

Tuesday – October 24, 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; Acting City Manager Cathy Ball; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Vice-Mayor Wisler led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 3, 2017**

- B. SECOND READING OF ORDINANCE NO. 4615 , AN ORDINANCE GRANTING A FRANCHISE AGREEMENT TO HERE TO THERE ADVENTURE FOR THE OPERATION OF A PEDAL BICYCLE TAXI SERVICE**

ORDINANCE BOOK NO. 31 - PAGE 332

- C. ORDINANCE NO. 4618 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS TO UTILIZE TOWARDS THE PURCHASE OF A NEW BUS SHELTER**

Summary: The consideration of a budget amendment in the Transit Capital Fund in the amount of \$7,650 from insurance recovery funds for a bus shelter to utilize towards the purchase of a new bus shelter.

On May 25, 2017, a City of Asheville (City) bus shelter located on the north side of the Patton Ave. and Florida Ave. intersection was destroyed by a motor vehicle and the City settled the property damage claim for \$7,650. The Transportation Department seeks to utilize the settlement funds toward the replacement of a new bus shelter.

Pro:

- Provides funding to offset Transportation Department costs for bus shelter replacement.

Con:

- None.

The insurance recovery funds are held in the City Property & Liability Fund. Upon City Council approval, the funds will be transferred to the City Transit Capital Fund to be utilized by the Transportation Department.

City staff recommends City Council adopt the budget amendment in the Transit Capital Fund in the amount of \$7,650 for the Transportation Department to utilize.

D. RESOLUTION NO. 17-234 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH WNC ROOFING, LLC, FOR THE NORTH FORK WATER TREATMENT PLANT ROOF REPLACEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a Construction Agreement with WNC Roofing, LLC, for the bid amount of \$413,891.00 plus the project engineer's recommended contingency amount of \$62,084.00 for a total project budget in the amount of \$475,975.00 for the North Fork Water Treatment Plant Roof Replacement Project.

This is a stand alone project within the Water Treatment Plant Projects Capital Improvements suite of projects. Other projects that are to be funded at least in part by this budget are the system corrosion control study and the Mills River raw water reservoir replacement projects. Additional funds will also be necessary to complete these other projects and will be budgeted in future capital budgets.

On September 8, 2017, the Water Resources Department (WRD) issued an Advertisement for Bids for the North Fork Water Treatment Plant Roof Replacement Project. The project includes, but is not limited to, removal and replacement of the existing PVC (Polyvinyl Chloride), EPDM (Ethylene Propylene Diene Monomer), asphalt shingle, and TPO (Thermoplastic Polyolefin) roofs on the maintenance building, administration building, generator building, high service pumping building / forestry office, and filter gallery building. The project also includes the replacement of cracked clay tiles on the administration and filter gallery buildings and remediation of asbestos of various buildings.

In response to the Advertisement for Bids, the department received two bids on September 25, 2017. Companies responding were:

1. WNC Roofing, LLC – Bid: \$413,891.00
2. Eskola, LLC – Bid: \$631,396.80

Following a review of the bids by City Staff and the project engineers, GHD Consulting Services, WNC Roofing, LLC, was selected as the lowest responsible, responsive bidder for the bid amount of \$413,891.00. The project engineer's recommended contingency amount of \$62,084.00 has been added for a total project budget in the amount of \$475,975.00.

Pros:

- This project will replace the existing roof, which is at the end of its useful life and weakening from moisture penetration.
- 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:

- None.

The funding needed for this agreement is currently allocated within the Water Treatment Plant Project in the Water Resources Capital Improvement Projects (CIP) Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Construction Agreement with WNC Roofing, LLC, for the bid amount of \$413,891.00 plus the project engineer's recommended contingency amount of \$62,084.00 for a total project budget in the amount of \$475,975.00 for the North Fork Water Treatment Plant Roof Replacement Project.

RESOLUTION BOOK NO. 39 - PAGE 164

E. RESOLUTION NO. 17-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT KEEP AMERICA BEAUTIFUL GRANT FUNDS FROM THE ASHEVILLE DOWNTOWN ASSOCIATION FOR THE PURCHASE AND INSTALLATION OF CIGARETTE WASTE RECEPTACLES IN THE DOWNTOWN AREA

ORDINANCE NO. 4619 - BUDGET AMENDMENT FOR THE PURCHASE AND INSTALLATION OF CIGARETTE BUTT RECEPTACLES IN THE DOWNTOWN AREA

Summary: The consideration of a resolution authorizing the City Manager to accept Keep America Beautiful grant funds from the Asheville Downtown Association (ADA) for the purchase and installation of cigarette waste receptacles in the downtown area; and a budget amendment in the amount of \$8,000 in the General Fund to budget the grant.

The City of Asheville has partnered with the Asheville Downtown Association (ADA) in order to implement a cigarette litter prevention program for downtown Asheville. The ADA was the recipient of a Keep America Beautiful Cigarette Litter Prevention grant in the amount of \$10,000, and has partnered with the City of Asheville to install new cigarette waste receptacles throughout downtown. 20-30% Of the awarded amount is required to be spent on messaging and signage, with at least 50% of the funds to be used for the purchase of receptacles. The actual dollar amount spent by the ADA on messaging and signage was \$2,000, which leaves \$8,000 for the purchase of receptacles.

The City of Asheville Sanitation Division already planned to purchase new cigarette waste receptacles and install them on each of the downtown waste stations that did not already have them. The City was concurrently approached by the ADA with the proposal to contribute to the cost of the new receptacles based on the availability of grant funds. In June of this year, the Sanitation Division purchased and installed 120 new cigarette waste receptacles for a total cost of \$10,680. The purchase price was funded through the Sanitation operations budget, with the expectation that \$8,000 would be reimbursed by the ADA when the project was complete.

All receptacles have now been installed, and are in use currently.

Pros:

- Supports service enhancements downtown
- Utilizes partnerships and grant funds to support operations

Con:

- None noted

The total cost of the receptacle purchase was \$10,680 with the grant covering \$8,000, or 75% of the cost. The remaining expense was funded through the Fiscal Year 2017 Sanitation Division operating budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to accept \$8,000 in grant monies from the ADA; and a budget amendment in the amount of \$8,000 in the General Fund.

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**F. RESOLUTION NO. 17-236 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO AMEND THE EXISTING CONTRACT WITH THE WOOTEN
COMPANY FOR THE DESIGN AND BIDDING/CONSTRUCTION SERVICES
NECESSARY FOR THE CITY HALL ELEVATOR AUTOMATION PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to amend the existing contract with The Wooten Company for the design & bidding/construction services necessary for the City Hall Elevator Automation Project.

The City Hall Elevator Automation Project requires design and bidding/construction phase services to get underway. This is an important project as it needs to balance preservation of historic elements with modernization of the elevator mechanicals as these 90-year-old units have exceeded their anticipated life cycle. Therefore, the first step is to retain a qualified firm to perform professional project-related services starting with planning and design through the bidding and construction phases.

The Transportation Department previously procured elevator design and bidding/construction services via a Request for Qualifications (RFQ) process, which yielded Contract # 91600198 with The Wooten Company. This contract is currently active as the Transportation Department undertakes work on elevators in multiple parking structures, and the consultant's work performed to date under this contract has been excellent. With an active contract in place originally solicited to perform these same services, the proposed approach for the City Hall Automation Project is to execute a contract amendment adding this project to the work already being done by the consultant.

Pros:

- Allows design work to proceed on the City Hall Elevator Automation Project previously authorized in the CIP;
- Multi-disciplinary team includes architecture, engineering, and elevator specialists as needed to take this project from start to finish; and
- Flexible delivery of services that will allow the City to authorize work on a phase-by-phase basis that provides cost estimates and decision support at each step.

Con:

- None identified.

Initial project funding of \$200,000 was approved by City Council in the Capital Improvement Program (CIP Project B1402), and the proposed contract expenditures are within the existing budget. Once design is complete, staff will return to Council with the construction contract. It is anticipated that existing Facility Improvement CIP allocations and funding set aside in the Infrastructure Reserve in FY2016 will be sufficient to cover the construction costs for this project.

Staff recommends City Council adopt a resolution authorizing the City Manager to amend the existing contract with The Wooten Company for the design & bidding/construction services necessary for the City Hall Elevator Automation Project in the amount of \$92,500.00.

RESOLUTION BOOK NO. 39 - PAGE 166

G. RESOLUTION NO. 17-237 - RESOLUTION PROPOSING TO APPROVE A LICENSE AGREEMENT WITH T-MOBILE SOUTH, LLC, FOR ANTENNAS AND RELATED EQUIPMENT AT 130 RESERVOIR ROAD, DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LICENSE AGREEMENT IF NO ALTERNATIVE BIDS ARE RECEIVED

Summary: The consideration of a resolution proposing to approve a license agreement with T-Mobile South, LLC for antennas and related ground equipment at 130 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

The property at 130 Reservoir Road known as White Fawn Reservoir is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunications with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City maintains an array of public safety communications equipment on both towers. City of Asheville licenses unoccupied antenna space and adjacent ground space to private cellular carriers.

The City of Asheville is in the process of replacing one of the public safety communications towers on White Fawn Reservoir Site, with AT&T, an existing tenant, performing the work as part of a long-term license agreement with the City. The Lower White Fawn Tower stands at 180 feet and is visible to the southeast of City Hall. As a result of new construction standards, the current structure is being replaced with an upgraded tower to continue providing service to the region. The replacement tower will stand the same height of 180 feet with its base immediately adjacent to the existing tower. When construction is completed and all radio equipment has been moved to the new tower, the old tower will be completely removed. During construction, the old and new towers will be visible on the skyline for 90 to 120 days as the project moves to completion.

Earlier this year, the City provided a notice of termination to T-Mobile South, LLC, an existing tenant on the old tower. T-Mobile's existing license agreement was set to expire in December 2018, and as the tower replacement project began, it was necessary to provide T-Mobile with a notice of termination in order to plan for the removal of the old tower. Simultaneously, the City offered a new license agreement proposal for T-Mobile that allows for an uninterrupted transition to the new tower. T-Mobile has accepted the proposed license agreement based upon the following terms:

- Term: Up to 15 years (structured as three 5-year terms.)
- Rental: Rent is offered at the established fair market value of \$37,500 per year with annual increases of 3% per year.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.

Since the license agreement proposal is for a total period longer than ten (10) years, the North Carolina General Statutes state that Council may authorize a lease longer than ten (10) years, but to do so the lease must be administered as a sale in that the process must include an upset bid process or other competitive bid process.

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 \$37,500 per year at 3% annual increases over a fifteen (15) year term. The statutes require that a qualifying bid must increase the current offer by 10% of the first \$1,000 and 5% of the remainder. As set forth in the resolution, if no qualifying upset bids are received, then City Council agrees to further authorize the City Manager to execute the license agreement with T-Mobile South LLC.

Pros:

- Fair market value license agreement.
- Long-term commitment from T-Mobile will secure a future revenue stream for the City.

Con:

- None noted.

License fee revenue is budgeted in the City's General Fund Operating budget. The revenue for the existing license agreement is programmed in the FY 2018 budget and revenue from the new license agreement will be continued in the annual operating budget for FY 2019.

Staff recommends City Council adopt the following resolution proposing to approve a license agreement with T-Mobile South, LLC for antennas and ground equipment at 130 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

RESOLUTION BOOK NO. 39 - PAGE 167

H. RESOLUTION NO. 17-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH GRAHAM COUNTY LAND COMPANY, LLC, FOR RENOVATION OF THE LAWN BOWLING COURT AT CARRIER PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction contract for renovation of the Lawn Bowling Court at Carrier Park, with Graham County Land Company, LLC in the amount of \$447,000 plus a contingency of \$19,727 for a total of \$466,727.

Carrier Park is one of the City of Asheville's most popular recreation facilities and home to the "Green," a lawn bowling pitch used for recreational and competition play. After extensive review and analysis of the playing surface, it has been determined that the existing surface has exceeded its useful life resulting in higher than normal maintenance needs and conditions which affect playability for community use. The goal of the project is to replace the synthetic artificial turf surface, resize the court to meet regulation play standards, and replace the supporting site components because they have also reached the end of their service life-cycle.

The project has been designed to improve the surface, site drainage, and earthwork that reflects the park setting. Project improvements include new synthetic artificial turf, accessible sidewalk, storm drainage, signage, and general site renovations.

Tentative Project Timeline

Construction Begin

February 2018 - April 2018

In support of this capital improvement project, the City issued an Advertisement for Bids for construction. As of the bid opening date on September 17, 2017, the City received one bid making Graham County Land Company, LLC located in Robbinsville, North Carolina the lowest, responsive, responsible bidder with a base bid of \$447,000.00.

Pros:

- Improves the safety and functionality of the Carrier Park lawn bowling green for park users by replacing and expanding the current field.
- Improvements will occur during the spring prior to a planned tournament event by the Asheville Lawn Bowling Club.

Con:

- The Carrier Park lawn bowling green and portions of the adjacent field will be partially closed during renovations since the majority of work is scheduled to take place during the spring. Any closure will be advertised and coordinated with general park users, Parks & Recreation programming and Outdoor Special Events Coordinator.

Funding to cover the full cost of the contract is included in the FY 2017-18 Capital Improvement Program utilizing approved cash flow and funding from the FY 2017-18 Parks and Recreation Department annual CIP allocation for synthetic artificial turf surface replacement. The City has established an ongoing annual CIP contribution of \$250,000 for turf replacement projects throughout the City. Funding for the Lawn Bowling Project is coming from this annual allocation.

Staff recommends the consideration of a resolution authorizing the City Manager to enter into a construction contract for renovation of the lawn bowling green at Carrier Park, with Graham County Land Company, LLC in the amount of \$447,000 plus a contingency of \$19,727 for a total of \$466,727 and to execute any change orders to contract or documents which may arise during construction of project within the approved budget.

Mr. Bill Stoermer, President of the Asheville Lawn Bowling Club, spoke in support of the resolution, along with other members of the Club.

RESOLUTION BOOK NO. 39 - PAGE 168

I. RESOLUTION NO. 17-239 - RESOLUTION RENAMING THE MONTFORD RECREATION CENTER TO THE TEMPIE AVERY MONTFORD CENTER AND TO ACCEPT THE DONATION OF A HISTORICAL PLAQUE TO BE PLACED ON THE SITE TO HONOR THE CONTRIBUTIONS OF TEMPIE AVERY

Summary: The consideration of a resolution to rename the Montford Recreation Center to the Tempie Avery Montford 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 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 Montford 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.

Ms. McLeod has followed the City's policy on public naming and pursuant to the policy, on October 2, 2017, City Council made an announcement of the request and solicited input from surrounding property owners, residents, affected parties and other City officials or anyone else who can contribute meaningful input.

Ms. McLeod presented the renaming proposal to the Historic Resources Commission on August 9, 2017, African American Heritage Commission on August 11, 2017, and Recreation Board on September 11, 2017. The proposal received support from all three of the boards and commissions. The Recreation Board recommended the name be 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.

At the City Council meeting held on October 3, 2017, the name requested as the “Tempie Avery Community Center”; however, since that time all parties have agreed, along with the review boards, to rename the center to the “Tempie Avery Montford Center.”

The cost to the City to support the renaming of the Montford Recreation Center to the Tempie Avery Community Center is \$8,000 to \$10,000 for the identification sign. The funds to support the cost is 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 recommends renaming the Montford Recreation Center to the Tempie Avery Montford 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.

Ms. Cathryn McLeod spoke in support of the Tempie Avery Montford Center.

Councilman Young thanked Ms. McLeod for her work on this and was pleased the City will be recognizing Ms. Avery.

RESOLUTION BOOK NO. 39 - PAGE 169

J. RESOLUTION NO. 17-240 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT WICKED WEED FESTIVAL OF ARTISTRY

Summary: The consideration of a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Wicked Weed Festival of Artistry.

- Open Hearts Art Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Wicked Weed Festival of Artistry and allow for consumption at this event.

The Wicked Weed Festival of Artistry will be held on Saturday, November 4, 2017 from 12:00 p.m. to 6:00 p.m. within the boundaries of Coxe Avenue as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Open Heart Art Center

Con:

- Potential for public safety issues

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Wicked Weed Festival of Artistry.

RESOLUTION BOOK NO. 39 - PAGE 170

K. RESOLUTION NO. 17-241 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A NEW BELGIUM BIKE INFRASTRUCTURE GRANT, AND IF AWARDED, ENTER INTO SAID GRANT AGREEMENT

Summary: The consideration of a resolution authorizing the City Manager to apply for funds from New Belgium Brewing Company's Bike Infrastructure grant in the amount of \$5,000 to pay for materials for trail construction by Green Opportunities on the Town Branch Greenway Corridor and to accept the grant if awarded.

Green Opportunities approached the City with the desire to build a gravel fines trail on the Town Branch Greenway Corridor. The labor for this project will be provided by students of the Green Opportunities landscape program. The trail will measure 6' wide and approximately 1000' long. It will begin at Depot Street on city-owned property with PINs 9648-14-0398-00000 and 9648-14-5341-00000. It will then travel east through said property, ending at South French Broad Avenue.

Green Opportunities will build the trail and maintain it in accordance with the Agreement. The trail project will be overseen by staff of the Parks Maintenance Department. The Parks Maintenance Division will oversee the project and ensure the maintenance is to our standards. And ultimately, in the event Green Opportunities is unable to maintain the trail to City standards, the Parks Department will take up the maintenance of the site.

The project cost for this trail is \$7,400, including construction materials (gravel, gravel fines, landscape fabric), permit costs and contingency. The majority of the labor will be provided by Green Opportunities staff and students at no charge. The City's Park Maintenance Department will oversee the construction to ensure the work is done in accordance with City standards and will assist in the class instruction of the trail construction. Any work with heavy equipment will be handled by the City. The approximate number of labor hours needed from the Parks Maintenance Department is 72 hours.

City staff applied for this grant through New Belgium Brewing Company's bike infrastructure funds in the amount of \$5,000, which is the maximum amount an applicant can request. Staff discovered that the grant application was due August 30th, prior to the Finance Committee meeting hence staff already submitted the application. If chosen, New Belgium will announce the award and the funds will be available within 90 days. If New Belgium does not award the grant to the City, the construction materials will be paid with funds from the Transportation Department current operating fund. City staff is now in negotiations with Green Opportunities about the Agreement and we expect work to begin work this winter. If the City is awarded the grant, we will come back to City Council in order to budget the funds.

The Finance Committee reviewed this item on October 3, 2017, and unanimously recommended that it move forward to City Council for review and approval.

Pros:

- This project will provide a unique opportunity for Green Opportunities' students to learn trail building skills as a part of their curriculum
- The interim trail will provide public access to a portion of the Town Branch Greenway

- This project will provide community members who do not understand the advantages of a neighborhood greenway a “preview” of what the permanent greenway will be like

Cons:

- There will be a fiscal impact to the Transportation Planning Division
- The Parks Department will need to provide labor hours and oversight of the project
- In the long term, the Parks Department Maintenance budget will be impacted

The total cost for this project will be \$7,400. If the \$5,000 grant is awarded, the amount the City will pay is \$2,400. If the grant is not awarded, the total amount will be paid for by the Transportation Department’s current operating fund. Additionally, the long-term maintenance costs in future years will impact the Parks Department Maintenance budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for funds from New Belgium Brewing Company’s Bike Infrastructure Grant in the amount of \$5,000 to pay for materials for trail construction by Green Opportunities on the Town Branch Greenway Corridor.

RESOLUTION BOOK NO. 39 - PAGE 173

L. RESOLUTION NO. 17-242 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR FUNDING FROM THE N.C. DEPT. OF TRANSPORTATION FISCAL YEAR 2017-18 URBAN STATE MATCH PROGRAM, AND IF AWARDED, ENTER INTO SAID AGREEMENT

Summary: The consideration of a resolution authorizing the City Manager to apply for funding from the N.C. Dept. of Transportation FY 2017-18 Urban State Match Program, and if awarded, enter into said agreement.

The North Carolina Department of Transportation - Public Transportation Division is soliciting requests for Urban State Match Funding to be applied as a match to Federally-funded facility or vehicle projects. Transportation Department staff have identified a much needed project to completely renovate the Transit Center, located between Asheland Avenue and Coxe Avenue in the Central Business District. This project, identified as the “Transit Station Renovation”, currently has \$750,000 in City Funds committed to it as well as Federal Transit Administration (FTA) FY 2013-14 Section 5339 funds in the amount of \$213,911 for a total project budget in the amount of \$964,000.

On July 25th, 2017, City Council authorized the City Manager to accept the Section 5339 formula funds to be used for this project. The current opportunity for Urban State Match funding would free up the local city contribution by up to 10% of the project’s total cost. Since the project is budgeted at \$964,000, this opportunity would free up \$96,400. In other words, this grant would reduce the city’s financial burden in the capital project from \$750,000 to \$653,600.

Pros:

- If awarded, funding would free up \$96,400 of city general funds for another purpose
- Funding is provided by NCDOT as a 10% to a city capital project

Con:

- The city share in the project would total \$653,600.

The total project cost of \$964,000 will be supported with \$213,911 from the FTA. If awarded, Asheville’s local match for the project would be reduced from \$750,000 to \$653,600.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for funding from the N.C. Dept. of Transportation for the FY 2017-18 Urban State Match Program.

RESOLUTION BOOK NO. 39 - PAGE 174

M. RESOLUTION NO. 17-243- RESOLUTION AUTHORIZING AN ACTING CITY MANAGER TO SERVE DURING THE CITY MANAGER'S TEMPORARY ABSENCE OR DISABILITY

Summary: Pursuant to N.C. Gen. Stat. § 160A-149, the City Manager has the authority to designate, subject to the approval of the City Council, a qualified person to exercise the powers and to perform the duties of the City Manager during his temporary absence or disability. It is necessary for an Acting City Manager to be designated during the times that the City Manager is absent or otherwise unable to perform his duties, in order to effectively conduct the business of the City. The City Manager, Gary Jackson, has prepared a letter, pursuant to N.C. Gen. Stat. § 160A-149, which has been filed with the City Clerk, which designates and authorizes Assistant City Manager Cathy Ball to exercise the powers and perform the duties of the City Manager at any time during his temporary absence or disability.

The City Council hereby approves the letter of City Manager Gary Jackson and the designation of Assistant City Manager Cathy Ball to exercise the powers and to perform any and all duties of the City Manager during his temporary absence or disability.

The duties of City Manager should be transferred to Assistant City Manager Ball upon prior written notice to the City Clerk and City Council by the City Manager, and should terminate upon the City Manager's return or his disability ceases, unless Council takes action during the City Manager's absence to revoke this designation and appoint another Acting City Manager.

RESOLUTION BOOK NO. 39 - PAGE 175

N. RESOLUTION NO. 17-244 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH BLOOMBERG PHILANTHROPIES FOR THE 2017 MAYOR'S CHALLENGE

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the Bloomberg Philanthropies 2017 Mayor's Challenge.

On September 6, the City of Asheville was invited by Bloomberg Philanthropies to participate in an "idea accelerator workshop" for the 2017 Mayor's Challenge. City staff from several departments participated, as well as a number of citizens from the City's existing partnerships. Ideas were discussed with community partners, with convergence upon an idea to improve the following situation: The proportion of public and private contracts in the Asheville area that go to minority-owned businesses is significantly lower than their demographic representation.

Funds received will be used to work with community partners to embark upon a community-centered, data-driven, scientific method approach to address this challenge. Measurement and open reporting of outputs, outcomes, and actual impacts upon the stated problem will be an integral part of the effort.

Pros:

- Community-driven approach to an acknowledged equity problem
- Data-driven and scientific method approach to a problem
- Aligns well with where City of Asheville staff efforts are already focused

- No matching funds required
- Con:
- Some staff efforts are needed

There is no local match required.

Staff recommends City Council adopt a resolution authorizing the City Manager to authorized to apply for and enter into an agreement with the Bloomberg Philanthropies 2017 Mayor's Challenge.

Mr. Scott Barnwell, Business and Public Technology Manager, explained how the City worked with a number of community organizations and felt this was a real community-centered approach.

RESOLUTION BOOK NO. 39 - PAGE 177

Vice-Mayor Wisler 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 Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. OVERSIGHT OF COUNCIL APPOINTEES

Vice-Mayor Wisler said that Human Resources Director Peggy Rowe provided this report to the Governance Committee earlier today and they felt it might be good for the full Council to hear it.

Ms. Rowe said that (1) the City of Asheville does not have early retirement incentives; (2) the City of Asheville does not have retention bonuses; (3) general increases for employees including Council direct reports are approved during the budget process; (4) other adjustments for City Manager, City Attorney and City Clerk must be initiated by the Council; and (5) Council has a contract with the City Manager and the City Attorney. The City Manager's contract specifically addresses salary and benefits, performance evaluations, and travel. The City Attorney's contract specifically addresses annual review of compensation, travel and professional development, and performance evaluation.

She said that for the 5-year salary history of the City Manager, City Attorney and City Clerk, they have not received any increases, other than the same increase as all other City employees.

Ms. Rowe then explained the City's quality of service awards, which the City Manager, City Attorney, City Clerk or Department Directors are not eligible to receive. The awards have three levels (1) Level I - Requests for recognition items of less than or equal to \$20.00 in value shall be submitted in writing to the employee's department director; (2) Level II - Requests for monetary awards of between \$20.00 and \$250.00 shall be submitted in writing to the employee's department director and the Human Resources Department; and (3) Level III - Requests for monetary awards more than \$250.00 in net value will be submitted to the employee's department head, routed to Human Resources Director and then to the City Manager.

Ms. Rowe then briefly reviewed the City's Nepotism Policy, noting that this policy has been in place for many years.

B. FINANCE COMMITTEE RECOMMENDATION TO FORM AN ASTON PARK TENNIS CENTER TASK FORCE

Director of Parks & Recreation Roderick Simmons said that the Aston Park Tennis Center has a long history of serving the residents of Asheville. It is a jewel in the center of the city that provides important recreational opportunities to the residents of Asheville as well as visitors to the area. The Aston Park Tennis Center as a landmark to healthy living, engaged citizenry and economic impact.

During the 2014-15 fiscal year, City staff was asked to develop an RFP for the operation of the Aston Park Tennis Center with the goal of reducing the operating subsidy for the Tennis Center and developing a funding plan for capital investment. The City received one response to the RFP and the proposal was evaluated by management and staff. The proposal would not have reduced the City's subsidy of the Center as was rejected.

Additionally, Finance Department staff was asked to review the Aston Park Tennis Center Operations and to develop business plan options for consideration. The options included a plan to provide maintenance only and eliminate all fees and revenue generating activities. Another option explored a four-year stepped fee increase along with additional revenue generating strategies.

Staff worked with members of the tennis community to develop a focus group to discuss ideas and make recommendations that would reduce the city subsidy. The focus group considered and referenced the Aston Park Tennis Business Plan Options prepared by the City of Asheville Finance Department for the City Council Finance Committee staff report dated May 27, 2014.

Focus Group: As part of the public process the focus group was responsible for consolidating and evaluating the public comment to discern what best represented overall feedback from the tennis community. It was important for the focus group recommendations to reflect the public comments given at the two community meetings, the online portal and feedback received through email.

The focus group task was to process information provided during the public comment period and provide business plan options and a recommendation to City Council Finance Committee on the following:

1. Fee increase and expense reduction over a two-year period to reduce the city subsidy to the Aston Park Tennis Center which included an incremental increase in fees over a 3- year and 4-year period
2. Tennis Center management, revenue and cost saving opportunities, and general operations
3. Tennis Center maintenance

The Focus Group Members were: Ashley Arrington, Chris Barcklow, Sallie Bissell, Elaine Blanton, Dan Costant, Susan Eggerton, Lucy Keil, Paul Kelman, Ginger McLeod, Renate Ridders, Marty Ruatto, Christian Theodossiou and Tom Youngblood. Staff Liaisons were: Mark Halstead, Debbie Ivester and Laura Loftis.

We are approaching the 3rd year of the business plan and based on the public comments at the October 3, 2017, Finance Committee meeting. This would be an opportune time to evaluate the progress of the 2014 business plan.

He recommended using a stakeholder and focus group model because it allows citizens and user group of the facility to provide feedback and the opportunity to help the facility continue to meet the needs of all citizens.

Process for evaluation of the 2014 Business Plan:

- A. Staff shall reconvene the original focus group (as members are available and interested in participating) and offer the opportunity for new citizens and stakeholder groups to join.
- B. Staff and focus group develop a process for public review and comments on the current business plan.
- C. The focus group will use the information from public comment to review and evaluate the current business plan and make recommendations to the Parks and Recreation Advisory Board.

Given the City's focus on viewing all processes and programs through an equity lens, he recommended that we include Kimberlee Archie or someone acting on behalf of the Equity Office to ensure that the both the process is conducted and the final decision is made with equity in mind.

He recommended Council allow the focus group 60-90 days to complete the evaluation of the business plan. He will assign Program Managers Dee Black and Sandra Travis to be the project leads for the review process and they will coordinate with internal and external stakeholders.

List of Stakeholders

- Aston Tennis Center Pass Holders
- Asheville Tennis Association
- Coed Senior Tennis Group
- Women's Senior Tennis Group
- Weekend Mixed Doubles Group
- US Tennis Association League Tennis
- Asheville Middle School Tennis Team
- Asheville Catholic School Tennis Team
- General Aston Tennis Center Users
- West End Clingman Neighborhood Association
- South French Broad Neighborhood Association
- Any member of the public who has specifically contacted the City of Asheville regarding the recent consideration of fees and operations of the Tennis Center

The following is a recommendation for improving the Aston Tennis Center provided by Mr. Randy Talley and Mr. Lewis Isaac:

"Over the last several months our Aston Tennis Center Study Group has been assessing conditions at the Center and discussing a process for rejuvenating the Aston Tennis Center

program. As you are aware, the tennis community has been voicing concern for years about the Aston Tennis Center, and we note that conditions at the Center are not improving- only deteriorating.

We have a vision for the Asheville Tennis Center. In 3-5 years we would like for the Aston Tennis Center to have the following characteristics:

- Be a vibrant, thriving, highly respected City entity
- Be well-managed as a Tennis Center with a full schedule of play, leagues, lessons and events for all ages and abilities
- That the facility is well-maintained and recognized by tennis players as 'one of the best'
- Be recognized for teaching tennis, with more youth, and particularly 'at risk' youth participating
- Hosts events, generates income, and brings visitor dollars to our local economy
- Be a participating leader and partner with neighboring and local tennis groups
- Be recognized as a destination for tennis players and fans around the Atlantic and Southeast region
- Utilizes sound marketing and business practices
- That the City and citizens are satisfied with the Tennis Center, and the City receives due-credit for restoring this iconic venue
- And that Aston is branded as a community gathering place for all citizens to mix and get to know each other through the game of tennis

Existing Issues Needing Addressing:

- Full-potential is not being met (services, leagues, events, youth & 'at-risk' lessons, teaching, etc.)
- Not run as a tennis center; not using best practices from around the country
- Facilities in decline
- Membership and reputation declining
- City losing money- putting in \$125,000+ a year for a business model that is outdated and not working
- Parking is becoming a problem, and soon to become more so
- Courts inefficiently watered- study other systems (Hydro Systems, etc.)
- Aston not a leader in coordinating with other tennis centers
- Zero marketing- that we can tell
- Poor collaboration with neighboring entities (United Way, YWCA, Housing Authority residences, Asheville Middle School, etc.)

Our understanding is that City Staff have been tasked with developing new options for managing Aston Tennis Center. Our request and recommendation is that the **City authorize the formation of a task force to work with City Staff and conduct research based on specific questions of other public clay courts in comparable cities and to present this information and recommendation by year-end 2017.** From this research and answering these questions, the task force will offer recommendations to City Council for ways to improve tennis at Aston and for structuring a long-term solution that will lead to a successful Aston Tennis Center, as outlined above. Our suggestion is that the task force receives staffing and research support from Parks & Recreation staff. We are pleased to submit separately a list of qualified individuals who could serve on the task force.

We recommend the task force consist of ten (10) members* representing the following:

- 1 Asheville Tennis Association- Tracy Whitehouse
- 1 USTA (United States Tennis Association)- Sara Naff-Mlo

- 1 Chamber of Commerce- Randy Talley
- 1 Asheville Sports Commission- Kathy Hurley
- 1 YMCA- Wilson Sims
- 1 YWCA- Kimberly Kneier
- 1 Aston neighborhood- Lewis Isaac
- 3 At-Large- Christian Theodossiou
Renate Ridders
Charles Carter

*This is currently a draft list, and we are in process of firming up!

We are encouraged that the City has been progressive in its consideration of management for other entities, most notably the Municipal Golf Course.

Aston Tennis Center Study Group members
Randy Talley , Lewis Isaac
Charles Carter, Christian Theodossiou
Kimberly Kneier, Kathy Hurley
Renate Ridders, Wilson Sims

Questions the Task Force’s Research can Address:

- How have comparable cities achieved success with their public clay courts?
- What are specific indications of success with comparable clay courts?
 - Good cost and revenue model between city and contracting management entity
 - Strength of leagues
 - Level of adult play and ease of integrating new people
 - Role of teaching pros
 - Role of youth programs, both introduction and development
 - Number and type of tournaments each year
 - Level of coordination with other centers, tennis groups around the state
 - Significance of marketing skillsets and promotion capabilities
 - Ability to host events and generate visitor dollars
 - Degree to which it is a destination
 - Degree to which it is a meeting place for all citizens to mix and get to know each other through the game of tennis
 - How does the management group makes its revenue numbers ?
 - Type of community support for the management group
 - Where there are annual passes, how much do they cost and what are the associated benefits? What percentage of business is from passholders?”

Councilwoman Mayfield said that Mr. Simmons’ recommendation and the Aston Tennis Center Study Group’s recommendations are similar. She recommended Council adopt the recommendation process outlined by Mr. Simmons, with the addition of interested Study Group members on the Task Force and with the evaluation of the business plan to include some of the research questions outlined by the Study Group.

Mr. Simmons said that he would be happy to use the stakeholder and focus group model and encouraged interested individuals to contact him for inclusion in the group, noting that several of the research questions raised by the Study Group were used in the 2014 focus group process .

C. UPDATE ON THE ENERGY INNOVATION TASK FORCE

Councilwoman Mayfield said that this is a request to allocate additional city resources to implement the Energy Innovation Task Force’s (EITF) recommendation for a community campaign to improve energy efficiency, reduce energy use, and move toward meeting the EITF’s goals.

The City of Asheville, Buncombe County and Duke Energy jointly created the EITF in April 2016 as a collaborative, community effort to achieve two goals:

1. Avoid or delay building a 190-MW natural gas, peaking unit anticipated to be needed in the early 2020’s, and
2. Create a clean energy future in Western North Carolina.

As a first step toward achieving these goals, Council approved \$202,500 as part of this year’s budget process to fund the following initial EITF recommendations:

Project	Approved Funding
Implement education and training for City staff, building professionals, HVAC contractors, building owners and the general public.	\$25,000
Pursue opportunities for renewable energy and storage installations on City Facilities and properties.	\$25,000
Encourage voluntary, quantifiable efficiency retrofits in privately owned commercial buildings (Better Buildings Challenge as extension of existing Workplace Challenge).	\$25,000
Promote program offerings from EITF with City employees via education, outreach and support/remove barriers.	\$2,500
Comprehensive Energy Audit for all City Owned Facilities	\$75,000
Support ongoing engagement of Rocky Mountain Institute in analysis of programs and creation of EITF 2-year Action Plan	\$50,000
Total	\$202,500

In addition to these investments, Council indicated support for funding a low income weatherization program. The City subsequently joined with Buncombe County in applying for a \$300,000, 2-year grant from the Kendeda Fund for this purpose. *The grant has been conditionally awarded, with one condition being the need for the City and County to indicate this project will not just be a short-term demonstration project but is viewed as one piece of a long-term commitment to reducing energy use that will continue beyond the scope of this grant. We are not being asked to commit specific funds for this specific program beyond two years, but simply an indication that our partnership through the EITF is a long term effort that will likely continue until we reach our goals.*

As indicated during the budget discussions, these investments by the city were intended to be the first step in the development and implementation of a longer work plan and campaign. The EITF is near the culmination of its 18 months of work and has developed and approved a branded, community campaign to improve energy efficiency, reduce energy use, and move us toward our larger goals. This campaign, called the **Blue Horizons Project**, will be a coordinated

marketing campaign that will ask residential and business customers to take specific actions to help achieve our goals. The specific recommended actions will change over time in order to keep customers engaged and offer more options for action, but the campaign's initial focus will be on the following:

1. *Residential:* sign up for Duke Energy's EnergyWise program that allows Duke Energy to cycle off hot water heaters and HVAC systems for brief periods of time to reduce peak energy use. Customers typically never notice when this happens, and they receive an annual credit from Duke for enrolling in this program.
2. *Low income customers:* sign up for weatherization through the new City/County program or through Duke Energy's Neighborhood Energy Saver program that can target 1000-3000 homes in a single city per year. Duke has committed to bring the program back to Asheville in 2018.
3. *Business:* sign up for Duke Energy's Small Business Energy Saver program and EnergyWise Business. The Small Business Energy Saver program pays an average of 60% of the cost of energy efficiency upgrades.
4. *Other:* encourage residents to support and participate in other community efforts such as Energy Savers Network (volunteers doing low income weatherization) and Cool Communities (neighborhood groups working through an energy efficiency workbook).

Success in each of these areas has the potential to generate significant savings in peak energy use and energy use overall. The EITF continues to identify specific goals for the number of new program subscriptions and energy savings that we expect to achieve through this effort.

While this campaign relies heavily on Duke Energy's programs, implementation of the campaign must be the responsibility of the EITF convening partners and members. The key to the campaign's success will be the sense of collective, community responsibility it will generate and the need for everyone to participate if we are to reach our goals. It will not likely be successful if the public perceives it to be solely a Duke Energy marketing effort.

To that end, the EITF leadership has identified opportunities for each of the convening partners to contribute additional resources. Most of the items on the list are staff time, but each partner is also being asked to contribute \$25,000 to support marketing for the campaign as well as the salary and expenses of a part-time campaign coordinator to manage the many moving pieces of the campaign over the next 12-18 months. Now that the EITF is moving out of planning and into implementation, there is a need for centralized coordination of outreach, communications, marketing, community partners, projects, website maintenance, tracking metrics of success, and fundraising. The EITF leadership envisions this coordinator would be housed at the Green Built Alliance.

Generally, the convening partners are being asked to commit the following additional resources:

Duke

- ensure its programs are sufficiently staffed to accommodate the anticipated increase in program subscriptions
- provide staff to attend and lead outreach sessions for different small business sectors
- provide staff support to research targeted customer sectors

- bring Neighborhood Energy Savers back to Asheville and coordinate with local partners
- coordinate with convening partners on campaign launch, marketing, and outreach and explore use of existing marketing dollars to support the campaign
- seek to improve existing programs and for opportunities to launch pilot programs in the future
- seek funding for the campaign coordinator and associated marketing/outreach efforts

City/County

- staff time to work together and with Duke to organize the public launch of the campaign at a media event in January.
- staff time to help implement the communications plan, which will consist mainly of regular, ongoing promotion throughout the year of the campaign and its associated website through existing communications channels - social media, website, op-ed, etc.
- staff time in working with Duke and other community partners, such as GO and Community Action Opportunities, to identify and engage the neighborhood(s) to be the focus of Duke Energy's Neighborhood Energy Savers Program in 2018
- staff time to work together and with Duke and other community partners on other outreach and implementation projects to advance the Blue Horizons Project and the EITF as needed and appropriate to ensure the City and County continue as meaningful, supportive partners in the EITF effort
- contribute \$25,000 each for a campaign coordinator and associated marketing/outreach efforts (the County has committed to this from funds already allocated)

Pros:

- Advances Council's goals established by the EITF resolution and other resolutions aimed at moving Asheville toward a cleaner, affordable, smarter energy future
- Advances Council's vision for A Clean and Healthy Environment, which states, "Asheville continues to be a leader in innovative technologies and conservation efforts in response to global climate change."

Cons: None.

The fiscal impact would be funding of \$25,000 for a part-time campaign coordinator. This would require a budget amendment as the funding already allocated is otherwise committed.

Recommended action would be to (1) Re-commit long term support for the EITF and its two major goals beyond the 2-year scope of the Kendeda Fund grant; (2) Support additional city staff time for marketing, outreach and project implementation to advance the Blue Horizons Project and the EITF, as needed and appropriate to ensure the City continues as a meaningful, supportive partner in the EITF effort; and (3) Make an additional allocation of \$25,000 to support a campaign coordinator and associated marketing expenses for the Blue Horizons Project, conditioned on the County and Duke Energy committing an equal share.

Vice-Mayor Wisler was committed to the work; however, she could not support moving forward with number 2 for additional city staff time until staff can let her know what types of things won't get done if more staff time is spent on EITF and marketing, etc., and what the other partners are doing for staff support. On number 3, she was not willing to approve a budget amendment for \$25,000 until we get an update on the City's first quarter.

Councilwoman Mayfield said that because there is no budget amendment before Council at this meeting, she would be willing to have it placed on the agenda when the City's first quarter update is heard. In the meantime, at the November 10 EITF meeting, she will get an official vote from the Task Force recommending that Council provide the support. The Task Force supported the action by head nods but did not take a formal vote.

In response to Councilman Smith, Councilwoman Mayfield said that they are in the process of developing a year to two-year work plan including the strategies they will be using to meet their two goals. At this point she did not anticipate coming back to Council until the next budget cycle. It is the plan to have the work plan completed by the end of the year. They have all the information and it's just a matter of pulling it together.

Councilman Bothwell felt that the Kendeda Fund should be reassured of the City's long-term commitment by our commitment to reduce the City's operational carbon footprint to 80% by 2050.

Councilman Young was concerned that Councilwoman Mayfield is asking for an additional \$25,000 for the EITF outside of the City's budget cycle. Even though the amount is small, it would mean a lot to a small organization to do something different.

In response to Councilman Young, Councilwoman Mayfield said that Duke already advertises their programs, but the subscription rate to their programs are low. We know that Duke just marketing the programs does not work. The whole point behind the EITF is to create this community partnership that sends the message to residents and customers that we have a problem and we need to work together. The only way we will be successful is if we all work together and creating this community marketing campaign is clearly not Duke marketing its programs in the traditional way they have been marketed.

Councilman Young noted that since Duke has been marketing their programs for some time without success, he wondered what why the City coming to the table would make their programs successful.

It was the consensus of Council to recommit their long-term support for the EITF and its two major goals beyond the 2-year scope of the Kendeda Fund grant.

Regarding number 2 to support additional city staff time for marketing, outreach and project implementation to advance the Blue Horizons Project and the EITF, there was not majority Council approval until after the City Manager reports on the current staff time allocation.

Regarding number 3 to budget an additional \$25,000 to EITF, Mayor Manheimer said that as there is no formal budget amendment before Council it will have to come back to Council for consideration. She supports the concept because we created the Task Force and we knew what the Task Force was going to do. It's important, though, to operate within the fiscal funding cycle and not to have budget amendments, which are typically for unforeseen circumstances. She was concerned about all the potential programs that will be borne out of the Task Force and the opportunity for other funding. She wanted to make sure we have exhausted any grant opportunities for funding like this, so when this comes back to Council for consideration of the budget amendment, she wants information on the fiscal performance of the City, where we are able to get the funds, and whether or not we have exhausted other opportunities for grant funding.

D. UPDATE ON ENFORCEMENT OF SHORT TERM RENTALS

Zoning Administrator Shannon Tuch said provided the Council with the following report:

“During the October 3, 2017, City Council meeting, council members requested an enforcement update related to Homestays and short-term rentals be provided by staff, prior to the regularly scheduled quarterly report. The data in this report spans a time frame from November 2015 through September 2017.

Rental of a property within the City of Asheville for a duration of less than 30 days is considered “Short-term”. Rental of an entire home/apartment on a short-term basis is not allowed in residential districts and some commercial districts. Rental of private rooms within a dwelling on a short-term basis is allowed with a valid homestay permit from the City. Here is a summary of some city actions taken with respect to homestays and short-term rentals:

November 2015 - due to strong demand for homestay lodging, City Council passes a zoning text amendment modifying the requirements for a Homestay.

July 2016 - Council allocated additional resources to facilitate the permitting of Homestays and enforcement of illegal short-term rentals.

November 2016 - the City engaged a third party contractor (Host Compliance) to assist with locating short-term rental violations throughout the City. The Address Identification service provides a monthly report with complete address information and screenshots of all identifiable short-term rentals in our jurisdiction which is reviewed by staff as a tool for detect possible ordinance violations. A renewal of this contract is currently in process.

July 2017 - zoning administration and enforcement, including the enforcement of Homestays and short-term rentals, transferred from the Development Services Department to the Planning & Urban Design Department.

Update on Homestay Permit Activity: According to the city’s permit records, there are approximately 548 active Homestay permits. Approximately half of these permits are advertised as “partial home” or a “private room” while the other half describe private suites that are advertised as “whole home/apt.”. The very large majority of these permits have been issued since amending the homestay standards in November 2015, with a swell in permits issued after heavy short-term rental enforcement activity.

Update on Enforcement Activity: Planning & Urban Development staff continue to proactively enforce the short-term rental provisions of the UDO as had been the practice under the Development Services Department. This effort is enhanced by the data supplied by the third party contractor. Prior to 2017, staff issued approximately 10 notices of violation for short-term rentals per month under the former system. Beginning in 2017, staff has issued an average of 42 notices of violation for short-term rentals per month. This number is down from earlier reports (72 notices/month). The reduction is believed to be primarily the result of: 1) a normalization of activity after a period of heavy enforcement, and 2) a time limited reduction in resources due to the transfer of responsibilities to the Planning & Urban Design department.

Time Period	Average Violations Noticed, Monthly
Nov 2015- Oct 2016; 12 month span	10
Jan 2017- Sept 2017; 9 month span	42
Percentage Increase, Proactive Enforcement	420%

Of the total noticed violations, only 17.2% originate through citizen complaints. 82.8% of the violations noticed by the city have been proactively identified by city staff with the assistance of the contract service.

The majority of the cases opened are resolved through the correction of the violation or issuance of a homestay permit where appropriate. The table below highlights the most common resolutions:

Resolution of Case	Percentage of Cases
Homestay Permit Issued	21%
Violation Corrected, Case Closed (change of use in an allowed zoning district, change to 30 day minimum rental, etc)	52%
Invalid Complaint	6%

The remaining 9% of open cases can include properties that are in various stages of enforcement action including those that have been turned over to the City Attorney's office for legal action.

In an effort to reconcile permit data with the data from the contractor, an exercise that identifies the different categories of listings demonstrates that most of the identified listings are brought into compliance.

Approximate Listing Breakdown (October 2017)	
<i>Total number of short-term rental units: 959</i>	
<i>Number of listings identified: 681</i>	
Number of units rented for one month or more	54
Number of homestay permits issued	548
Number of active enforcement cases	85
Total	687 (+6)

With approximately 12 months of basic metrics provided through the third party contractor, it is better recognized that the overall number of identified listings consistently hovers between 900-1,000 listings. As new listings are identified, enforcement action is initiated and generally successful; however, the inventory of listings is changing day-to-day presenting new challenges for tracking and monitoring properties and cases.

Staff Concerns: Through the administration of the revised Homestay permitting and proactive enforcement programs, staff has encountered many different scenarios that have generated the following areas of concern:

- The number of unidentified units evading detection and continuing to operate illegally.
- False representation of residency, web postings, and leases with homestay permits along with the accurate identification of livable space and unit separation .
- Property owners seeking to operate homestays from detached structures.
- In commercial districts, an increase in the number of residential dwelling unit conversions to short-term lodging.
- In commercial districts, a significant increase in the number of new residential projects being constructed for the purpose of providing lodging.

Next Steps: Staff will continue to work with the third party contractor while diligently verifying supplied data to identify properties that are possibly in violation and those which may have the opportunity to gain compliance through Homestay permitting or other means. However, the number of new and unique violations identified by the Address Identification Service is decreasing. As such, the number of violations issued is expected to decrease in the future.”

There was considerable discussion, initiated by Councilman Smith, regarding how the City can get to zero with regard to illegal use, and are the enforcement efforts enough or does Council need to augment the enforcement efforts in some way. Ms. Tuch explained that once the properties are identified our enforcement seems to be pretty effective. Our biggest challenge to reach zero is our inability to identify all the properties that are currently operating illegally. The listings themselves, when you evaluate them, don't give you any identifying information. We have looked at other cities and some of the strategies that they are using. The third-party consultant are trying to help answer these questions as well. We are effectively managing the homestay program but continue to struggle to identify the people who are employing evasive techniques to avoid detection.

Councilman Smith said that there has been conversation around looking at those commercial areas where the short term rental use is currently legal and some formalized policy discussion around the direction Council wants that to go. Acting City Manager Ball said that she thought we would have data that could show us the number of legal short term rentals in the commercial zones. We can also look at short term rentals in other zones, and where there could be conflict between neighborhoods and the short term rentals, e.g., the River Arts District. We can start the analysis on how many we have occurring legally and then try to target where Council views those have the most impact on the quality of life for the citizens. Council could then determine not allowing them in other zoning districts that currently allow it.

Vice-Mayor Wisler supported starting the process especially showing how many new short term rentals are being applied for or have become legal within the commercial districts.

Councilman Smith felt it is a good idea to have staff start that analysis and perhaps take it to the Planning & Economic Development Committee for review or perhaps include it as part of the City Council retreat discussion.

Councilwoman Mayfield supported gathering the data and seeing how many legal whole house short term rentals and their location.

Ms. Tuch said that she anticipated the Council question of where we have the conversion of residential units into short term rentals. She talked with the Development Services Department and noted that she would have presented that information to Council if we had it. The permit system we use has some limitations. All conversions of residential units to lodging requires a change of use applications - Level I application process. When we sort it in our permit system, we get all Level I applications. We then tried to narrow it down by key word searches, but that is not reliable because everyone enters in different key words. We were not confident with the data that we collected so we have not been presenting it. The other limitation is that the system does not allow us to search in a geographic area. Moving forward we may be able to identify a specific sub-type to the application to make sure that gets tracked. We will continue to see if we can get the data (with manual culling) over the last year of the conversions.

Ms. Tuch noted that what is a new trend we are seeing is the number of what would be residential projects now seeking to come in and amend their applications to be lodging projects, including several large ones in the downtown.

It was the consensus of Council to ask staff to (1) see if there is more we can do around enforcement that we are not now doing; (2) try to determine how many legal short term rentals are there in the non-residential districts; and (3) try to determine if there a way to measure the conversion of residential units into short term rentals and if Council wants to address this as a use in the future, what would be the recommendation.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 95 ROBERTS STREET FROM RIVER DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONING FOR THE RENOVATION OF AN EXISTING BUILDING FOR A LODGING USE WITH ADDITIONAL SPACE FOR RETAIL AND RESTAURANT USES

ORDINANCE NO. 4620 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 95 ROBERTS STREET FROM RIVER DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONING FOR THE RENOVATION OF AN EXISTING BUILDING FOR A LODGING USE WITH ADDITIONAL SPACE FOR RETAIL AND RESTAURANT USES

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to consider the conditional zoning of property located on 95 Roberts Street from River District to Lodging Expansion/Conditional Zoning for the renovation of an existing building for a lodging use with additional space for retail and restaurant uses. This public hearing was advertised on October 13 and 20, 2017.

The subject property (PIN 9638.97-5796) is currently owned by Greer Building LLC; the petitioner is White Point Partners and the project contact is Gregory Hoffman.

Site - The project site consists of one parcel located at 95 Roberts Street in the River Arts District with an area of approximately 0.88 acres (to be conditionally rezoned) but also includes some associated work on the parcel across the street (creation of public parking). The primary site is currently zoned River but is within the RAD Form Code rezoning area (not yet approved at the time of application) and surrounding sites are currently River or Commercial Industrial zoning (proposed RAD- Neighborhood Transition RAD-NT).

The project site contains an existing building fronting directly onto Roberts Street with the railroad right-of-way to the rear. There are existing one and two story buildings in the immediate vicinity.

There is a little bit of space on each side of the project that is not developed. The applicant is working on historic preservation tax credits so and they have been working with State Historic Preservation Office on what exactly could be done in those areas. As of now, word from the State Historic Preservation Office is that they want to leave those areas as undeveloped as possible to better reflect how the building and the site functioned when it was an industrial use.

Overall Project Proposal - The applicant is proposing to renovate the existing building primarily for a lodging use. There are additional spaces proposed for restaurant and retail uses. Plans indicate 70 lodging rooms, 4,608 square feet for retail and a 60-seat restaurant. The building appears as two-stories when viewed from Roberts Street but has five levels from the rear and has an overall height of 67' 2 5/8 " and a total GFA of approximately 61,000 square feet. There is a new rooftop penthouse proposed to be constructed.

Access, Sidewalks, Parking - The design proposes a vehicular drop-off area to be constructed to the east of the building in a small area that is currently vacant and includes four spaces. Otherwise, the primary vehicular access to the site is from Payne's Way which is along the railroad right-of-way to the south of the building, accessed from Lyman Street. Bicycle racks are provided at both the front and rear access points to the building.

There are approximately 75 spaces proposed within this graveled area. Also, 20 parking spaces are proposed to be created as public, on-street spaces across Roberts Street to the north. A total of approximately 95 spaces are provided for this project which is within the required range for the uses. The UDO allows and encourages a combination of on-street and shared or remote spaces to meet minimum parking requirements for permitted uses.

Sidewalks are provided along the front of the building and are shown varying in width from eight to ten feet (*see condition below*).

Landscaping & Open Space - Landscaping is required for this project and includes building impact landscaping, street trees, street buffer and dumpster screening. There are two retaining walls shown on the revised plans - nine feet and 15 feet, which will comply with aesthetic standards required by the UDO.

Five percent of the lot area is required to be set aside as open space; the proposal meets this standard.

Design and Operational Standards - There are standards relating to building orientation and fenestration in the zoning district and the design complies. The renovation of the historic building (constructed c. 1925) is being reviewed by the State Historic Preservation Office for historic tax credits.

Zoning – Lodging uses with over 21 rooms are required to undergo a conditional zoning review to the Lodging Expansion District. This proposal is located in a commercial area where lodging uses are currently permitted and mixed-use projects are expected.

Conditions – The applicant is proposing several conditions relating to reuse of an existing building:

1. Sidewalk width less than 10 feet as required by the district - no less than eight feet in any spot in front of building
2. Parking for the use will be provided along Payne's Way in the railroad right-of-way, off of the project parcel and by new on-street spaces created along Roberts Street. Off-site and shared parking arrangements are encouraged in the UDO.

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on July 25, 2017. The River District Design Review Committee voted unanimous support for the project at their meeting on August 29, 2017, as did the Asheville Area Riverfront Redevelopment Commission on September 14, 2017. The project was approved with conditions by the Technical Review Committee on September 18, 2017. Final TRC review is needed prior to the issuance of any permits.

No communication has been received from the public as of the writing of this report.

This site is within the area under consideration for the RAD Form Code. Recent nearby projects include the mixed-use development, RAD Lofts (amended by City Council July 2017).

The lodging use (with retail and restaurant spaces) can be considered as appropriate in this location. The RAD Form Code stresses providing a mix of uses, especially those that will support the working artists and adaptively re-use existing historic buildings. Because the existing building occupies almost the entire parcel, there is not sufficient room on the site to provide required parking; the proposal utilizes allowable provisions found both in the UDO and the proposed RAD Form Code for remote parking to satisfy the needs of the uses.

This project is aligned with elements in the Comprehensive Plan (*2025 Plan*) in that it adaptively reuses an historic building, retaining the architectural character and heritage of the area and places development along a commercial (mixed-use) corridor with infrastructure already suited to accommodate the use. Additionally the uses are in a location with transit, bike lanes, sidewalks along with future greenways that help enable non-vehicular access to nearby uses such as downtown and the river. Also the *Plan* recognizes tourism and the ‘availability of adequate lodging facilities’ as a key strength of the City.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* (active streetscape, preservation of historic structure, multi-modal access); and (2) *Transportation and Accessibility* (multi-modal access opportunities).

Considerations:

- Project adaptively reuses a historic building, maintaining the architectural fabric of the RAD
- The uses activate the streetscape and complement the mixed-use intent for the area
- Parking must be accommodated via a remote parking provision

Based on policies in the *2025 Plan* and City Council’s 2036 Vision Considerations as well as the River Arts District form code, staff recommends approval of the conditional zoning for the project at 95 Roberts Street inclusive of the conditions as noted in the B.1 attachment.

The Planning & Zoning Commission reviewed this request at their meeting on October 4, 2017, and voted 7-0 in support of the project. Commissioners recommended the applicant consider creative screening methods to soften the appearance of retaining walls on the site.

When Vice-Mayor Wisler asked how the City would enforce the remote parking agreement in the future, Ms. Bernstein felt that if some space were to become unavailable they would have to find space elsewhere, or seek a variance by the Board of Adjustment for a parking reduction. Ms. Bernstein said that the condition would be that the applicant would not be providing parking on-site.

In response to Councilwoman Mayfield, Ms. Bernstein said the remote parking agreement is for the spaces behind the building and that agreement is between the applicant and Norfolk Southern. Since the condition is for no parking on-site, staff has not gotten into the particulars of how the agreement would work. Prior to receiving zoning permit at the Final TRC, staff will need more detail on how the remote parking agreement would work.

Mr. Jesse Gardner, an executive member with Civil Design Concepts, said they have secured a long-term parking lease with Norfolk Southern. We plan to improve it for parking that supports this project. The owner will continue dialogue with Norfolk Southern to secure that right-of-way by purchase. Now it is only a lease in perpetuity with a termination right. He said that they own the property across the street and if the parking ever got taken away, they could potentially build a parking garage. There are also other options on the site but they would rather not build a separate structure when they are pursuing tax credits. It is in their vested interest to make sure there is parking for their occupants.

Mr. Jay Levell, developer from Charlotte, said that he specializes in historic rehabs. He felt this is a great building and wants to preserve it. They have partnered with a boutique hotel group. They want to keep the character and fabric of the River Arts District and have local uses, local retail and support the area.

When Councilman Haynes asked if the developer would make a commitment to have local businesses in the retail spaces and pay a living wage, Mr. Levell said they are in preliminary discussions with several local restaurants. Regarding the living wage, he knew the hotel group has discussed it and would love to do as much as they can for the local community, but he could not make that commitment.

When Councilwoman Mayfield asked about energy and water efficiency measures, Mr. Levell could not speak on this matter but knew the hotel group will do as much as they can. They are a little limited by the State Historic Preservation Office, but want to be as conservation minded as possible. Councilwoman Mayfield suggested they review the green building standard for historical structures developed in Georgia.

Mayor Manheimer opened the public hearing at 6:46 p.m.

An artist and business owner in the River Arts District felt there is ample space on one side of the building to include a parking structure. She was concerned about the inevitable development in the River Arts District and was concerned about how it happens so as not to diminish the revenue stream generated by the artists in the District.

Ms. Pattiy Torno, artist and business owner in the River Arts District, felt it was important to have some alternatives to downtown in terms of different experiences. When there are eyes on the street it makes the area safer. For a lot of different reasons, having lodging in the River Arts District will bring us a constant flow of new customers, and she totally supported the project.

Mr. Rusty Bryant, father of a business owner in the River Arts District, also spoke in support of the project in the area.

Mr. Chris Fusting hoped that the developer will not include chain stores so that the River Arts District remains special. He also felt it was important to pay the workers a living wage.

A business owner in the River Arts District felt that it is good to get tourists to the River Arts District, but not by building a hotel.

Mr. Manley Nelson felt it is good to partner with companies that value historic buildings and the character of the area. He felt this is a good opportunity for a hotel in a nice setting to reinforce the historic nature of the area.

Mayor Manheimer closed the public hearing at 6:57 p.m.

Councilman Young said he would support the project and was cautiously optimistic. He hoped that the hotel will stay true to the area to support locals and also pay a living wage. He felt that venturing into the River Arts District will be a sophisticated balancing act that supports redevelopment but also helps locals.

Councilman Bothwell, member on the Asheville Area Riverfront Redevelopment Commission, was impressed with the kind of restoration work the hotel group has done in the past and what they intend to do with this building. It is an excellent adaptive reuse of a building.

When Councilman Haynes and Councilman Smith asked the developer for a commitment for local businesses in the retail and the commitment for the hotel to pay a living wage to its employees, City Attorney Currin said that with a conditional zoning it has to be a condition that is agreed upon by both the Council and the applicant. Under the N.C. Gen. Statutes, those conditions should have to do with zoning compliance, land use regulations and compliance with the Comprehensive Plan. It's probably subject to a challenge, but that is up to Council and the applicant as to what is ultimately agreed upon.

Councilman Smith was concerned about the parking situation. He appreciated the reuse of the building; however, his concern is that we have record numbers of tourists in Asheville (almost \$11 Million visiting Asheville last year) and we currently do not have a cooperative effort with the Tourism Development Authority to do a sustainable tourism study to determine what is our carrying capacity and how are we going to grow responsibly with regard to our tourism industry. He could not support the project.

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

Councilman Bothwell moved to recommend approval of the conditional zoning request for Greer Building LLC for the property located at 95 Roberts Street from River District (RIV) to Lodging Expansion District Conditional Zone (LODG EXP CZ), and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the strategies found in the City's comprehensive plan on adaptive reuse, multi-modal transportation elements and tourism; (2) The historic building will be preserved and reused, maintaining the character and architectural fabric of the district; and (3) The design activates the streetscape and creates new public on-street parking spaces. This motion was seconded by Councilman Young and carried on a 5-2 vote with Vice-Mayor Wisler and Councilman Smith voting "no".

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

Mayor Manheimer said that it has just been brought to her attention that she may have a conflict of interest in voting on the RAD Form Based Code items on the agenda. Because she will need to check with the Bar Association on this potential conflict, Councilman Young moved to continue this public hearing until November 14, 2017. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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

Mayor Manheimer said that it has just been brought to her attention that she may have a conflict of interest in voting on the RAD Form Based Code items on the agenda. Because she will need to check with the Bar Association on this potential conflict, Councilman Young moved to continue this public hearing until November 14, 2017. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

E. PUBLIC HEARING TO AMEND ARTICLE VII OF CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND LOT SIZE AND DENSITY STANDARDS FOR RESIDENTIAL ZONING DISTRICTS CITYWIDE

ORDINANCE NO. 4621 - ORDINANCE AMENDING ARTICLE VII OF CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND LOT SIZE AND DENSITY STANDARDS FOR RESIDENTIAL ZONING DISTRICTS CITYWIDE

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to amend Article VIII of Chapter 7 of the Code of Ordinances to amend minimum lot area and density regulations affecting residential zoning districts citywide. This public hearing was advertised on October 13 and 20, 2017.

On August 22, 2017, City Council unanimously passed Ordinance No. 4608 to incentivize small-scale residential infill development. The residential zoning changes reduced lot width standards, revised density standards for multifamily projects, introduced neighborhood-scale multifamily design standards for multifamily development, provided greater flexibility for driveways, and made ancillary updates to support small-scale infill development.

At that meeting City Council requested that staff implement a corresponding 20% reduction to *Lot size standards*, which were part of earlier versions of the proposal. To accomplish this reduction, *Density standards* for multifamily zoning districts also need to be adjusted in order to ensure consistency of the code.

The proposed changes to minimum lot area are displayed below by zoning district.

	RS2	RS4	RS8	RM6	RM8	RM16
Current (SF)	20,000	10,000	5,000	7,000	5,000	2,500
Proposed* (SF)	16,000	8,000	4,000	6,000	4,000	2,500

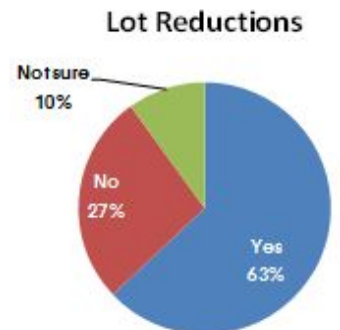
* RM6 proposed minimum lot area rounded from 5,600 SF to 6,000 SF; RM16 current single-family attached minimum standard kept as proposed minimum lot area

On October 4, 2017, the Planning & Zoning Commission reviewed and unanimously recommended approval of staffs' recommendations to reduce lot size standards and associated densities by 20%.

During the small-scale infill initiative outreach process, public surveys corroborated that the public supports reductions to lot standards, as shown in the chart to the right.

This wording amendments are consistent with the City's 2025 Comprehensive Plan in the following areas: (1) They provide compatible redevelopment and infill development; (2) They support walkable neighborhoods by incentivizing location-efficient housing; and (3) They contribute to the development of transit-supportive densities via more efficient land use.

This initiative aligns with the 2036 Council Vision in the following areas: (1) *Quality Affordable Housing* - It promotes more abundant and varied housing options that will help to



relieve Asheville's housing affordability needs; (2) *A Well-Planned and Livable Community* - It provides more location efficient housing - close to jobs and transit service - to reduce the costs and environmental impacts associated with automobile use; and (3) *A Diverse Community* - It supports a more equitable and diverse community by giving current property owners greater flexibility to provide housing for the growing community.

Staff recommends approval of the wording amendments modifying residential zoning districts to incentivize neighborhood compatible, small-scale residential development in that it is consistent with the Comprehensive Plan, City Council 2036 Vision and other adopted plans.

The Planning & Zoning Commission reviewed and unanimously recommended approval to reduce lot size standards and associated densities by 20%.

Mayor Manheimer opened the public hearing at 7:09 p.m.

Mr. Steven Edge explained how one size does not fit all with this amendment. There are certain neighborhoods in Asheville where this does not fit for the walkability or driveway flexibility. Some neighborhood characteristics are not built around density.

Mr. Manley Nelson supported the amendment because it increases walkability.

Mayor Manheimer closed the public hearing at 7:12 p.m.

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

Vice-Mayor Wisler moved to approve the wording amendment to UDO Article VIII according to the ordinance, which revises residential zoning standards to incentivize small-scale residential development, 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 amendment (1) promotes more abundant and varied housing options in residential neighborhoods; and, (2) supports walkable neighborhoods and more efficient land use through compatible residential infill. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 352

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilman Bothwell said that when Council authorized the City Manager to have electric utilities installed for food trucks at the 68 Haywood Street location, they didn't indicate the cost to the food trucks. Since then, City staff has been treating that as an event and charging food trucks \$100 for the first three hours and \$25 for each additional hour. For food carts, the City charges \$150 or \$175 per year. He was concerned that the food trucks don't make that much money, and asked that Council to either waive or reduce fees for food trucks at the 68 Haywood Street location. Acting City Manager Ball said that staff will report back to the Finance Committee on the actual costs.

Councilman Smith reminded citizens that early voting is open and other than the election of the Mayor and three Council members is also a question of whether you want to see Asheville's elections move to a district system.

Councilman Bothwell announced the annual RiverLink fundraiser on October 27 and 28, 2017, at Zealandia.

Closed Session

At 7:16 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: PHG Asheville, LLC vs. the 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 7:48 p.m., Councilman Young to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:48 p.m.

CITY CLERK

MAYOR