates, Paul Harkrider received 1 vote, Robert Carroll received no votes, Sandra Kilgore received 6 votes, Carter Webb received 2 votes, Joe Archibald received 5 votes and Laura Berner Hudson received 7 votes. Therefore, Sandra Kilgore and Joe Archibald were appointed as members to the Planning & Zoning Commission to each serve a three-year term respectively until August 14, 2020, or until their successors are appointed; and (2) Laura Berner Hudson was reappointed as a member to the Planning & Zoning Commission to serve an additional three-year term, term to expire August 14, 2020, or until her successor is appointed.

#### **RESOLUTION BOOK NO. 39 - PAGE 163**

#### **Results of the September 25, 2017, Civil Service Board Employee Elections**

One copy of the results of the Civil Service Board employee election held on September 25, 2017, is to be filed with the City Manager and one with the City Clerk, who shall present such certification to the City Council at its next regular meeting. The Board of Canvassers provided the following certified certificate on September 25, 2017: We do hereby certify, having opened, canvassed, and determined the original returns of the Civil Service Board employee election, the results of the Civil Service Board Employee Election held on September 25, 2017, noting the name of each person voted for and the number of votes cast for each person as follows: Alan Coxie - 77; Edward M. Hahn - 88; Eddie Wyatt - 1; and Alan Watts - 1.

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

Ms. Allison Hammond requested assistance in getting Oakland Road repaired sooner than the one year that City staff said it would take. In addition she requested sidewalks for pedestrian safety. Mayor Manheimer asked that she contact City Clerk Burleson with her contact information so staff will be able to respond.

Councilman Smith briefly updated Council on the Affordable Housing Summit.

Vice-Mayor Wisler reminded the public that early voting has started and the primary is on October 10, 2017.

Councilwoman Mayfield asked for an update on the Energy Innovation Task Force at the October 24, 2017, meeting.

**Closed Session**

At 7:03 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: (1) Department of Transportation vs. City of Asheville; and Fletcher Hospital, LLC; and (2) Siemens Real Estate Holdings, LLC; and Jim Siemens individually vs. City of Asheville. . The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:28 p.m., Councilman Bothwell to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:28 p.m.

---

CITY CLERK

---

MAYOR