

Tuesday – August 28, 2018- 3:00 p.m.

#### Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilman Vijay Kapoor; Councilwoman Julie V. Mayfield; Councilwoman Sheneika Smith; Councilman W. Keith Young; Acting City Manager Cathy Ball; and City Clerk Magdalen Burleson

Acting City Manager Cathy Ball said that in an effort to increase transparency and engagement leading into the next budget process, staff will be providing detailed departmental information to Council and the community. This information will include a focused look at each department's programs, level of service, budget, staffing, partnerships, and goals. Each department director will highlight key strategic elements within their department. The intent of this project is to provide a detailed account of City operations, highlight departmental challenges and opportunities, and identify the key resources that are required to deliver city services. This conversation will help to inform staff as they begin to consider priorities for the next fiscal year.

Finance and Management Services Director Barbara Whitehorn provided Council with a broad overview of the City's expenditures, revenues and community factors that drive operational and budgetary needs within Asheville. She reviewed the community profile.

Budget Manager Tony McDowell reviewed the General Fund Revenues & Expenditures, along with the City Council, City Manager, City Clerk and City Attorney summaries.

Sustainability Officer Amber Weaver reviewed with Council the Office of Sustainability.

Equity and Inclusion Director Kimberlee Archie provided Council with information on the Office of Equity and Inclusion.

Various staff responded to several questions/comments raised by Council, and those which could not be readily answered would be provided to Council via a memorandum.

Vice-Mayor Wisler asked that future budget worksessions contain detailed information on partnership agreements, including costs, expiration dates, etc.

Mayor Manheimer said that the next step of this process will be the community engagement piece so we have the opportunity to hear from the community. Councilman Haynes suggested the public to send any questions they may have to the Council members so they may get them addressed during the worksessions.

Mayor Manheimer adjourned the worksession at 4:44 p.m.

Tuesday – August 28, 2018- 5:00 p.m.

#### Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilman Vijay Kapoor; Councilwoman Julie V. Mayfield; Councilwoman Sheneika 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**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING SEPTEMBER, 2018, AS “CERTIFIED COMMUNITY WILDLIFE HABITAT MONTH”**

Vice-Mayor Wisler read the proclamation proclaiming September, 2018, as "Certified Community Wildlife Habitat Month " in the City of Asheville. She presented the proclamation to several individuals who briefed City Council on some activities taking place during the month.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 24, 2018**

**B. SECOND AND FINAL READING OF ORDINANCE NO. 4685 - ORDINANCE GRANTING A FRANCHISE AGREEMENT TO TUK IT, LLC, FOR THE OPERATION OF AN ELECTRIC VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE**

At the request of Councilwoman Smith, this item was pulled from the Consent Agenda until the Multimodal Transportation Commission has had an opportunity to review.

**C. RESOLUTION NO. 18-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE OFFICE OF NATIONAL DRUG CONTROL POLICY FOR THE HIGH INTENSITY DRUG TRAFFIC AREA 2018 GRANT**

**ORDINANCE NO. 4687 - BUDGET AMENDMENT FOR THE OFFICE OF NATIONAL DRUG CONTROL POLICY’S HIGH INTENSITY DRUG TRAFFIC AREA 2018 GRANT**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement to accept a grant from the Executive Office of the President, Office of National Drug Control Policy; and (2) a budget amendment in the City’s Special Revenue Fund in the amount of \$19,000 for the Office of National Drug Control Policy’s High Intensity Drug Traffic Area (HIDTA) 2018 grant.

The mission of the HIDTA program - authorized by the Anti-Drug Abuse Act of 1988 and administered by the Office of National Drug Control Policy - is to reduce drug trafficking in the most critical areas of the county, thereby reducing the impact of illegal drugs in other areas. Asheville has for many years been designated as a HIDTA site. Asheville’s HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville Police Department (APD) serves as the fiduciary for the Asheville Area HIDTA Task Force.

The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County sheriff’s Office, Henderson County Sheriff’s Office and McDowell County sheriff’s Office. The Asheville HIDTA is

a component of the Asheville DEA Task Force. The HIDTA task force primarily concentrates on high volume, high value drug trafficking. As an example, the task force was recently involved in a case involving the large seizure of controlled substances from persons with local and National ties, involved in the trafficking of narcotics in this region and beyond.

The City of Asheville currently serves as the partial fiduciary for the Asheville HIDTA and has recently agreed to expand this service to include all program expenses. The allotted funds from the Federal government will be used for investigative purposes and other program expenses including employee overtime, mobile phones and miscellaneous supplies. The expenditure of all funds are tracked and audited by both local and Federal authorities.

The request for the budget amendment will be presented to the Finance and Human Resources Committee on August 28, 2018 and any response other than unanimous approval to move forward to the full City Council will be noted at that meeting.

Pros:

- Federal HIDTA funds will be used for investigative purposes and program expenses.
- Continue to foster partnerships with Federal and local law enforcement agencies.

Con:

- Funding from the Office of National Drug Control Policy is awarded annually.

There is no impact to the City's General Fund Budget.

Staff recommends City Council adopt the resolution and budget amendment to accept grant funds in the amount of \$19,000 through the Office of National Drug Control Policy to establish the HIDTA 2018 Grant.

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ORDINANCE BOOK NO. 32 - PAGE 174**

**D. RESOLUTION NO. 18-198 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CONTRACT WITH MCGILL ASSOCIATIONS P.A.  
FOR THE HAYWOOD STREETScape BOND PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with McGill Associates, P.A. to provide survey, design and construction administration services for Haywood Streetscape Bond Project for an amount of \$210,402, and further authorizing the execution of any contract amendments up to 10% (\$21,040.) above of the contract price, which may arise during execution of said project.

This project was listed on the Nov. 2016 Transportation Bond Referendum that passed. This project has been prioritized as a safety issue and a major need by the City and by various boards, committees, and associations. The general project limits will be Haywood St. from Vanderbilt Ave. to Patton Ave. This project will include sidewalk rehabilitation, street resurfacing, stormwater improvements, sanitary sewer improvements, and the sourcing, siting and installation of various street amenities informed by public input. A key component is the replacement of irregular and broken sidewalk on much of this corridor. MSD will contribute construction funds and design consultation for the sanitary sewer replacement.

The City of Asheville (City) issued a Request for Qualifications (RFQ) for design services for the Haywood Streetscape Bond Project. In response to the RFQ, the City

received eleven (11) Statements of Qualifications to be considered for this project. After thorough review, evaluation & interviews, staff recommended McGill Associates, P.A. as the most qualified to perform the surveying, design and construction administration services for the Haywood Streetscape Bond Project.

McGill Associates has presented a scope of work and fee proposal for professional services associated with the Haywood Streetscape project, including surveying, public engagement, design services, cost estimating, permitting, bidding and construction administration.

The Buncombe County Metropolitan Sewer District (MSD) is planning a significant sewer replacement project within and overlapping the Haywood Streetscape project limits. In an effort to coordinate the construction of the City and MSD projects, McGill Associates will coordinate and combine the construction documents between these two projects into one set of bid documents. The intent will be to bid one construction contract for both the City and MSD work, with the construction costs being assigned to the respective organizations. The City will administer the construction contract for both organizations.

The following is the tentative project timeline:

Surveying/Design/Public Engagement	Fall/Winter 2018
Bidding for Construction	Winter 2018
Construction Begin	Spring/Summer 2019
Construction Complete	Winter 2019/Spring 2020

Pros:

- Addresses needed infrastructure and safety improvements and delivers on sidewalk, drainage and roadway improvements identified in the approved 2016 Bond Referendum.
- Begins the coordination between the City and MSD Capital Improvement Projects that will reduce redundancy in costs and in construction impacts to citizens during the future construction process.

Con:

- None identified.

Funding for this contract is already included in the Adopted Capital Improvement Program (CIP) as part of the Transportation Bond Program.

Staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract with McGill Associates, P.A. to provide survey, public engagement, design, bidding and construction administration services for Haywood Streetscape Bond Project for an amount not to exceed \$210,402, and further authorizing the City Manager to execute any contract amendments up to 10% (\$21,040) above of the contract price.

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#### **E. RESOLUTION NO. 18-199 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A ONE-YEAR MEMORANDUM OF UNDERSTANDING WITH THE FRIENDS OF THE WESTERN NORTH CAROLINA NATURE CENTER**

Summary: The consideration of a resolution authorizing the City Manager to enter into a one-year Memorandum of Understanding (MOU) with the Friends of the Western North Carolina Nature Center (Friends).

The Friends is a 501 (c) (3) nonprofit corporation with a purpose to support the Nature Center with resources to provide an enriching and educational experience for Nature Center visitors. Each year the City and the Friends enter into a MOU to establish the respective roles of each party for the mutual benefit of creating a first class nature center and visitor experience. Most recently the Friends contributed funds to support Nature Center capital projects including the front entrance, otter exhibit, cougar exhibit, playground and restroom, and the red panda exhibit.

The MOU defines areas of operations between the City and the Friends in areas of relationship, communications, revenue, marketing and promotions, materials, center access, and the Friends role in supporting the Nature Center 2020 Vision Master Plan.

The Friends will contribute \$175,000 to the City to support Nature Center operations as specified in the MOU.

This action will go before the Finance and Human Resources Committee on August 28, 2018. If there is anything other than a unanimous support to move forward to the full Council, it will be reported at the meeting.

Pros:

- Defines the role and responsibility of the Friends in the operation of the Nature Center
- Provides revenue to support Nature Center operations
- Reduces the amount of City subsidy to operate the Nature Center

Con:

- None

The Friends will contribute \$175,000 during the one-year term of the MOU to support Nature Center operations.

Staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a one-year Memorandum of Understanding with the Friends of the Western North Carolina Nature Center

#### **RESOLUTION BOOK NO. 40 - PAGE 50**

#### **F. RESOLUTION NO. 18-200 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GRANT AGREEMENT WITH THE N.C. HISTORIC PRESERVATION OFFICE FOR AN AFRICAN AMERICAN HERITAGE RESOURCES SURVEY**

#### **ORDINANCE NO. 4688 - BUDGET AMENDMENT FOR AN AFRICAN AMERICAN HERITAGE RESOURCES SURVEY**

Summary: The consideration of a resolution to authorize the City Manager to enter into an agreement with the N.C. Historic Preservation Office for the purpose of surveying architectural resources associated with African American heritage; and a budget amendment to accept a federal pass through grant in the amount of \$12,000 from the National Park Service Historic Preservation Fund via the North Carolina State Historic Preservation Office to dedicate local matching funds in the amount of \$7,000 for a total budget of \$19,000 for the research and documentation of Asheville African American heritage resources.

In partnership with the community, historic resources staff has identified the imperative

need for documentation of African American heritage resources within the city. The need to identify these resources is essential to documenting, understanding and illustrating a more comprehensive narrative of Asheville's unique sense of place and to celebrate and honor local African American history. In addition to gentrification, demolition and insensitive modifications to historic structures relating to African American history, remain a threat as development pressure continues to increase. One example of this threat can be seen in the demolition of the building at 185 Biltmore Avenue to make way for a surface parking lot. The demolished building was built ca. 1905 by local African American physician, Dr. R.H. Bryant, as his private residence and was later converted by Dr. Mary Frances (Polly) Shuford into the Asheville Colored Hospital during the 1940s at a time when Mission Hospital only allocated 18 beds to African American patients.

While several areas in Asheville identified for their association with African American communities have been included in past architectural surveys and National Register nominations, the vast majority of resources within the City have yet to be fully surveyed, including but not limited to, the East End, Eagle-Market, Southside, Lee Walker Heights, St. Johns-A-Baptist Church area, Shiloh, Burton Street, Pisgah View, Hillcrest and Stumptown.

It is the goal of this survey to compile existing research on local African American heritage, and to use this collection of information as the basis for more in depth research to inform prioritization of areas for survey, conduct survey of identified areas, and to identify potential additional future phases and/or projects relating to preservation of African American history in Asheville.

This was reviewed by the Finance and Human Resources Committee on April 23, 2018, and approval was recommended.

Pros:

- Funding will be made available for research and documentation of African American heritage resources in Asheville.
- Initial phase and documentation will help inform future phases of work related to preserving and celebrating local African American history, as well as long range planning.

Con:

- Future phases of survey may be necessary to fully document all resources due to limited amount of grant funding available; however, it is anticipated that at least one neighborhood/area will be surveyed as part of the scope of work for this application.

This grant application requires a match of \$7,000 to be allocated from the contracted services line item in the Planning and Urban Design budget.

Staff recommends that City Council approve a budget amendment for \$19,000 to research and document African American heritage resources, accept grants funds, and authorize the City Manager to execute any documents necessary to give effect to this approved action.

Historic Resources Director Stacy Merten responded to Councilwoman Smith regarding the ratio of the grant request, noting that we anticipate applying for another grant next year.

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**G. RESOLUTION NO. 18-201 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CHANGE ORDER WITH GREEN LIGHT  
ELECTRIC INC. FOR ADDITIONAL PAVING REQUIRED BY THE N.C. DEPT.**

**OF TRANSPORTATION FOR THE SOUTH CHARLOTTE STREET/BILTMORE AVENUE TRAFFIC SIGNAL UPGRADE PROJECT**

**ORDINANCE NO. 4689 - BUDGET AMENDMENT FOR THE SOUTH CHARLOTTE STREET/BILTMORE AVENUE TRAFFIC SIGNAL UPGRADE PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a change order with in the amount of \$10,799 to be paid to Green Light Electric Inc. for additional paving required by the N.C. Dept. of Transportation (NCDOT); and (2) a budget amendment in the City's General Capital Projects Fund in the amount of \$10,799 from additional grant funding and the City's General Fund Traffic Safety budget to provide additional funding for the South Charlotte Street / Biltmore Avenue traffic signal upgrade project constructed by Green Light Electric, Inc.

Adding pedestrian signals to this intersection is part of an FTA Job Access/ Reverse Commute (JARC) grant project. The intersection was included because it is large, complex, has high pedestrian and vehicle traffic volumes, and connects people to transit.

City Council approved the original funding of \$116,378.63 on February 13, 2018, in Resolution No. 18-35. The additional funding is being requested to cover unexpected costs that exceeded the original bid cost and contingency. These additional costs were incurred to provide a safer and smoother intersection by milling and paving a portion of dilapidated asphalt on Southside Avenue as part of a new requirement by NCDOT.

The current balance in the project fund is insufficient to cover the full cost and contingency, so the budget amendment moves funds from the Traffic Safety Projects budget in the General Fund to this project. Additional FTA grant funding is pending FTA action, so it is possible that some portion of the Traffic Safety funding will be able to be returned to the General Fund.

Pros:

- Pedestrian safety and mobility will be improved.
- Improve mobility and safety on city streets.

Con:

- The Traffic Safety budget will be reduced by an additional \$1,366 to complete this signal.

As noted above, funding is coming from an FTA 2010 grant and the City's General Fund Traffic Safety budget. The additional \$10,799 needed to complete this project will be funded with \$9,433 from the FTA grant funding and \$1,366 from the City's General Fund Traffic Safety budget. The total cost of this contract, including contingency, is \$127,176.75.

City staff recommends City Council 1) authorize a budget amendment in the City's General Capital Projects Fund in the amount of \$10,799 to provide additional funding for the South Charlotte Street / Biltmore Avenue traffic signal upgrade project constructed by Green Light Electric, Inc. and 2) authorize the City Manager to execute a change order in the amount of \$10,799 to be paid to the contractor for additional paving required by the NCDOT.

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**H. RESOLUTION NO. 18-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY ADDITIONAL EASEMENT OVER A PORTION OF**

**CITY-OWNED PROPERTY AT 166 RESERVOIR ROAD TO CHRIS AND JESSICA LARSON FOR THE PURPOSE OF CREATING A DRIVEWAY TO A RESIDENTIAL LOT**

Summary: The consideration of a resolution authorizing the City Manager to convey additional easement over a portion of City-owned property at 166 Reservoir Road to Chris and Jessica Larsen for the purpose of creating a driveway to a residential lot.

The City of Asheville owns real property at 166 Reservoir Road and the parcel is currently used for telecommunications purposes. The parcel is approximately 7.42 acres in size and is improved with two telecommunications towers and related buildings. There is a significant grade change between the land area used for telecommunications and the area of the property that meets McCauley Drive.

Chris and Jessica Larsen have purchased an adjoining vacant parcel that fronts McCauley Drive for a new home. The land area of their lot is too steep to accommodate a driveway within the existing lot footprint. Chris and Jessica Larsen requested and were granted an easement from the City in 2014 in order to create a driveway connection to McCauley Drive. That easement involved 473 square feet of permanent easement. The Larsen family paid for the easement, but due to the untimely demise of their attorney, the easement was never recorded. Their development plans were delayed, and in the interim, the City changed the location of the Beaucatcher Greenway.

In 2018, the Larsens are renewing their plans to build a residence on this property and have approached the City with a request for additional square footage to accommodate their driveway. City transportation and greenway staff have reviewed the revised easement request and are willing to support the additional permanent easement that is needed. The area of the easement is not currently being utilized by the City and presents no apparent conflict with future development of the Beaucatcher Greenway.

The additional easement area involves 171 square feet of additional City property as shown in the sketch provided in Exhibit A. The exhibit shows both the original easement and the additional amount being requested. A price per square foot was determined from the purchase price of the homesite owned by the Larsens. The cost of the additional easement area would be \$370.00 plus a real estate processing fee of \$180.00.

Pros:

- Modest amount of compensation for the property.
- The easement would not interfere with the operation of City-owned property including the Beaucatcher Greenway.

Cons:

- The City would be relinquishing additional square footage for future use.

The amount of revenue generated by the sale of the easement will be deposited into the General Fund.

Staff recommends that City Council approve a resolution authorizing the City Manager to convey the additional 171 square foot easement over a portion of City-owned property at Reservoir & McCauley Road for the purchase price of \$370.00 to Chris and Jessica Larsen.

Councilwoman Mayfield disclosed that Chris and Jessica Larsen are her current neighbors but she has had no conversation with them regarding this easement.



Ms. Jan Howard Kubinek explained that a section by her house can never be widened, and that it would be good to have a neighbor.

**RESOLUTION BOOK NO. 40 - PAGE 53**

**I. RESOLUTION NO. 18-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH DANNY'S DUMPSTER INC. FOR A TYPE III COMPOSTING FACILITY ON A PORTION OF CITY-OWNED LAND AT 80 HARDESTY LANE**

Summary: The consideration of a resolution authorizing the City Manager to execute a lease agreement between the City of Asheville (City) and Danny's Dumpster Inc., for a Type III Composting Facility on a portion of City-owned land at 80 Hardesty Lane.

Danny's Dumpster, Inc. is a small business that serves as a commercial composting and food waste hauling company for area establishments such as restaurants, universities, hospitals, and government buildings. Since 2012, Danny's Dumpster has operated a compost processing facility on City-owned property at 80 Hardesty Lane to process food wastes and wood debris into a finished soil amendment -- compost. Onsite, Danny's Dumpster maintains three in-vessel composting containers, a food waste mixing container, covered storage areas for wood chips/debris and the finished compost product on approximately 5.5 acres. The use is regulated by the North Carolina Department of Environment and Natural Resources (NCEDQ) and is permitted as a Type III Composting Facility.

The existing lease expired on August 1, 2018, and is currently on a month-to-month tenancy. Danny's Dumpster has requested a new two-year lease with the City of Asheville to continue operations at this site. Danny's Dumpster has purchased a site in Leicester and has begun construction of a permanent facility, and the firm has requested two additional years with the City in order to successfully transition to the new location.

City Real Estate staff consulted with staff from Public Works, Solid Waste and Sustainability concerning this request and received support from these functions for the two-year lease, as follows:

- The Sustainability Officer noted that there are no other commercial composting businesses in the Asheville area and as the City continues its efforts to reduce waste from entering the landfill, Danny's Dumpster is the only service provider accepting organics. Currently, Danny's Dumpster accepts 2,340 tons of food/compostable waste per year and accepts 11,700 cubic yards of carbon waste such as wood chips or leaves.
- The manager of the City's solid waste function stated that diverting this amount of compostable waste extends the life of the Buncombe County landfill, which is both an economic and environmental benefit to the citizens of this community.
- The Public Works Department utilizes land adjacent to Danny's Dumpster for a beneficial fill site for inert materials such as concrete and asphalt. Public Works needs to expand this beneficial site into the area occupied by Danny's Dumpster, and is amenable to the two-year extension so long as the lease is terminated after the two-year period. Danny's Dumpster is willing to reduce the leased footprint to allow for the beneficial landfill site to expand within the two-year lease period.

The proposed lease has a term of two years with no renewals allowed. Danny Keaton, as the owner of Danny's Dumpster, has indicated to the Real Estate Division that he is transitioning his operation to one that is completely indoors. He has purchased land, equipment and technology in Leicester to convert his operation and he has requested 24 months to accomplish this transition. The lease can be terminated by either party with sixty days written notice.

The fair market rental rate is based on a capitalization rate of 5.5% for unimproved land and discounted because of accessibility issues and the absence of any infrastructure such as water or sewer. The market rate rental rate has been established at \$1,437.00 per month and the tenant has agreed to pay this amount. This is based on the existing site and can be adjusted based on acreage if Danny's Dumpster reduces the lease footprint to allow use by the Public Works - beneficial landfill site (based on future needs of the Public Works Department).

It should be noted that a homeowner on Gashes Creek Road has filed a complaint with Danny Dumpster's NCDEQ as well as the City of Asheville about the odor emanating from the composting facility. Complaints of this sort are handled by the permitting agency and NCDEQ has informed Danny's Dumpster of this complaint. In response, Danny's Dumpster uses more carbon (wood chips, leaves) in the processing of food waste to reduce the odor. City staff visited Gashes Creek Road on a hot day in June and were unable to verify that a noxious smell was present in the neighborhood, however it is acknowledged that odor can vary due to temperature, wind, and rainfall.

Pros:

- This lease will support the local green economy.
- This lease contributes to solid waste reduction.
- The City will be receiving rental income.
- Additional area will be available for the beneficial landfill to expand.

Con:

- The operation can generate unpleasant odors during certain times of the year such as when the area gets heavy rains as indicated by the complaint that has been filed.

The General Fund will receive the rental income.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a lease agreement with Danny's Dumpster for a Type III composting operation with a maximum term of two years.

**RESOLUTION BOOK NO. 40 - PAGE 54**

**J. RESOLUTION NO. 18-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE FOR THE FISCAL YEAR 2019 CONCRETE MAINTENANCE PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$239,925 plus a contingency of 12.75% (\$30,590) with Appalachian Paving and Concrete for the project known as Fiscal Year 2019 Concrete Maintenance Contract.

This contract will address a number of ADA issues throughout the City. A list of the proposed project was provided to Council.

The project was advertised on July 16, 2018, and bids were opened on August 9, 2018, with the following results:

Appalachian Paving and Concrete, Inc. of Swannanoa, NC	\$239,925
Patton Construction Group of Arden, NC	\$358,930

The low bid is within 2.3% of the engineers estimate.

A 12.75% contingency (\$30,590) has been added to allow payment for any unforeseen costs that typically arise during construction.

Pros:

- Will correct a number of sidewalk issues throughout the City.
- Addresses pedestrian safety by providing the required sidewalk maintenance.

Con:

- Project management and contract administration will consume staff time.

Funding for this contract is in the Fiscal Year 2018-2019 budget. This funding is our annual pay-as-you-go sidewalk maintenance program and is not bond or debt funded.

City staff recommends City Council adopt the resolution awarding the contract to Appalachian Paving and Concrete Inc. and authorizing the City Manager to execute a contract in the amount of \$239,925 plus a contingency of \$30,590 (12.75%) for the FY 19 Concrete Maintenance and ADA Improvements Contract.

#### **RESOLUTION BOOK NO. 40 - PAGE 55**

#### **K. RESOLUTION NO. 18-205 - RESOLUTION ACCEPTING MANCHESTER DRIVE AS A CITY STREET**

Summary: The consideration of a resolution to accept Manchester Drive as a City street.

The engineer of record, Civil Design Concepts, for a recently completed 10-unit single-family residential community that is served by Manchester Drive in the Haw Creek area has offered this street for dedication to the City for public use on behalf of the developer.

Manchester Drive from Waters Road to its dead-end is a developer-constructed street that has an average width of 20 feet with grass shoulders, a length of 0.13 mile, and a right-of-way width of 50 feet. In addition, street lights are in place along the entire length of the street.

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

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

Pros:

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

Con:

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

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

Staff recommends that City Council accept Manchester Drive as a City street.

**RESOLUTION BOOK NO. 40 - PAGE 56**

**L. RESOLUTION NO. 18-206 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNOPENED RIGHT-OF-WAY KNOWN AS SMATHERS LANE AND SETTING A PUBLIC HEARING FOR OCTOBER 9, 2018**

Summary: The consideration of a resolution of intent to permanently close an unopened right of way known as Smathers Land and setting a public hearing on October 9, 2018.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Duke Energy, owner of parcel 9648-19-0490, has requested the City of Asheville to permanently close an unopened r/w known as Smathers Ln. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission reviewed this request at their May 23, 2018, meeting and recommended approval of the closure.

Pursuant to N.C. Gen. Stat. Sec. 160A-299, prior to closing the alley, the City Council must first adopt a resolution, declaring its intent to close the alley and calling a public hearing on the question. This resolution of intent shall be published once a week, for four successive weeks prior to the date of the hearing.

A copy of this resolution of intent shall also be sent by registered or certified mail to all [CH1] owners of property adjoining the alley, as shown on the county tax records. A copy of this resolution shall also be prominently posted, in at least two places, along the alley, to provide notice of the closing and public hearing.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unopened right of way known as Smathers Lane and set a public hearing on October 9, 2018.

**RESOLUTION BOOK NO. 40 - PAGE 58**

**M. RESOLUTION NO. 18-207 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED RIGHT-OF-WAY LOCATED NEAR THE INTERSECTION OF HENDERSONVILLE ROAD AND SWEETEN CREEK ROAD AND SETTING A PUBLIC HEARING FOR OCTOBER 9, 2018**

Summary: The consideration of a resolution of intent to permanently close an unopened right of way located near the intersection of Hendersonville Road and Sweeten Creek Road and setting a public hearing on October 9, 2018.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Dena Yamalis, owner of parcels 9654-40-6970 and 9654-40-6803, have requested the City of Asheville to permanently close an unopened r/w located near the intersection of Hendersonville Rd., and Sweeten Cr. Rd. In addition 2506 Hendersonville Rd LLC, owner of parcel 9654-40-6526, has been contacted and has consented to the closure. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission reviewed this request at their May 23, 2018, meeting and recommended approval of the closure.

Pursuant to N.C. Gen. Stat. Sec. 160A-299, prior to closing the alley, the City Council must first adopt a resolution, declaring its intent to close the alley and calling a public hearing on the question. This resolution of intent shall be published once a week, for four successive weeks prior to the date of the hearing.

A copy of this resolution of intent shall also be sent by registered or certified mail to all [CH1] owners of property adjoining the alley, as shown on the county tax records. A copy of this resolution shall also be prominently posted, in at least two places, along the alley, to provide notice of the closing and public hearing.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unopened right of way located near the intersection of Hendersonville Road and Sweeten Creek Road and set a public hearing on October 9, 2018.

#### **RESOLUTION BOOK NO. 40 - PAGE 60**

#### **N. RESOLUTION NO. 18-208 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO AN AGREEMENT WITH THE CODE FOR AMERICA LABS INC. TO PARTICIPATE IN THE COMMUNITY FELLOWSHIP PROGRAM**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Code for America Labs, Inc. to participate in the Community Fellowship Program to enhance the State of Black Asheville by creating a shared tool for addressing the issues underlying racial disparity in Asheville.

The Code for America Community Fellowship program aims to strengthen the relationship between local Code for America Network leaders and their governments — to create conditions where change can “stick” and help transform government from the inside out.

Code for America (CfA) fellows will spend 3-6 months collaborating with government staff, researching user needs, meeting with key stakeholders, and improving service delivery to vulnerable populations. The product could be an early-stage application, an improved procurement, an open data release, or other project that improves the delivery of a government service or function, at a fraction of the cost if the City government were to take on this project alone. The process will act as a vehicle for driving cultural and structural change inside of government — encouraging innovation, reducing risk by involving users early, and increasing capacity for serving the public.

As proposed and accepted, the City of Asheville is a partner in the CfA Community Fellowship Program in Asheville. As part of this program, the City of Asheville is collaborating with two CfA fellows, who are working as independent contractors, to update and enhance the State of Black Asheville website to incorporate more data-driven functionality, including visualizations built on open data, that is accessible to all stakeholders, particularly members of the community.

CfA will provide mentorship, project management and training for two fellows working as independent contractors. The fellows will travel to San Francisco for meetings and the majority of their work will be performed in Asheville. The fellows will develop the tool on their own, without direction from CfA, building out data-driven enhancements for the criminal justice focus area of the State of Black Asheville. Using data gathered from the City and other sources they will create a shared tool for addressing the issues underlying criminal justice racial disparities in Asheville. An additional feature is to engage community to ensure the tool makes disparity data more accessible to those interested in change at the policy, practice and budget level.

This tool will be developed according to what the fellows determine is the best possible methods for disseminating the collected information. This could be a webpage with a dashboard, an application, and/or it could connect to an existing City application such as SimpliCity.

The request for approval for the CfA Community Fellowship Agreement is scheduled for consideration by the Finance and Human Resources Committee on August 28, 2018, and pending Finance and Human Resources Committee approval it will be considered by Council.

Pros:

- Demonstrates City Council Vision 2036 value as a municipal government connected and engaged to community.
- Creates new accessibility to criminal justice racial disparities data for the community and for systems to embark on eliminating said disparities

Cons:

- None identified.

The direct cost of this agreement is \$10,000 plus expenses, not to exceed \$11,000, which is included in the Information Technology Services Department adopted FY 2018-19 budget. There will also be indirect costs associated with staff time for the Director of Equity & Inclusion, and staff time for the Digital Services Architect. Code for America will invest approximately \$80,000 in direct costs for this community project.

Staff recommends City Council approve an agreement authorizing the City Manager to partner with Code for America Community Fellowship.

**RESOLUTION BOOK NO. 40 - PAGE 62**

**O. RESOLUTION NO. 18-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE EXECUTIVE OFFICE**

**OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY FOR  
THE HIGH INTENSITY DRUG TRAFFIC AREA 2017 GRANT**

**ORDINANCE NO. 4690 - BUDGET AMENDMENT FOR THE OFFICE OF  
NATIONAL DRUG CONTROL POLICY'S HIGH INTENSITY DRUG TRAFFIC  
AREA 2017 GRANT**

Summary: The consideration of (1) a resolution authorizing the City Manager to accept grant funds under the Executive Office of the President, Office of National Drug Control Policy; and (2) a budget amendment in the City's Special Revenue Fund in the amount of \$25,000 for the Office of National Drug Control Policy's High Intensity Drug Traffic Area (HIDTA) 2017 grant in which the Asheville Police Department (APD) serves as the fiduciary for the Asheville Area HIDTA Task Force.

The mission of the HIDTA program - authorized by the Anti-Drug Abuse Act of 1988 and administered by the Office of National Drug Control Policy - is to reduce drug trafficking in the most critical areas of the county, thereby reducing the impact of illegal drugs in other areas. Asheville has for many years been designated as a HIDTA site. Asheville's HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA.

The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County sheriff's Office, Henderson County Sheriff's Office and McDowell County sheriff's Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The HIDTA task force primarily concentrates on high volume, high value drug trafficking. As an example, the task force was recently involved in a case involving the large seizure of controlled substances from persons with local and National ties, involved in the trafficking of narcotics in this region and beyond.

The City of Asheville serves as the partial fiduciary for the Asheville HIDTA and has recently agreed to expand this service to include all program expenses. The allotted funds from the Federal government will be used for investigative purposes and other program expenses including employee overtime, mobile phones and miscellaneous supplies. The expenditure of all funds are tracked and audited by both local and Federal authorities.

This modification of \$25,000 is an increase to the original award of \$22,335 for a new total of \$47,335 which reflects the increased fiduciary responsibility assumed by APD.

Pros:

- Federal HIDTA funds will be used for investigative purposes and program expenses.
- Continue to foster partnerships with Federal and local law enforcement agencies.

Con:

- Funding from the Office of National Drug Control Policy is awarded annually.

There is no impact to the City's General Fund Budget.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to accept grant funds under the Executive Office of the President, Office of National Drug Control Policy; and (2) a budget amendment to accept grant funds in the amount of \$25,000 through the Office of National Drug Control Policy to modify the HIDTA 2017 Grant.

**RESOLUTION BOOK NO. 40 - PAGE 63  
ORDINANCE BOOK NO. 32 - PAGE 180**

**P. RESOLUTION NO. 18-210 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS/SUPPLEMENTAL AGREEMENTS WITH WITHERSRAVENEL, INC. FOR PROFESSIONAL ENGINEERING SERVICES PURSUANT TO A MASTER AGREEMENT**

Summary: The consideration of a resolution authorizing the City Manager to continue entering into a professional services contracts in individual amounts not to exceed \$90,000, with WithersRavenel, Inc. for design and engineering professional services under an existing Master Services Agreement.

The staff requires design and civil engineering services for various tasks to complete projects throughout the City. These tasks, may include but are not limited to, civil design, flood study and certification, geotechnical work, survey and construction engineering services. On-call services are a way for the City to quickly, efficiently and effectively respond when engineering services are required. On-call services are also allowed in the State of North Carolina and are used across the State as a best practice for securing these services.

In order to secure firms to perform this work, the City must follow a qualifications-based procurement process. A Request for Qualifications for these services, on an on-call basis, was published on February 22, 2018. In response to the Request for Qualifications, the following twelve (12) firms submitted packages:

WithersRavenel	Wetherill Engineering
Vaughn & Melton	SEPI Inc.
Michael Baker & Assoc	McGill & Associates
Mattern & Craig	Kimley Horn
Gresham Smith Partners	Clark Patterson Lee
Clark Nexsen	Civil & Environmental Consultants Inc.

The review team utilized a scoring matrix to assess the qualifications of the proposed firms. The firm with the highest score was WithersRavenel, Inc. Based upon the qualifications-based selection process, which identified WithersRavenel as the most qualified firm to perform this work, the City entered into a no cost contract (i.e. Master Agreement) with the intent of entering into individual supplemental agreement contracts to perform specific activities and distinct work. Staff anticipates that services rendered through these individual contracts cumulatively under this agreement will exceed \$90,000. Although not required, staff is seeking confirmation from City Council that they are willing to continue the use of this practice and authorize this work to continue.

The continued use of this on-call contract will involve identification of projects which require engineering services. Upon identifying these projects, staff will negotiate a scope of work and fee for services based on the contracted cost framework and specific project needs. The duration of these on-call service contracts will be for an initial term of two years with an option to renew for up to three additional one-year periods. If a contract individually exceeds the City Manager's approval threshold of \$90,000, staff will bring this contract to City Council for individual approval. All contracts below this threshold will be authorized by the City Manager based upon



the completion of the Qualifications Based Selection Process as explained previously in this memo and City Council approval of this resolution .

Pros:

- A well-qualified firm will perform services in support of design services and engineering needs.
- These services will be available to support various programs and projects within the City's portfolio, including capital improvement projects, facilities construction and renovation projects.

Con:

- None identified.

Supplemental agreements for specific projects will be awarded based on existing budget plans for those projects.

Staff recommends City Council adopt a resolution authorizing the City Manager to continue entering into a professional services contracts with WithersRavenel, Inc. for design and engineering professional services under the on-call services Master Agreement described herein.

#### **RESOLUTION BOOK NO. 40 - PAGE 64**

#### **Q. RESOLUTION NO. 18-211 - RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO DISPOSE OF SURPLUS CITY-OWNED PERSONAL PROPERTY VALUED AT \$30,000 OR MORE**

Summary: The consideration of a resolution authorizing the sale of one (1) 2008 Sterling LT9500 Dump Truck deemed surplus City personal property.

The City's Water Resources Department -- Maintenance Division, identified a 2008 Sterling LT9500 Dump Truck as surplus personal property, with no anticipation of utilization by the City. Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at \$30,000 or more must be approved by City Council. The City's Purchasing Manager has authority to dispose of personal property valued at less than \$30,000 by private negotiation and sale. The estimated wholesale value of the 2008 Sterling LT9500 Dump Truck is listed at \$40,000+, \$1000 - \$10,000 above wholesale, depending on condition. Bids were solicited and received from several potential purchasers. The final bid amount at the close of the auction on Sunday, July 22, 2018, was \$49,100. City Council is being asked to approve the sale of the Dump Truck for \$49,100.

Pros:

- Promotes City of Asheville fiscal responsibility of disposing of surplus property which generates revenue
- Space utilization eliminates the need to store large, unused equipment
- Competitive process yielded market price

Con:

- None

The dump truck is fully depreciated and the Water Resources Fund will recognize the entire \$49,100.00 as revenue from the sale of assets.

City staff recommends City Council adopt a resolution approving the sale of the 2008 Sterling LT9500 Dump Truck to the prospective purchaser for the amount of \$49,100.

**RESOLUTION BOOK NO. 40 - PAGE 65**

**R. RESOLUTION NO. 18-212 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY CUP**

**RESOLUTION NO. 18-213 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL**

**RESOLUTION NO. 18-214 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE FARM TO VILLAGE DINNER**

**RESOLUTION NO. 18-215 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL**

**RESOLUTION NO. 18-216 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE OKTOBERFEST**

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 Beer City Cup, Goombay Festival, Farm to Village Dinner, Brewgrass Festival, and Asheville Oktoberfest.

- WNC Soccer Foundation 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 Beer City Cup and allow for consumption at this event.

The Beer City Cup will be held on Sunday, September 2, 2018, from 9:00 a.m. to 10:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on the accompanying site map.

- YMI Cultural 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 Goombay Festival and allow for consumption at this event.

The Goombay Festival will be held on Friday, September 7, 2018, from 5:00 p.m. to 10:00 p.m., Saturday, September 8, 2018, from 10:00 a.m. to 10:00 p.m. and Sunday, September 9, 2018, from 12:00 p.m. to 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Historic Biltmore Village Association via Manna Food Bank 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 Farm to Village Dinner and allow for consumption at this event.

The Farm to Village Dinner will be held on Thursday, September 6, 2018, from 6:00 p.m. to 9:00 p.m. within the boundaries of Boston Way as per the area limits referenced on

the accompanying site map.

- Asheville Brewers Alliance 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 Brewgrass Festival and allow for consumption at this event.

The Brewgrass Festival will be held on Saturday, September 15, 2018, from 12:00 p.m. to 6:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on the accompanying site map.

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

Asheville Oktoberfest will be held on Saturday, October 6, 2018, from 1:00 p.m. to 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for WNC Soccer Foundation, YMI Cultural Center, Historic Biltmore Village Association, Asheville Brewers Alliance, and Asheville Downtown Association

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 Beer City Cup, Goombay Festival, Farm to Village Dinner, Brewgrass Festival, and Asheville Oktoberfest.

**RESOLUTION NO. 18-212 - RESOLUTION BOOK NO. 40 - PAGE 66**

**RESOLUTION NO. 18-213 - RESOLUTION BOOK NO. 40 - PAGE 69**

**RESOLUTION NO. 18-214 - RESOLUTION BOOK NO. 40 - PAGE 72**

**RESOLUTION NO. 18-215 - RESOLUTION BOOK NO. 40 - PAGE 75**

**RESOLUTION NO. 18-216 - RESOLUTION BOOK NO. 40 - PAGE 78**

- S. RESOLUTION NO. 18-217 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION FROM BUNCOMBE COUNTY AND CONNECT BUNCOMBE TO BE APPLIED TOWARDS THE LOCAL MATCH FOR THE NORTH RIVER ARTS DISTRICT GREENWAY PROJECT**

**ORDINANCE NO. 4691 - BUDGET AMENDMENT FOR DONATION FROM BUNCOMBE COUNTY AND CONNECT BUNCOMBE FOR THE NORTH RIVER ARTS DISTRICT GREENWAY PROJECT**

Summary: The consideration of 1) a resolution to accept a combined \$40,000 donation from Buncombe County (\$20,000) and Connect Buncombe (\$20,000) for the North River Arts District (RAD) Greenway; and 2) a budget amendment in the City's Special Revenue Fund in the amount of \$300,000 to budget the \$20,000 donation from Buncombe County, the \$20,000 donation from Connect Buncombe, the City's contribution of \$20,000 from City Manager's Contingency, and \$240,000 in grant funding from the Surface Transportation Block Grant - Direct Attributable (STBGDA) grant to setup the project for the North River Arts District Greenway.

In 2016, Buncombe County applied for and was awarded a \$300,000 Surface Transportation Block Grant - Direct Attributable (STBGDA) grant to be used for the preliminary engineering phase for the North RAD Greenway project from Hill Street to SR 1781 (Broadway), a total distance of about 1.1 miles. This project is identified in the 2018-2027 State Transportation Improvement Program as EB-5822 with a total project cost of \$300,000 for Federal FY 2018. In 2017, Buncombe County approached the City asking if we would be interested in administering and managing the project. The City agreed to accept that role and the required \$60,000 local match is being provided equally by the City, Buncombe County, and Connect Buncombe.

The Finance & Human Resources Committee reviewed this action on July 24, 2018 and recommended that it move forward to City Council for review and approval.

Pros:

- The grant will enable the preliminary engineering phase to proceed on an important greenway connection.
- Buncombe County and Connect Buncombe will provide \$20,000 each towards the required local match.

Con:

- The City is responsible to provide \$20,000 of the required local match.

The City has budgeted the \$20,000 in the FY 2019 general fund budget as part of the City's Manager Contingency; and the donated funds from Buncombe County and Connect Buncombe will provide the balance of the required local match.

Staff recommends that City Council approve: 1) a resolution to accept a combined \$40,000 donation from Buncombe County (\$20,000) and Connect Buncombe (\$20,000) and to authorize the City Manager to execute any documents necessary to accept such funding; and 2) a budget amendment in the City's Special Revenue Fund in the amount of \$300,000 to budget the \$20,000 donation from Buncombe County, the \$20,000 donation from Connect Buncombe, the City's contribution of \$20,000 from City Manager's Contingency, and \$240,000 in grant funding from the Surface Transportation Block Grant - Direct Attributable (STBGDA) grant to setup the project for the North River Arts District (RAD) Greenway.

**RESOLUTION BOOK NO. 40 - PAGE 81  
ORDINANCE BOOK NO. 32 - PAGE 182**

**T. RESOLUTION NO. 18-218 - RESOLUTION REVISING THE EXISTING POLICY FOR THE NAMING OF PUBLICLY OWNED PROPERTIES TO INCLUDE THE DEDICATION OF INFRASTRUCTURE (PUBLIC STREETS AND BRIDGES) WITHIN THE PUBLIC RIGHT-OF-WAY**

Summary: The consideration of a resolution revising the existing policy for the naming of publicly owned properties.

City Council approved a resolution adopting a policy for the naming of publicly owned properties on March 25, 2014 via resolution # 14-55. The policy includes the naming of public property such as buildings, parks, squares, and greenways that exist on city-owned property but it does not include infrastructure (public streets and bridges) within the public right-of-way.

Transportation Department staff and Asheville Police Department staff took the lead role in developing a policy for dedicating portions of City streets and bridges. The N.C. Dept. of Transportation (NCDOT) has a street and bridge naming policy and the City's proposed policy is patterned after their policy.

The revised policy includes a section for the dedication of municipal streets and bridges within the public right-of-way. In addition to the Police Department, the revised policy has been reviewed and endorsed by the Public Works Department, the Fire Department, and the Water Department.

The PED Committee reviewed this action on July 23, 2018, and recommended that it move forward to City Council for review and approval.

Pro:

- Expands the written policy to include infrastructure (public streets and bridges) within the public right-of-way

Con:

- There are no known negative impacts.

The only known cost would be the material, fabrication and installation cost of the signs and that cost would be included in the Transportation Department annual operating budget.

Staff recommends that City Council adopt a resolution revising the existing policy for the naming of publicly owned properties to include infrastructure (public streets and bridges) within the public right-of-way.

## **RESOLUTION BOOK NO. 40 - PAGE 82**

### **U. ANNOUNCEMENT OF THE SETTLEMENT OF THE JOHNNIE RUSH LAWSUIT**

Summary: A Settlement and Release Agreement was executed by the City and Johnnie Jermaine Rush on August 3, 2018. The terms of the agreement provide that the City will pay a total of six hundred and fifty thousand dollars (\$650,000.00) in exchange for a release of claims Mr. Rush could assert against the City related to events on August 24-25, 2017.

### **V. RESOLUTION NO. 18-219 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT TO A CONSTRUCTION MANAGER AT RISK AGREEMENT WITH J. BRADLEY CONTRACTING INC. FOR THE CONSTRUCTION OF THE U.S. CELLULAR CENTER RENOVATION & HVAC PROJECTS**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment to a Construction Manager at Risk Agreement (CMAR) with J. Brady Contracting, Inc. in the amount of \$536,135 for the construction of the U.S. Cellular Center Renovation & HVAC Projects (Press/Meeting Room and Storage Phase).

The City Council's adopted budget for the 2016-17 fiscal year included a Capital Improvements project for the U.S. Cellular Center that is partially funded by 2016 Tourism Product Development Fund (TPDF) grant for \$1,500,000. The project provides flexible theater seating in the arena, a sound and lighting package, and converts a storage room into a press/meeting room; additional supporting projects include the expansion of storage for the displaced room, and modernization of the building's 1970's era HVAC system. These

improvements will increase the venue's capacity, capabilities, and will reduce operational costs that will enable it to expand the type and frequency of events that the venue can host. The facility renovation and HVAC modernization components of this project are managed by the General Services Department, in coordination with the U.S. Cellular Center.

Due to timing and need, the press/meeting room and storage expansion projects will be constructed first, in preparation for scheduled events; the HVAC modernization project will begin when event scheduling and weather are optimal for off-season replacement of cooling and heating equipment.

On January 23, 2018, the General Services Department issued a Request for Qualifications for a Construction Manager at Risk (CMAR) for the U.S. Cellular Center Facility Renovation and HVAC Modernization Projects. The services provided by the CMAR include preconstruction services (including cost estimation, value engineering, public bidding, and minority business outreach) and construction management services.

In response to the Request for Qualifications, the department received seven responsive submittals on February 14, 2018. The companies responding were:

1. American South General Contractors (Sanford, NC)
2. Brantley Construction Company (Weaverville, NC Office)
3. Harper Corporation (Greenville, SC)
4. Hickory Construction Company (Hickory, NC)
5. H&M Constructors (Asheville, NC)
6. J. Brady Contracting (Greensboro, NC)
7. Vannoy Construction (Asheville, NC Office)

Following a review of qualifications by City staff and the Program Manager, J. Brady Contracting, Inc. was selected as the most qualified firm for this project. The City Manager awarded the preconstruction services contract to J. Brady Contracting, Inc. in the amount of \$67,000 on May 14, 2018. After months of work with designers and City staff, and in accordance with the requirements of N.C.G.S 143-128.1(c), the City and CMAR publicly bid the Press/Meeting Room and Storage Renovation Phase. The negotiated fee for this additional work requires a contract amendment in the amount of \$536,135, and the resulting total contract amount will be \$603,135 for consideration by City Council.

Pros:

- Improve the venue's ability to host a wider range of events.
- Reduce energy consumption and operational costs at the U.S. Cellular Center.
- Leverage grant funding in partnership with the Buncombe County Tourism Development Authority.

Con:

- None.

The funding needed for this agreement is currently allocated within the TPDF Theater Project (C1701) in the Capital Improvement Program (CIP) Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a contract amendment to the construction manager-at-risk contract with J. Brady Contracting, Inc., for the guaranteed maximum price of \$536,135 for construction services for the U.S. Cellular Center Facility Renovation & HVAC Modernization Project (Press/Meeting Room Conversion and Storage Renovation Phase), which yields a total contract amount of \$603,135.

**RESOLUTION BOOK NO. 40 - PAGE 86**

**W. RESOLUTION NO. 18-220 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A WATER REVENUE BOND ANTICIPATION NOTE AND CERTAIN RELATED MATTERS**

Summary: The consideration of a resolution authorizing and directing the Interim City Manager and Chief Financial Officer, with advice from the City Attorney and Bond Counsel, to pursue and negotiate on behalf of the City debt financing for capital projects associated with the City's water system with a draw program that includes the issuance of interim Water Revenue Bond Anticipation Note ("Water BAN") in an amount not to exceed \$40,000,000.

The City has reimbursement resolutions for Council approved capital projects associated with the City's water system authorized as part of the FY 2019 Budget. The interim Water BAN draw program will reimburse the City for costs incurred to date for those projects and allow the City to complete many of the projects. Upon completion, these projects will be permanently financed through longer-term Water Revenue Refunding Bonds.

The resolution authorizes the Interim City Manager and Chief Financial Officer to proceed and negotiate an interim Water BAN financing on behalf of the City. The resolution also authorizes the Chief Financial Officer to provide information to and seek necessary approvals from the LGC for such financing and to retain assistance from bond counsel and financial advisors as she deems necessary to carry out the transaction and makes certain findings required by the LGC to support the City's application to the LGC. Such program will be in accordance with the provisions of The State and Local Government Revenue Bond Act of the General Statutes of North Carolina.

Pro:

- Allows the City to move forward with capital projects associated with the City's water system and Draw Program financing.

Con:

- None noted.

The interim Water BAN draw program includes an amount not to exceed \$40,000,000. The annual debt service payments for this financing depend ultimately on the timing of the loan draws over the course of an approximate two year period and will be estimated following responses from the considered banks. The annual debt service estimates will be included in the Staff Report provided for the September 25, 2018 City Council meeting.

Staff recommends that City Council approve the resolution as it is proposed.

At the request of Councilman Kapoor, Director of Finance and Management Services Barbara Whitehorn explained the requested resolution.

**RESOLUTION BOOK NO. 40 - PAGE 87**

**X. MOTION TO SET A PUBLIC HEARING ON SEPTEMBER 11, 2018, TO RENAME A 500' SECTION OF RIVERSIDE DRIVE TO RIVER ARTS PLACE**

Summary: The consideration of a motion setting a public hearing on September 11, 2018, to consider a street name change to rename a 500' section of "Riverside Drive" to "River Arts Place."

A portion of Riverside Drive is slated for realignment with major enhancements detailed in the River Arts District Transportation Improvement Plan (RADTIP). The realignment of streets and the construction of a new roundabout at the Lyman St intersection will reroute a newly constructed section of Riverside Drive to the west. It is the approximate 500' section remnant of existing Riverside Drive proposed to be renamed as River Arts Place. Changes to existing public street names shall be approved through a resolution of the City Council following a public hearing advertised with state open meeting laws. The Notice will be posted prominently on each end of the street, published at least once in a newspaper and mailed to all property owners adjoining the affected right-of-way.

The Public Safety Committee reviewed the request at their July 2, 2018, meeting and recommended to change the name of a section of Riverside Drive to River Arts Place.

Pro:

- Potential emergency response enhanced with a specific unique street name.

Con:

- Cost and labor of replacing two street name signs.

Material, fabrication and installation costs of the new street signs is included in the Transportation Department annual operating budget.

City staff recommends City Council adopt a motion authorizing the City Manager to set a public hearing on September 11, 2018, to change the name of a section of Riverside Drive to River Arts Place.

**Y. RESOLUTION NO. 18-221 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION OF PROPERTY LOCATED OFF OF SOUTHCLIFF PARKWAY FROM MRECV SOUTHCLIFF LM LLC**

Summary: The consideration of a resolution authorizing the City Manager to accept the conveyance of real property located off of Southcliff Parkway (portion of PIN # 9677-75-3989, associated easements and rights-of-way) from MRECV Southcliff LM LLC.

As part of the infrastructure to support the Southcliff Community located in Fairview, a water tank and associated water lines were constructed by the developers to serve the community. Once constructed, the Water Resources of the City of Asheville inspects the improvements and incorporates the improvements in to the water system through a formal acceptance of the property. The infrastructure and real property proposed for acceptance is as follows: 0.21 acres of real property, improved with a water tank; 20 ft wide easement and associated water lines; and a 45' wide road right-of-way to be combined with the Southcliff right-of-way road system.

Pro:

- Acceptance of the property will allow for City maintenance and long-term ownership of the water improvements.

Con:

- None noted



There will be no fiscal impact to the City as the subject property is being donated at no cost.

City staff recommends that City Council adopt the resolution authorizing the City Manager to accept the conveyance of real property located off of Southcliff Parkway from MRECV Southcliff LM LLC.

**RESOLUTION BOOK NO. 40 - PAGE 90**

**Z. RESOLUTION NO. 18-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS THROUGH THE US OFFICE OF JUSTICE FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE 2018 GRANT, AND IF AWARDED, ENTER INTO SAID AGREEMENT**

**ORDINANCE NO. 4692 - BUDGET AMENDMENT FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE 2018 GRANT**

Summary: The consideration of (1) a resolution authorizing the City Manager to apply for funds through the US Office of Justice, Edward Byrne Justice Assistance 2018 Grant – Local Solicitation, and if awarded, enter into said agreement; and (2) a budget amendment, in the amount of \$58,235.

The City of Asheville Police Department (APD) requests authorization to apply for the Byrne JAG – Local Solicitation and if awarded, to enter into said agreement. This is a predetermined amount of funds based on the Part I Uniform Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Office will be allocated \$58,235 based on the award matrix, with the City of Asheville receiving \$46,494 and Buncombe County receiving \$11,741. The distribution of funds will be approved through a signed Memorandum of Understanding.

APD proposes to use JAG funds to purchase an Interview Recording Platform. This system will allow for the recording, organizing and streaming of crucial interviews. An interview recording platform will allow APD to capture video of witness and suspect interviews, tag it with descriptive metadata, and automatically transfer it to an appropriate storage system. The platform will be a full interview room video solution that provides critical, defensible evidence for the prosecution.

The Buncombe County Sheriff's Office proposes to use JAG funds to purchase duty weapons and issue them to deputies for use in various assignments from Patrol to School Resource Officers to SWAT members. These roles are vital in protecting the community. It is necessary that a law enforcement agency have duty weapons on hand to issue to officers as needed for training and for individual assignments. The weapons requested are items that will be needed over the next fiscal year that were not included in their normal operating budget.

This is a 100% funded non-local match grant. The application due date was August 22, 2018 and it was submitted on August 13, 2018.

The request for the budget amendment will be presented to the Finance and Human Resources Committee on August 28, 2018, and any response other than unanimous approval to move to the full City council will be noted at that meeting.

Pros:

- Offers stronger evidence for prosecutors, boosting prosecution records on appeal and resulting in fewer pre-trial motions.
- To increase the ability to capture and protect crucial video interview evidence and protects officers from claims of abuse, coercion or perjury.

Cons:

- None

There is no local match required.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to apply for funds through the US Office of Justice, Edward Byrne Justice Assistance 2018 Grant – Local Solicitation, and if awarded, enter into said agreement; and (2) a budget amendment, in the amount of \$58,235.

**RESOLUTION BOOK NO. 40 - PAGE 91  
ORDINANCE BOOK NO. 32 - PAGE 184**

**AA. ORDINANCE NO. 4693 - ORDINANCE TO ENACT A 25 MPH SPEED LIMIT ON HAZEL MILL ROAD FROM SR 1332 (LOUISIANA AVENUE) TO US 19-23-74A (PATTON AVENUE) AND MARTIN LUTHER KING DRIVE FROM SR 3284 (SOUTH CHARLOTTE STREET) TO US 70-74A (COLLEGE STREET) AND A 30 MPH SPEED LIMIT ON NORTH BEAR CREEK ROAD FROM US 19-23-74A (PATTON AVENUE) TO OLD COUNTY HOME ROAD**

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of streets in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses. Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit on Hazel Mill Road from SR 1332 (Louisiana Avenue) to US 19-23-74A (Patton Avenue) and Martin Luther King drive from SR 3284 (South Charlotte Street) to US 70-74A (College Street) would be reasonable and safe. In addition, City staff recently completed a traffic engineering investigation and determined that a 30 mph speed limit on North Bear Creek Road from US 19-23-74A (Patton Avenue) to Old County Home Road would be reasonable and safe.

This action aligns with the 2036 Council Vision in the Transportation and Accessibility area by creating safe and convenient access to jobs, health, education, and recreation opportunities.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.

- Based on the 85<sup>th</sup> percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Con:

- None.

The initial cost to install the appropriate speed limit signs is about \$1,000 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 25 mph speed limit on Hazel Mill Road from SR 1332 (Louisiana Avenue) to US 19-23-74A (Patton Avenue) and Martin Luther King drive from SR 3284 (South Charlotte Street) to US 70-74A (College Street) and a 30 mph speed limit on North Bear Creek Road from US 19-23-74A (Patton Avenue) to Old County Home Road.

**ORDINANCE BOOK NO. 32 - PAGE 186**

**BB. RESOLUTION NO. 18-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH J. BARTHOLOMEW CONSTRUCTION LLC FOR THE RECREATION PARK POOL PUMP HOUSE RETAINING WALL PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a Construction Agreement with J. Bartholomew Construction, LLC for the amount of \$138,537 to execute the scope of work per IFB # 298-18-GS-RecParkWall.

The project will replace an old concrete ramp and retaining wall at the Recreation Park Pool Pump House that is currently stabilized by a retrofitted steel bracing structure. The ramp area will be filled with compacted soil to the level of the pool deck to provide an expanded grassy area for the users of the pool facilities.

On June 4, 2018, the General Services Department issued an Invitation for Bids for Construction Services at the Recreation Park Pool Pump House at 69 Gashes Creek Road. The contract includes the construction of a retaining wall plus associated grading and drainage. In response to the solicitation, the department received two submittals on June 28, 2018. The companies responding were:

<u>Company</u>	<u>Location</u>	<u>Bid Amount</u>
1. J. Bartholomew Construction, LLC	Hendersonville, NC	\$138,537
2. Patton Construction Group, Inc	Asheville, NC	\$220,750

The lower bid was submitted by J. Bartholomew Construction in the amount of \$138,537. A 10% contingency on construction in the amount of \$13,854 will be added to the project budget, for a total project budget of \$152,391.

Pros:

- The new construction will provide a safer condition for the patrons of the pool facility.
- A new lawn will be provided for the enjoyment of the users of the pool.
- The retaining wall will enclose the pump house lower and upper levels. The enclosed space may be used for storage and reduce the chance of vandalism in this area.
- The work is scheduled to be completed after the pool season is completed and will not interrupt the public services provided by the pool.
- The work will replace a sidewalk that serves the adjacent playground and as a walkway to parking.

Con:

- During the improvements, some modest disruption will be seen in the visitor experience at the adjacent playground.

Funding for this contract will come from the Swimming Pools Capital Improvement Project that was already approved as part of the City's existing Capital Improvement Program (CIP).

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Contract Agreement with J. Bartholomew Construction, LLC for the amount of \$138,537 for the construction of a retaining wall at the Rec Park Pool Pump House.

**RESOLUTION BOOK NO. 40 - PAGE 92**

**CC. RESOLUTION NO. 18-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUPPORT THE RIVERFRONT DEVELOPMENT GROUP APPLICATION TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY TDA FOR GRANT FUNDING OF CAPITAL PROJECTS ON CITY LAND OWNED/LEASED, AND TO COMMIT TO CONSIDER AN ALLOCATION OF \$250,000 AS PART OF THE FISCAL YEAR 2019-20 CAPITAL BUDGET FOR PHASE I OF THE PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to support the Riverfront Development Group (RDG) application to the Buncombe County TDA for grant funding of capital projects on City owned or managed property and to commit to consider an allocation of \$250,000 as part of the Fiscal Year (FY) 2019-20 Capital Budget for Phase I of the project.

In 2014, Asheville City Council and the Buncombe County Board of Commissioners determined that it was in the public interest to establish a commission to discover, develop, promote and implement projects and programs to recognize African American history in Buncombe County. This resulted in the formation of the African American Heritage Commission.

In 2016, to support this commission's purpose, staff from both the City and County Parks and Recreation Departments began working with the Stephens-Lee Alumni Association to publicly display artifacts from their archives in the Center. The purpose of that project is to support the Alumni Association and honor graduates of Stephens-Lee.

In 1999, with the support of the Alumni Association and the East End Neighborhood Association, the City was able to secure a PARTF Grant for major renovations to make improvements to the community recreational facility in the East Central Park District. The City's partnership with both of these organizations began in the 1980s as part of the development of MLK Park.

Supporting the Riverfront Development Group (RDG) could build on the successful relationship that the City has with the Alumni Association, the East End Neighborhood Association, and the Tourism Development Authority to acknowledge and recognize the past achievements of the African American community by supporting a pathway to raise funds for the following initiatives:

- Naming and marking with signage an African-American Heritage and Cultural District along a course running from the historic area known as The Block to the

historic East End and along present-day South Slope, into Southside, and to the present-day River Arts District, and;

- Renovations to the site of the former Stephens-Lee High School for a Stephens-Lee African American History Museum.

In the short term, RDG is proposing to raise funds to implement the first phase of these projects.

If City Council adopts and authorizes the resolution of support, the following (and potentially others) are key community partners that will be involved in the implementation of the projects.

**Alumni Association** - The Stephens-Lee Alumni Association has celebrated a total of 23 reunions as an organization. While each individual class celebrates their own yearly reunion, the Alumni Association is the link between all of the the graduating classes. President Sarah Roland Hart.

**East End Neighborhood Association** - The East End / Valley Street Neighborhood Association represents the oldest African-American neighborhood in Asheville. Seeking to generate pride and participation in their neighborhoods and city. President Renee' White.

**The Riverfront Development Group (RDG)** - A 501(c)(3) corporation whose president is Catherine Mitchell. RDG has submitted a TPDF application to support a variety of African American History Projects; the Phase I Scope of Work below is based on her TPDF application.

#### Phase I Scope of Work

1. Upfit a section of the Stephens-Lee Recreation Center for the purposes of creating the Stephens-Lee African-American History Museum and Arts Center, to include the following:
  - a. Upfit to the back third of the first floor corridor at the Stephens-Lee Recreation Center as part of the Stephens-Lee Museum
  - b. Upfits that support the use as an event space, including event lighting in the second floor gymnasium and upfit of the kitchen to standards where it can be used for catering/food service.
  - c. Upfit to the Alumni room as part of the Stephens-Lee Museum
  - d. Potential renovation of a portion of the multi-purpose room or the after school room as an extension of the museum.
  - e. Adding museum signage to the existing Stephens-Lee/Parks and Recreation identification sign
2. Installation of African-American Heritage Trail signage on City owned or leased property to include the following:
  - a. Community overview sign: at Triangle Park
  - b. A peek at the business district's past: at the north west corner of South Charlotte Street and Beaumont
  - c. The neighborhood store: at the corner of Max and S. Charlotte Street

- d. The role of churches in the African-American neighborhood: on the west side of Max street near the intersection of old Max Street.
- e. The completed Trail would include approximately 19 installations along the route of the entire District, with opportunity for collaboration, especially with the City's Greenway plan, and requiring staff-level review of requests for each proposed location on City owned or leased property or City rights of way.

#### Considerations

If Council chooses to approve this request, staff would recommend that Council approve with the following recommendations:

- RDG coordinates with the Stephens-Lee Alumni Association and include other community stakeholders to create a shared vision for the design of the Museum and Arts Center.
- The program will be subject to a coordinated planning and assessment process that will help determine the feasibility of the various phases of the program, including the design, construction, and future uses of the facility.
- The vision and design scope of the project must be approved by the African American Heritage Commission, Recreation Advisory Board, Historic Resources Commission, and the Planning and Economic Development (PED) Committee of City Council.
- Staff relocate programs and services that will be impacted.
- A Memorandum of Agreement be developed between the City, RDG, Stephens-Lee Alumni Association, and the East End Neighborhood Association that outlines the scope of the project, timeline, roles and responsibilities, design, approval, construction processes, and maintenance responsibilities.

This proposal supports Council's 2036 Vision to develop an Equitable and Diverse Community. Regarding Council's Strategic Priorities, it aligns with Goal #4, which aims to participate in community dialogue and create potential strategies to honor history and contributions of the African American community in Asheville, beginning with a community-led effort to install a monument to African American heritage.

This proposal supports the goals of the comprehensive plan by: (1) promoting great architecture and urban design to enhance placemaking; (2) elevating the arts and cultural sectors to strengthen and preserve heritage and history (from the "livable built environment" section); and (3) prioritizing investments equitably and fairly across neighborhoods and increasing access to opportunities for all (from the "interwoven equity" section).

Pros:

- The project can help accomplish Council Strategic Goal #4.
- The project will support the purpose of the African American Heritage Commission.
- The project will support collaborations that engage our community.

- The project funding could be leveraged by TPDF.

Cons:

- The feasibility of the scope of the work and the method of collaboration has not been determined.
- Additional coordination between various stakeholders will require the dedication of unplanned staff resources.
- Any use of the existing building that is not clearly "recreation" use, here a museum use, would need permission from Parks and Recreation Trust Fund (PARTF) or could be in violation of their grant.

The requested \$250,000 match is currently not part of the City's five-year Capital Improvement Program (CIP), and would therefore need to be added to the CIP/Debt cash flow model. Staff would encourage RDG to request matching funds from the County.

Staff recommends City Council consider authorizing the City Manager to support the Riverfront Development Group application to the Buncombe County Tourism Development Authority for grant funding of capital projects on City land owned/leased, and to commit to consider an allocation of \$250,000 as part of the FY 2019-20 Capital Budget for Phase I of the project.

**RESOLUTION BOOK NO. 40 - PAGE 93**

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

Vice-Mayor Wisler moved for the adoption of the Consent Agenda, with the exception of Consent Agenda Item "B". This motion was seconded by Councilman Kapoor and carried unanimously.

**III. PRESENTATIONS & REPORTS:**

**A. PRESENTATION BY CONSULTANT, 21ST CP SOLUTIONS ON THEIR REVIEW RELATED TO THE RUSH INCIDENT**

Acting City Manager Ball said that on March 20, 2018, City Council unanimously asked staff to move forward on an evaluation of the event that occurred on August 24, 2017, regarding Mr. Johnnie Rush and former Police Officer Christopher Hickman. In doing so, we have brought on the consultant firm and they are now prepared to give Council their results. Ms. Ball then introduced Commissioner Charles Ramsey and Mr. Sean Smoot, from 21st Century Solutions Policing.

Mr. Smoot explained 21st Solutions experience and expertise. He then briefly reviewed his report from the Executive Summary below:

"In April 2018, 21CP Solutions, LLC was hired by the City of Asheville to conduct a policy and procedure review of the excessive force incident involving the arrest of Johnnie Jermaine Rush in August 2017. The city requested an assessment that included but was not limited to: a review of the incident that gave rise to arrest, the tactics utilized in affecting the arrest, the police department response, the city administration response, and the community response. The report that follows delivers on the police and city administration components described above. (The community component is tentatively scheduled to be fulfilled during a series of meetings that will include 21CP Principals meeting with the Chief of Police, Command Staff and other APD personnel (at the Chief's discretion) to present and explain findings and recommendations; a

presentation to the City Council to explain findings and recommendations; and a presentation aimed at familiarizing the community and public officials with the findings and recommendations. The final two presentations will be designed to dovetail with a presentation by the police department explaining to the public and elected officials the steps that the department has taken and will take to respond to findings and implement any recommendations.)

“The findings and recommendations included in the following report span the arrest incident, Asheville Police Department (APD) response, and the response of local government entities, such as the City Council, Mayor, City Attorney, and Buncombe County District Attorney. The key findings and recommendations from the assessment are summarized below and presented in greater detail throughout this report.

### **Rush Incident – Findings and Recommendations**

Finding 1: Officer Christopher Hickman should not have been utilized as a field training officer.

- Recommendation 1.1: Revise the selection and recruitment process for field training officer program.
- Recommendation 1.2: The skills necessary to be an effective field training officer are perishable; officers who have transferred from patrol for a period of time should be reassessed prior to returning to FTO duties.
- Recommendation 1.3: APD should routinely assess its Early Intervention System triggers, adjusting when necessary.

Finding 2: Officers did not intervene when their fellow officer was engaging in an inappropriate, unnecessary, and excessive use of force, despite having several opportunities to do so as Officer Hickman actively escalated the situation.

- Recommendation 2.1: APD should consider adopting a peer intervention program.

Finding 3: Officer Hickman and Sergeant Taube did not appear to communicate to EMS that multiple Taser cycles had been used on Mr. Rush, which was documented by the download usage record from Officer Hickman’s Taser.

- Recommendation 3.1: All APD personnel and Asheville EMS should be notified and trained regarding the medical treatment requirements included in the use of force policy.

### **Asheville Police Department Response to Rush Incident - Findings and Recommendations**

Finding 4: The Asheville Police Department responded to the incident in a timely manner, and within the limitations of North Carolina law.

Finding 5: The leak of Officer Hickman’s body worn camera footage to the Asheville Citizen Times may have undermined the formal administrative review processes already underway within APD and the city and may have compromised or impeded future prosecution of Officer Hickman.

Finding 6: During the review of all body worn camera footage uploaded by Officer Hickman from June 11, 2017 through September 11, 2017, APD learned about numerous incidents during which Officer Hickman engaged in unacceptable behavior and judgement.



- Recommendation 6.1: APD should implement a more structured policy regarding BWC audits, particularly for officers identified as possibly being problematic.

Finding 7: After the video of the Rush incident was posted to the website of the Asheville Citizen Times on February 28, 2018 at 7:06 PM, it was over 16 hours before APD released an official response.

- Recommendation 7.1: The APD should prioritize the timely release of information, and response to the release of information, acknowledging the 24-hour nature of the news media.
- Recommendation 7.2: The APD should have its own independent public information officer that reports directly to the police chief.
- Recommendation 7.3: APD should consider developing a policy and associated training for appropriate engagement with community members on social media, particularly with regard to police events.

### **Local Government Response to Rush Incident - Findings and Recommendations**

Finding 8: The members of the Asheville City Council, City Manager, and Mayor were unaware of the Rush incident prior to the Asheville Citizen Times story's publication on February 28, 2018.

- Recommendation 8.1: Develop clear protocols for when individuals at different levels of city government should be informed about particular events.
- Recommendation 8.2: Develop clear notification procedures to inform individuals on the City Council of possible high-profile issues in a way that is consistent with policy and allows the information to remain confidential if necessary.
- Recommendation 8.3: Implement a crisis communication policy within the City Council, City Manager, and Mayor's offices to coordinate press releases and correspondence in concert with APD's PIO when communicating with the media.
- Recommendation 8.4: The City should consider retaining a firm to provide crisis response services to the APD and the City of Asheville in the future.

Finding 9: The civil service board (CSB) model in its current form is inefficient and requires improvement.

- Recommendation 9.1: The CSB process should be streamlined and focus on whether the act being investigated occurred as reported and whether the employee's termination is appropriate."

Mayor Manheimer said that City Council asked for a number of things to happen after the Rush incident came to light and one of them was to bring in an external auditor for a review of this incident and their recommendations about improvements. City Council will hear on September 25, 2018, a report from the Asheville Police Department about which of these recommendations have already been implemented and which of them haven't, and what is the plan for implementation.

In response to Councilman Kapoor, Mr. Smoot said that he has seen where an external organization has declined an investigation of this type, but only in the situation where there was another agency conducting such an investigation.

When Mr. Smoot said that they did not interview external stakeholders during their review, Councilwoman Smith felt if that would have happened it might have added another

viewpoint and the ultimate report might have been a little more balanced. She felt like this report feels like the police policing the police.

## **B. CURRENT STATE OF THE TRANSIT SYSTEM**

Mr. Elias Mathis, Transit Planning Manager, gave a brief explanation of the current state of the Transit System. He reminded the Council on why we switched from the old transit management model to our current model. Under the current model, the City's focus is to provide oversight for the contractor and support for the contractor so they can manage operations. There were major service interruptions in July due to mechanical issues. It's important to understand that the primary factors causing those issues is the overall age of the fleet and the lack of past bus purchases. At this point, the maintenance staff has a handle on the situation and are doing everything possible to avoid this type of service interruption in the future. The long-term solution is buying more buses on a regular schedule and we now have a regular fleet replacement schedule. We are in line to purchase five new buses each year for the next five years and then regular bus purchases continued after that. The first of those buses are expected to arrive in January.

ART General Manager Joe Brooks said that ART staff understands the maintenance issues that happened in July and are fully aware of the impact they have had on bus riders, as well as bus operators. These are the actions we have taken to address these issues:

- Outsourced buses to Cummins and Thermo-King in order to expedite repairs. This cost has been absorbed by the RATP DEV, not the City.

- We are in the process of adding a third maintenance shift, once we are fully staffed, which will help ensure all routes are covered. When RATP DEV inherited the system in October, the maintenance staff was short a total of three positions. We continue hold job fairs, as well as posting to Indeed, AB-Tech, Goodwill, and the City's social media; in order to have a fully staffed maintenance department. We are at 48 drivers and want 54 drivers.

- We have leased a 12-passenger ADA van that can be used in emergency situation if there is a shortage of vehicles. This was authorized in July, and will arrive next week.

We respect the union's role as an advocate for employees and as an advocate for safe public transit. We understand there are concerns about maintenance, safety, information requests, and employee communications. We have addressed the information requests from the union and will continue to work closely with them on that issue. We think our communications with the employees are excellent and we have substantial feedback to support that view. We do have monthly labor management meetings. We also have monthly one of one meetings with the union president, or as often as necessary. Again, we respect the union's role here and will continue to work closely with them through these issues to provide reliable transit service to Asheville.

Here is a list of some of the regular communications with our staff:

- Monthly meeting with the Union President.
- Monthly meeting with all employees.
- Monthly meeting with all Union Representatives.
- Everyone is given the opportunity to speak and provide feedback at these meetings.
- On Sunday, RATP DEV hosted an end of the summer and employee appreciation barbeque.
- Both the Director of Operations and General Manager work a late night once a week to give late afternoon and late night employees a chance to see us and voice any of their concerns.

- The entire staff all have an open door policy.

Mr. Brooks, along with Mr. Mathis, answered various questions from Council, some being, but are not limited to: how long do they expect repairs to take; how long do they expect it will take to fill the third maintenance shift; how long do they expect to lease the 12-passenger van; how many reserve buses do we currently have; has the Union been provided maintenance records; after we receive the new buses, how long does it take to get them on the road; how is the management company addressing the maintenance issues; is the City doing all it can to enforce the provisions of the contract and require a level of service that we pay for under the new management contract; has the 30 minute replacement bus provision being met; is there a legal impediment for City staff not meeting with the union, and if not, why aren't we holding those meetings; are there ways the City's social media networks might help in trying to fill the management company's vacancies; and do the applications ask if the applicant has ever been convicted of a crime.

Councilman Young suggested a quarterly update from the management company.

### **C. UPDATE ON THE STEPHENS-LEE PROPOSAL**

Parks & Recreation Director Roderick Simmons said the following is the Fiscal Year 2017-18 programming and community use of Stephens-Lee Community Center (Center) as requested by City Council on July 24, 2018. Information provided is for the timeframe between July 2017-June 2018. The Center is operated by the Parks & Recreation Department and provides programming, and community space, designed to serve a variety of needs throughout the community.

Built in 1923, Center is located in the former gymnasium of the Stephens Lee High School. It is a 27,144 square foot building including multi-purpose room, gymnasium, classrooms, fitness center, Stephens Lee Alumni Association room, kitchen, restrooms, office and storage. The 2.34 acres park surrounding the center includes two playgrounds, basketball court, parking, and access to the George Washington Carver Edible Garden.

The Center is opened 3,275 hours a year. Sunday-Friday they have Parks and Recreation programs and community programs. On Saturdays they have birthday party rentals, community programs or special events. The fitness center is open to the public during open hours.

The report outlines the past year facility programming that was conducted at Stephens-Lee Recreation Center and how the facility was programmed during the year.

Staff is responsible for administration of the facility, programs, community outreach, and help with community programs. Positions at the Center include a Facility Manager, Facility Supervisor, custodian, 2 program leaders and 3-5 rotating seasonal employees.

#### Program Hours and Participation: July 2017-June 2018

- Programming Hours: 6,914
- Program Participants: 4,142
- Community Access Hours: 4,049

#### Budget FY 2017-2018

The overall community investment was \$246,933

<b>Programming Annual Totals</b>	<b>Total Program Hours</b>	<b># of Participants</b>
Youth Programming (Ages 5 yrs to 18 yrs)	3,135	1,317
Adult Programming (Ages 18 & Over)	2,991	1,146
Alumni Programs	171	0
Community Events & Activities	131	1,679
<b>Annual Total</b>	<b>6,427</b>	<b>4,142</b>
<b>Public Access to Facility</b>	<b>Total Hours</b>	<b>Total Attendance</b>
Community Agencies	258	2,904
Other City Departments	191	945
Facility Rentals	38	200
<b>Annual Total</b>	<b>487</b>	<b>4,049</b>

Mr. Simmons showed a slide showing the average participant demographics, after school & summer programming, and after school and summer program demographics. He explained the fees for the after school and summer programs, along with a graph of the program fees per participant.

In response to Vice-Mayor Wisler as she tried to understand the possible impact of the Center on the entire community, Mr. Simmons said they don't have a mechanism in place to pull the data on what the percentage of the Center is compared to all the parks and recreation programs. However, he can provide a percentage of the Center's program hours vs. other centers.

Mr. Simmons responded to various questions by Council, some being, but are not limited to: are the after school and summer programs full; and how well used is this Center compared to other community centers.

Mayor Manheimer asked for information on what the costs would look like if they wanted to scale up the programs at the Center, i.e., increase the staffing from the current two employees.

Councilwoman Mayfield confirmed there is capacity at the Center because of staffing and programs during the prime hours.

It was the consensus of Council to wait until they receive the revised proposal for the use of the Center from Ms. Libby Kyles with the YTL Training Programs before any direction is given to staff.

Acting City Manager Ball recommended that after we receive and review the revised proposal, she meet with Ms. Kyles to make sure she has received and understands the information presented and both look at what opportunities there are to work together. She reminded Council that they still need to work through the Parks and Recreation Trust Fund grant the City received for this building in 1997 and that will not run out until 2022.

Vice-Mayor Wisler asked that as we move forward, she asked that the Recreation Board be involved, along with the many other voices that want and need to be heard around this Center and it's uses. There needs to be a robust community conversation.

## D. UPDATE ON HOMESTAY PERMITS

Principal Planner Shannon Tuch provided the following update for Council:

“City Council has requested regular updates on Homestay permits and the Homestay/Short-term Vacation Rental enforcement process. The last report was given to Council on October 24, 2017, with a subsequent update to the Unified Development Ordinance standards on January 9, 2018. This report covers the time period beginning January 1, 2018, through June 30, 2018 (six months).

“Rental of a property within the City of Asheville for a duration of less than one month is considered “Short-term”. Rental of an entire home/apartment on a short-term basis has never been allowed in Asheville’s residential districts but prior to January 9, 2018, had been allowed in some commercial districts. After the October 24, 2017, enforcement report, City Council requested a zoning text amendment to allow for the regulation of short-term vacation rentals. This required defining “short-term vacation rentals” along with other forms of lodging, and updating other existing definitions. The same zoning text amendment also removed short-term vacation rentals and many other forms of lodging, as a permitted use in most non-residential or commercial districts. This amendment was adopted January 9, 2018 (Ord. No. 4637).

“Since the adoption of the January 9, 2018, zoning text amendment, a six month report was first provided to the Planning & Economic Development (PED) Committee on July 23, 2018 after which the PED requested additional research related to the definition of “kitchen” and other enforcement enhancements. A follow-up discussion occurred at the PED’s August 13, 2018 meeting resulting in staff direction to draft a zoning text amendment to the Unified Development Ordinance (UDO) amending the definition of “kitchen” and other enforcement enhancements that will be expected to come before City Council in late October or early November for consideration.

With a pending discussion related to homestay development standards anticipated this fall, this report has been modified to provide an update on the permitting and enforcement metrics related to the regulation and enforcement of lodging activities.

**Homestay Permits:** According to the city’s permit records, there are approximately 603 active Homestay permits, up from 548 permits reported in October 2017. Approximately one third of these permits are advertised as “partial home” or a “private room” while the other two thirds are advertised as “whole home/apt.”. This is a change from previous reports where only half of all homestays were 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 that began in 2016. 139 Homestay permits have been issued in the last six months while approximately 84 applications have lapsed or gone inactive.

**Lawful Short-term Vacation Rentals:** Since the adoption of the Ord. No. 4637, staff has attempted to identify all existing and pending lawfully established short-term vacation rentals. To date, 125 existing STVRs have been identified with approximately 80 more units currently under construction and pending.

**Enforcement Activity:** Planning & Urban Development staff have maintained the proactive enforcement of the short-term rental provisions of the Unified Development Ordinance which is enhanced by the data supplied by the third party contractor. In the last six months 55 Notices of Violation were issued to properties; however, a moderate amount of recent enforcement effort has been issuing Citations (22) to properties that have lapsed back into short-term renting or other violations of the homestay permit. In the last sixty days, the city has

collected \$12,100 in STVR/homestay fines with 56 cases remaining open or unresolved (down from 85 cases reported in October 2017). Five of the 56 unresolved cases have been turned over to legal staff for further action.

<b>Time Period</b>	<b>Average Violations Noticed, Monthly</b>
Nov 2015- Oct 2016; 12 month span	10
Jan 2017- Sept 2017; 9 month span	42
Jan 2018 - June 2018; 6 month span	13

As has been reported on previous occasions, the very large majority of cases are identified by city staff with the assistance of the contract service. The number of cases initiated through a citizen complaint remains relatively low due in part to the challenge of obtaining first hand evidence of the violation which leaves the complaint unsubstantiated.

Active enforcement requires the constant monitoring of the third party database. This database is continuously updated as new listings are added to, and removed from, the digital marketplace, and as new properties are identified. As of the writing of this report, there are over 3000 listings with over 600 inactive listings for properties in Asheville. Many rentals have multiple listings on different platforms with more traditional lodging facilities such as Bed & Breakfasts and smaller inns using some of the online rental platforms. As a result, the data must be heavily sorted to identify the number of rental units, which is then further sorted to identify the number of units that have been matched to an address.

<b>Approximate Listing Breakdown (as of July 10, 2018)</b>
<i>Total number of rental listings: 3023</i>
<i>Total number of short-term rental units: 1188</i>
<i>Total number of short-term units matched to address: 1033 (87%)</i>
<i>Total number of short-term units unidentified: 155 (13%)</i>
<i>Number of active homestay permits: 603 (or 51% of <b>all</b> STVR units, and 58% of all <b>identified</b> STVR units)</i>
<i>Number of lawful STVRs: 125+/-</i>

With approximately 2 years of basic metrics provided through the third party contractor, it is easier to recognize that the overall number of listings continues to grow at a slow but steady rate.”

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER THE DESIGNATION OF THE PRINCESS ANNE HOTEL LOCATED AT 301 EAST CHESTNUT STREET AS A LOCAL HISTORIC LANDMARK**

**ORDINANCE NO. 4694 - ORDINANCE DESIGNATING THE PRINCESS ANNE HOTEL LOCATED AT 301 EAST CHESTNUT STREET AS A LOCAL HISTORIC LANDMARK**

Urban Planner Alex Cole said that this is the consideration of an ordinance to designate the Princess Anne Hotel located at 301 East Chestnut Street as a local historic landmark. This public hearing was advertised on August 17 and 24, 2018.

The applicant is requesting designation of the Princess Anne Hotel as a local historic landmark. The property owners and petitioners are Michael and Colleen Eden. The parcel (PIN 9649.63-6041) is located at 301 East Chestnut Street.

The Princess Anne Hotel was built in 1922-23. It is a highly intact 3-story structure built in the Shingle and Colonial Revival styles and was designed by prominent Asheville architect William J. East. The Princess Anne Hotel has a period of significance from 1922-1929, and is significant for its architecture, as well as its association with recreation and culture. The Princess Anne Hotel exemplifies a notable example of guest accommodations constructed in Asheville during its early twentieth century boom period of tourism and real estate development in the 1920s. It is also significant architecturally as a highly intact example of a Shingle/Colonial Revival style building from the 1920's. The modest size of the Princess Anne Hotel distinguished itself from the large resort hotels and placed it more of a scale with the numerous apartment buildings that were being constructed throughout Asheville in the 1920s.

The designation includes the entire exterior of the building and .59 acre site on which the building is located.

The application for local historic landmark designation of the Princess Anne Hotel was reviewed by the Historic Resources Commission on July 11, 2018.

Considerations:

- When a property is designated as a local historic landmark restrictions are placed on the property, and any modification to the land or structure must receive a Certificate of Appropriateness from the Historic Resources Commission. All improvements must follow the Secretary of the Interior's Standards for Rehabilitation.
- Designation of a site as a local historic landmark makes the property eligible for a 50% reduction in local property taxes. Currently, the tax appraisal for the property included in the proposed designation is \$3,410,500. If the property is designated as a local landmark the potential tax savings for the property owner, including city, county and school taxes, would be \$18,380.88 per year.

The Historic Resources Commission reviewed this project on July 11, 2018. The commission voted 11-0 in favor of the landmark designation and recommended Asheville City Council approval of this local historic landmark designation application.

Mayor Manheimer opened the public hearing at 6:43 p.m. and when no one spoke, she closed the public hearing at 6:43 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 adopt the ordinance designating the Princess Anne Hotel, located at 301 East Chestnut Street, as a local historic landmark. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**ORDINANCE BOOK NO. 32 – PAGE 187**

**B. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTY  
LOCATED AT 643 AND 99999 (FORMERLY 647) BREVARD ROAD FROM**

**RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO  
HIGHWAY  
BUSINESS DISTRICT**

At the request of the applicant, Vice-Mayor Wisler moved to continue this public hearing until September 11, 2018. This motion was seconded by Councilwoman Smith and carried unanimously.

**C. PUBLIC HEARING TO REZONE TWO PARCELS LOCATED AT 402  
HENDERSONVILLE ROAD AND 349 REED STREET FROM HIGHWAY  
BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH  
DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT AND RS-8  
RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT RESULTING IN  
PORTIONS OF BOTH ZONING CATEGORIES APPLIED TO EACH PARCEL;  
AND AMENDMENT TO THE FUTURE LAND USE MAP TO CHANGE A  
PORTION OF 402 HENDERSONVILLE ROAD AND 349 REED STREET FROM  
URBAN CORRIDOR TO TRADITIONAL NEIGHBORHOOD**

**ORDINANCE NO. 4695 - ORDINANCE REZONING TWO PARCELS LOCATED  
AT 402 HENDERSONVILLE ROAD AND 349 REED STREET FROM  
HIGHWAY BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY  
HIGH DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT AND RS-8  
RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT RESULTING IN  
PORTIONS OF BOTH ZONING CATEGORIES APPLIED TO EACH PARCEL;  
AND AMENDING THE FUTURE LAND USE MAP TO CHANGE A PORTION  
OF 402 HENDERSONVILLE ROAD AND 349 REED STREET FROM URBAN  
CORRIDOR TO TRADITIONAL NEIGHBORHOOD**

Urban Designer David Hazzard said that this is the consideration of rezoning two parcels located at 402 Hendersonville Road and 349 Reed Street from Highway Business District and RS-8 Residential Single-Family High Density District to Highway Business District and RS-8 Residential Single-Family High Density District resulting in portions of both zoning categories applied to each parcel. In addition, this will also require an amendment to the Future Land Use map to change a portion of 402 Hendersonville Road and 349 Reed Street from Urban Corridor to Traditional Neighborhood. This public hearing was advertised on August 17 and 24, 2018.

Mr. Hazzard said that the applicant is requesting to rezone two parcels. The property owner is Butel LLC and the petitioner is Michael Driskill. The first parcel (PIN 9647-75-9978) is located at 402 Hendersonville Road and is currently zoned Highway Business (HB). The applicant is requesting that the portion of the first parcel that abuts Hendersonville Road remain Highway Business (HB), but that the rear portion of the parcel which abuts Reed Street be rezoned to Residential Single Family High Density (RS-8). The second parcel (PIN 9647-85-0803) is located at 349 Reed Street and is adjacent to the first parcel. The second parcel is currently zoned Residential Single Family High Density (RS-8). The applicant is requesting that a small portion of the second parcel be rezoned to Highway Business (HB), and that the parcel otherwise remain Residential Single Family High Density (RS-8). The rezoning Request will result in a portion of each parcel at issue being zoned HB and RS-8. Pursuant to a recent amendment to North Carolina General Statute 160A-383, an approval of the rezoning request would result in an amendment to the Future Land Use Map, from Urban Corridor to Traditional Neighborhood.

Parcel 9647-75-9978 (402 Hendersonville Rd.) is zoned HB, is approximately 1.28 ac., and appears to be currently vacant. Parcel 9647-85-0803 (349 Reed St.) is zoned RS-8, is approximately 0.36 ac., and appears to have an existing single family residential structure with a



detached garage. These parcels have approximately 55' of grade change from Hendersonville Rd. to Reed St. and are currently wooded.

To the west of these parcels is Hendersonville Rd. Parcels to the north are zoned HB and appear to contain a medical office and a restaurant (The Huddle House). To the east is Reed St., across Reed St. are parcels zoned RS-8 and Office 2 CZ (O2CZ) and appear to contain single family residential structures and medical offices. Parcels to the south are zoned HB and RS-8 and some appear to be vacant while others contain single family residential structures.

The applicant is proposing to rezone the two parcels, one currently zoned Highway Business (HB) and one currently zoned Residential Single Family High Density (RS-8), so that each parcel includes a portion zoned Highway Business (HB) and a portion of zoned Residential Single Family High Density (RS8).(see zoning exhibits for clarification). The applicant indicates that if the rezoning request is approved, they plan to recombine and resubdivide the two properties, so that one property will abut Hendersonville Road and be located fully within the HB zoning district and one property will abut Reed Street and be located fully within the RS-8 zoning district. However, the recombination and subdivision of the properties cannot be a condition of this rezoning, because this is a general rezoning application, so no specific development plans or conditions can be applied.

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

The proposal is to rezone these properties so the property fronting Hendersonville Rd. will be HB, and the property frontage on Reed St. will be RS-8. This removes the HB zoning district fronting on Reed St. which will help protect the existing Shiloh community from potential commercial intrusions. HB is the predominant zoning district adjacent to Hendersonville Rd. in this area and RS-8 is the predominant zoning district in the Shiloh community. Thus staff feels these districts are appropriate for this area. The applicant has indicated if the rezoning request is approved they plan to adjust the parcel lines so that each parcel is located wholly within one zoning district,, but, as explained above, this cannot be required as part of this general rezoning request.

Living Asheville: A Comprehensive Plan for our Future identifies both parcels as Urban Corridor which are workhorse streets for transportation and commercial activity in Asheville and recommends redevelopment over time in the form of mixed-use residential, commercial and office uses that place emphasis on pedestrian-friendly amenities and access.

The requested HB zoning district adjacent to Hendersonville Rd. allows for uses that would be consistent with the goals for development adjacent to corridors and allows for residential densities that could support affordable housing goals of the comprehensive plan (pg 178). The RS-8 portions of the properties will allow more limited development consistent with the surrounding residential neighborhood. The adopted Shiloh Community Plan 2025 (pg 39) recommends this approach to limit commercial incursion in the neighborhood and on neighborhood streets.

The portions of the parcels fronting Reed St., that are proposed to be rezoned to RS-8, are currently designated as Urban Corridor on the Future Land Use Map and so, with respect to these portions of the properties, the rezoning request is inconsistent with the Future Land Use Map. Pursuant to N.C. Gen. Stat. § 160A-383(b)(3), approving the rezoning request will automatically amend the Future Land Use Map with respect to the RS-8 portions of the parcels, from Urban Corridor to Traditional Neighborhood. In addition to the rezoning, staff also supports this amendment to the Future Land Use Map, because it will allow the Future Land Use Map to

reflect and be consistent with the proposed rezoning and will ultimately create lots that work better with the existing community and site topography.

This action does align with the 2036 Council Vision in the following areas (1) *A Well-Planned and Livable Community* - The proposed rezoning would promote a thoroughfare lined with thriving businesses and help protect an existing residential community; (2) *Quality Affordable Housing* - The proposed rezoning would allow for higher density residential in the HB district which normally is associated with affordable housing; and (3) *Transportation and Accessibility* - These parcels are adjacent to a transit line which would support options for transportation and accessibility.

Considerations:

- The HB zoning is the predominate zoning district adjacent to Hendersonville Rd. and allows for uses that are consistent with city goals and plans for this area.
- The RS8 zoning is the predominate zoning district adjacent to Reed St.
- The RS8 zoning helps protect the existing Shiloh community from potential commercial intrusions.

The Planning and Zoning Commission reviewed this project on July 9, 2018. The Commission voted 6-0 in favor of the rezoning and recommended Council approval of this rezoning request.

Mayor Manheimer opened the public hearing at 6:49 p.m., and when no one spoke, she closed the public hearing at 6:49 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 zoning map amendment rezoning the property located at 402 Hendersonville Road, from Highway Business (HB) to a mixture of Highway Business (HB) and Single Family High Density (RS-8), and rezoning the property located at 349 Reed Street from Residential Single Family High Density District (RS-8) to a mixture of Single Family High Density (RS-8) and Highway Business (HB), as shown on the exhibits and the Proposed Zoning Boundary Survey Exhibit D Map and declare that this approval is also deemed an amendment to the Future Land Use Map within the Living Asheville Comprehensive Plan from Traditional Neighborhood to Urban Corridor as shown on Exhibit D, and find that the request and resulting Future Land Use Map amendment is reasonable, is in the public interest, and meets the development needs of the community because, among other reasons: (1) The HB district allows for uses that are appropriate for the Hendersonville Road corridor (2) The RS-8 District is compatible with the neighborhood fabric (3) The request is compatible with current land uses and desired future land uses and (4) The rezoning and Future Land Use Amendment aligns with community character specified in the Living Asheville Comprehensive Plan. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**ORDINANCE BOOK NO. 32 – PAGE 190**

- D. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 99999 NORTH BEAR CREEK ROAD FROM HIGHWAY BUSINESS DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONE TO ALLOW FOR A COMMERCIAL USE AND STRUCTURE**

**ORDINANCE NO. 4696 - ORDINANCE TO CONDITIONALLY ZONE 99999  
NORTH BEAR CREEK ROAD FROM HIGHWAY BUSINESS DISTRICT AND  
RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO  
HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONE TO ALLOW FOR A  
COMMERCIAL USE AND STRUCTURE**

Urban Planner Jessica Bernstein said that the applicant is requesting review of conceptual plans for the use of a property for a tree care and removal business located at 99999 North Bear Creek Road with a conditional zoning request from Residential Multi-Family Medium Density District (RM-8) and Highway Business (HB) to Highway Business Conditional Zone (HB CZ) District. This project is considered under conditional zoning pursuant to Sections 7-7-8 and 7-8-16 of the UDO. This public hearing was advertised on August 17 and 24, 2018.

The subject property is addressed as 99999 North Bear Creek Road (PIN 9628.54-8656) and is owned by Top Notch Tree Care, LLC; the contact is Stephen Bellich.

The project area is a single parcel, 1.34 acres in size, currently split-zoned RM-8 and Highway Business. The site has frontage on both North Bear Creek Road and Bear Creek Drive (for a portion). Zoning in the area includes RM-8 to the north and west, Commercial Industrial (CI) to the north and east and Highway Business to the south. The site is approximately 400 feet north of Patton Avenue and is currently vacant. Nearby uses include single-family homes to the north and west and a variety of commercial and industrial uses to the south and east.

The application is for the construction of a single building, one-story in height and 2,400 square feet for the tree removal operation. Primary uses on the site will be equipment storage, both inside and outside, as well as office use for the business. The plans show the building and parking/storage towards the northwest side and middle of the site (closer to Bear Creek Drive).

The proposal is to utilize the existing driveway from North Bear Creek Road to access the existing gravel area and five new parking spaces are provided closer to the building. The applicant is requesting a condition to eliminate the requirement for sidewalk on both road frontages.

Landscaping is required for this project and includes a type A (20 foot) property line buffer on two sides as well as street trees. Open space is required and is provided based on 15% of the lot area.

The bulk of the site is zoned HB. There is only a small area currently zoned residential. The uses proposed (service business providing off-site services, vehicular/equipment parking) are permitted in the HB district.

*Conditions* - The applicant is requesting the following conditions:

1. Elimination of sidewalk on both frontages
2. Maintain existing driveway width, exceeding commercial standard

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on April 28, 2018. The project was approved with conditions by the Technical Review Committee on June 4, 2018. The Planning & Zoning Commission unanimously voted to support this proposal and conditions at their meeting on July 19, 2018.

In 2016, there was a major subdivision approved on Bear Creek Road but south of Patton Avenue.

The project as proposed should be generally compatible with the surrounding area and is already allowed by-right on the bulk of the site. To the east and south are a variety of complementary commercial and light industrial uses. There are residential uses to the west and north; the landscape buffer should provide adequate visual separation and the uses proposed on the site are not expected to pose a disturbance to the nearby residences.

The proposal is aligned with the Living Asheville Plan, which identifies this area for “Industrial/Manufacturing” uses in the future land use map and there will be a property line buffer for separation from the adjacent residentially-zoned area. The bulk of the site is already appropriately-zoned for the use.

The proposal aligns with the 2036 Council vision in the area of *A Thriving Local Economy* – The proposal supports a locally-owned business.

Considerations:

- The use is currently permitted on the bulk of the property and aligns with the future land use map
- The proposal remedies a split-zoning condition for the parcel
- A property line buffer provides mitigation to the adjacent residential parcel

Staff finds that this proposal is in line with the Living Asheville Plan future land use designation as well as with the current zoning and uses in place in the area. The design incorporates a property line buffer to mitigate the impact from the nearby residential area.

The Planning & Zoning Commission reviewed this request at their meeting on July 19, 2018, and voted 7-0 in support of the project.

Mr. Stephen Bellich, applicant, said that they are asking to eliminate the construction of the sidewalks due to the cost, noting it would be a sidewalk with no connection. He felt that if he was required to construct the sidewalk, then the City should build a sidewalk up to the residential area.

There was considerable discussion regarding whether the applicant should be required to build the sidewalk given the fair amount of residential up the road from this property and its proximity to Patton Avenue or pay a fee equivalent to the sidewalk construction into the City’s Capital Sidewalks Fund. Using \$66.00 per linear foot for 280 linear feet, the contribution would be \$18,480.

At a later date, Councilman Young requested information about floating sidewalks in the City and exactly where the sidewalks are constructed with the use of the City’s Capital Sidewalks Fund.

Mayor Manheimer opened the public hearing at 7:16 p.m., and when no one spoke, she closed the public hearing at 7:16 p.m.

City Attorney suggested a revised Condition No. 4 to read “No sidewalks are provided along North Bear Creek Road or Bear Creek Drive; however, the applicant will provide a ten-foot wide easement for future sidewalk along the project frontage on North Bear Creek Road (approximately 280 linear feet) and contribute \$18,480 to the City’s Capital Sidewalks Fund. the easement will be recorded and payment made prior to the Certificate of Occupancy.” Mr. Bellich agreed to the revised condition.

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

Vice-Mayor Wisler moved to approve the conditional zoning request for Top Notch Tree Care at 99999 North Bear Creek Road from Residential Multi-Family Medium Density District (RM-8) and Highway Business (HB) to Highway Business District Conditional Zone (HB CZ), with the revised Condition No. 4 agreed to by the applicant, 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: (a) The proposal is aligned with the future land use map in the Living Asheville Plan as well as current zoning; and (b) The development incorporates property line buffering and open space to mitigate possible impacts on residential uses. This motion was seconded by Councilman Young and carried on a 6-1 vote, with Councilwoman Smith voting “no”.

**ORDINANCE BOOK NO. 32 – PAGE 194**

**E. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 28 AND 32 MAXWELL STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONE TO ALLOW SHORT-TERM VACATION RENTAL USE AND TO AMEND THE FUTURE LAND USE MAP TO CHANGE 28 AND 32 MAXWELL STREET FROM TRADITIONAL NEIGHBORHOOD TO TRADITIONAL CORRIDOR**

At the applicant’s request, Vice-Mayor Wisler moved to continue this public hearing until October 9, 2018. This motion was seconded by Councilman Kapoor and carried unanimously.

**F. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A NEW TELECOMMUNICATIONS TOWER AT 1256 HENDERSONVILLE ROAD**

City Clerk Burlison administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use permit hearing process which is a quasi-judicial permit hearing. At this public hearing, all testimony needs to be sworn and due process protections afforded to the applicant.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 7:24 p.m.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that the applicant, Dale Finocchi of PlanTech Services LLC for Communications Tower Group LLC, is requesting review of site plans for a proposed telecommunications tower at 1256 Hendersonville Road. This project is considered as a Conditional Use Permit pursuant to Sections 7-8-1 and 7-16-2 of the Unified Development Ordinance (UDO).

The project site consists of a single parcel, 0.66 acres in size (Location Map - Attachment to City Exhibit 3). The property is zoned Highway Business (HB) as are parcels to the north, south and west (Aerial Map - Attachment to City Exhibit 3). To the east is the Ascot Point

residential development (RM-16 CZ) across the railroad right-of-way. The parcel is owned by Brandt Point Investments LLC. The applicant will be leasing a small area to the rear of the parent parcel for the tower (Site Plan; Landscape Plan; Tower Elevation - Attachments to City Exhibit 3).

Currently on the site is a Valvoline Instant Oil Change operation and a physical therapy and medical supplies business. The tower site is proposed at the rear of the site.

The applicant is proposing to construct a stealth monopole, 95 feet in height with an additional four foot lightning rod at the top; overall height not to exceed 100-feet (maximum allowed by the UDO). The pole and equipment ("proposed tower compound area") will be enclosed by a chain link fence at least eight feet in height and topped by barbed wire, as shown on plans and per the ordinance. As required by the code, the tower is designed to accommodate at least one additional user for co-location.

The code requires that the tower shall be buffered from adjacent properties by a 20 foot wide Type A landscaped buffer and any ground mounted equipment to be surrounded by a Type B buffer and/or a fence. The plans include landscaping on two sides of the tower area as well as additional screening provided by a faux wood fence. There is no ground-mounted equipment currently included in this application.

*Conditions* - Aside from the seven conditional use standards in Section 7-16-2(c.), a telecommunication tower must be found to meet the conditions described in Section 7-16-2(d)(3) of the UDO, which includes both technical and non-technical standards for submittal. Staff has determined the application materials provided by the applicant to be complete.

Per Section 7-16-2(d)(3)o., "telecommunication towers must be setback from any residentially zoned or residentially used properties a distance equivalent to the full height of the tower being erected. The City Council may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless telecommunication facility." The distance from the center of the proposed tower location to the property line of the nearest residential use (Ascot Point) is approximately 110 feet six inches; however, the residential zoning boundary reaches to the center of the railroad right-of-way that separates the Highway Business uses along Hendersonville Road and the residential uses on the east side of the rail line even though there is no residential use within this restricted area. The distance from the center of the proposed tower is approximately 60 feet from the middle of the train tracks where the residential zoning boundary begins.

The site is currently zoned Highway Business (HB) where telecommunications towers are permitted only through a Conditional Use Permit.

This project was approved with conditions by the Technical Review Committee (TRC) on July 16, 2018 and per Section 7-5-5 of the UDO, the proposal goes directly to a **quasi-judicial** review by City Council and Final TRC review prior to zoning approval. If approved, the permit is valid for five years and must be renewed annually. She has heard comments from the public regarding negative health impacts associated with telecommunication towers.

Conditional Use Findings: Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application; as long as City Council approves of the setback reduction based on the difference between residentially-zoned land versus the distance to the actual residential use.

In response to Mayor Manheimer, Ms. Bernstein said that the City is required to send notices to people within 200 feet of the proposed project, even though some of those notifications may fall outside of the City boundary. In this case, we sent notices to people in Biltmore Forest. Mayor Manheimer asked that the next time we send notices to Biltmore Forest residents that we also send a copy to their Manager just in case questions are raised by their residents.

Mr. Thomas Johnson, attorney with Williams Mullen representing the applicant, submitted a notebook entitled "CTG Hendersonville Site Conditional Use Permit Documents" (Applicant Exhibit 1). Using a photograph from Applicant Exhibit 1, Mr. Johnson showed the existing tower locations noting that there the need for better coverage in this area. There is a similar existing tower about one mile north of this site with a flag on it. It's very inconspicuous and located behind Mission Health Facility on Hendersonville Road. The need for coverage is for cell phones, data and communication purposes as well as good signal strength in commercial or residential properties. The ordinance says that setback has to be 100' from the zoning or use line, but it doesn't distinguish between the two. Using an aerial photo (Applicant Exhibit 1), he said from the use it's very easily over 100' but the zoning line goes down the middle of the railroad right-of-way. There will be no residential property or residential development within the tower height. It's not that we are asking for a reduction, it's just that we are asking that it be measured from the use in this circumstance, rather than the zoning line. The many existing mature trees between where the tower will be located and the multi-family complex on the other side of the railroad tracks will not be touched. Using a photo (Applicant Exhibit 1), he showed what the tower would look like and how the ground equipment would be shielded. Using simulated photos (Applicant Exhibit 1), they commissioned a person to do a study showing what the tower would look like from various locations. One view was from the north of Hendersonville Road, one view was from the south of Hendersonville Road, three sites within Biltmore Forest, and an office development along Hendersonville Road with residential behind that. In all the locations within the development (that he could access from the public right-of-way) it showed no visibility in the single-family residential portion. It's not to say that in some backyards there would be some visibility but that is why they are doing a concealed tower, so it minimizes the visibility. All around there is infrastructure, and this is just additional infrastructure for the community and for community services.

When Councilwoman Mayfield asked if there was any photo simulations done from the apartments that would be facing the tower, Mr. Johnson said that because of the limited time, they were not able to take photographs from the apartments and they basically used Google Earth to do this. There were no Google Earth images from the apartment complex. He said it will be a very similar view. When Councilman Kapoor further questioned why one of the photos that showed mature trees between the apartments and the subject site was not used to simulate the tower, Mr. Johnson said that was a photograph the appraiser took (Attachment to Applicant Exhibit 1). He did not have that picture or the data from where he took that picture to be able to give it to the person who did the photo simulations.

Mr. Johnson said that the only difference on the technical standards, Council needs to rule on the setback from the residential. He said that there was a concern from the public about safety related to the radio frequency from the tower. It's safe and the FCC governs that and determines it's well below the FCC standard, and all towers have to be licensed. Under N. C. Gen. Stat. sec. 160A-400.5 (1) (a) it says specifically "public safety includes without limitation federal, state and local safety regulations, but does not include requirements relating to radio frequency emissions of wireless facilities." That should not be part of Council's consideration

because it's preempted by the federal government saying these are the standards and if you meet the standard it's safe. He then reviewed their findings from the seven conditional use standards (Attachment to City Exhibit 3).

Regarding standard No. 3, Mr. David Smith, state certified general appraisal, stated his qualifications to be considered as an expert appraiser, said he was asked to study the abutting and adjoining properties (Impact Analysis - Attachment to Applicant Exhibit 1). One of the properties around the site is vacant except for a billboard. One has an abandoned industrial property. Between this site and Hendersonville Road is the Mini-Lube car shop and the other property is Ballard's business. Behind the site is a railroad track. He researched properties around existing cell towers to locate those that sold for comparison in Asheville. He located properties in Ballantree subdivision near a tower on Sweeten Creek Road. Some of the dwellings had a clear view and others were further away with no view of the tower. Based on his study, it was his opinion that the proposed tower would not have an adverse impact on the property values of adjoining or abutting properties.

Councilman Kapoor wondered if the Ascot Point Circle apartments will have a similar buffer of trees or will they see the cell tower. Mr. Smith said that it depends on where you are in those apartments.

Mayor Manheimer then asked for any public comments.

Mr. John Delaney, resident on Hilltop Road, said that he received his certified copy of the notice three days ago. Some residents who were not at home (or didn't answer the door) when the certified mail arrived did not even know of this hearing as they had not gone to the Post Office to collect the certified mail. He would be representing those people who could not attend this hearing. Primarily they were concerned about health concerns because of the cell tower. He explained how the photographs showed by Mr. Johnson (Applicant Exhibit 1) were not clear on how the tower would look. He felt they were cleverly taken and superimposed. The photograph that Mr. Johnson said they didn't have time to take (from the apartments) is the most important. He said the mature trees shown in the photographs (Applicant Exhibit 1) are not existing trees.

Ms. Leigh Jackson, resident on Hilltop Road, said she was representing 26 households. She presented a picture of the site (Public Exhibit 1) showing 35-40 houses (26 of which were in opposition) with over 130 individuals. On the other side of the site is Ascot Point with over 800 families. When they received the notification to pick up the letter, the pick-up date from the Post Office was August 31. Many people didn't pick up the letter because they thought they had until August 31. She said this is a high residential walking neighborhood. She said no where has the railroad consideration been taken into account - she said it is a 300 foot setback. She would like for the setback to remain in the middle of the railroad. Residents felt that they didn't have a voice because they didn't get the letter, the views, safety, health and real estate resale. She googled telecommunications in your neighborhood and according to the EMF Real Estate Survey 94% respondents said they would not live near a cell tower or antennas (Public Exhibit 2). She said she has a list of people with their addresses and concerns and wanted more involvement on what they would have to look at every day. Therefore, she asked for this public hearing to be continued.

City Attorney Currin said that since this hearing is quasi-judicial, you can't consider the lists. You can't consider anything of anyone not present. She also pointed out that with respect to value impact, an expert witness is required.

Mr. Johnson objected to anything from the internet on the issue of real estate (Public Exhibit 2) because there has to be an expert present to testify.



In response to City Attorney Currin, Ms. Bernstein said that the applicant did comply with the mailing requirements (Attachment to Applicant Exhibit 1). The applicant is required to send the certified letters to the ¼ mile property owners at least 10 days before the meeting. The letters were sent out on October 13. The letter was sent to the property owner of the apartment complex.

Mr. Johnson said that they did the certified mailing pursuant to the ordinance.

Mr. Joseph McCormick objected to Mr. Johnson's objection. He felt that no one would want to live next to a 300 foot tall cell tower when we already have six in Asheville.

Mr. Johnson addressed the questions regarding the railroad, visibility and the notice requirements per the ordinance. Based upon the testimony of Mr. Smith as an expert certified appraiser and based upon the ordinance requirement to conceal the tower, they meet not only that technical requirements but the seven standards. He has heard nothing from the opposition bringing forward any expert testimony or any other testimony that would be relevant to the seven standards.

Councilman Kapoor asked Mr. Smith, in his professional opinion, if the analysis that he did with the Ballantree community was sufficiently comparable (trees and site lines) to the impact on what will happen in Ascot Point. He felt the views from the Ascot Point complex is different than the views of the tower that the Ballantree residents experience. Mr. Smith emphasized that seeing the tower is one of 100 things that would affect a house or an apartment. If someone was looking to rent an apartment would they care if there was a tower or do they want tennis courts? There are so many other factors. If you could choose not to have a tower you would, but most people do not pay less because there is a tower there.

In response to Councilwoman Mayfield regarding Condition No. 4, City Attorney Currin said that you don't need expert testimony on that condition. Generally what the law is, is that if the use is included as a special use there is a presumption of harmony and there has to be evidence contrary so that the use is not harmonious. As far as the applicant, they have the burden to show that it will generally fit into the area.

In response to Councilman Kapoor regarding the railroad tracks, City Attorney Currin said that Council may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless telecommunication facility.

Mr. Johnson said that the purpose is to set it back from residential development. If the reality is that the residential development is not going to be located within the 100 feet regardless of the existence of the railroad track, it can't happen.

Councilman Young asked for City Attorney Currin to reiterate to Council the legal requirement for Council to vote in the affirmative if the seven conditions are met. This is not like a conditional zoning where Council can negotiate certain changes. City Attorney Currin said that under the law of North Carolina, there must competent, material and substantial evidence as to each one of the requirements. Competent evidence means someone who has actual knowledge about the facts or if it has to do with traffic or property values, it has to be an expert to be competent. With respect to material evidence, it has to have something to do with each one of the standards. If the applicant has presented competent, material and substantial evidence, then they are required to be granted a permit unless there is competent, material and substantial evidence contrary presented by an expert with actual facts. With respect to the exception,

basically what it means is that is you can't build anything residential on the railroad anyway then it's not that something will be built there later.

Mr. Johnson agreed with City Attorney Currin in that it is presumed harmonious unless there is some evidence presented to the contrary - which has not been presented. In terms of the apartments, Mr. Smith didn't mention the demand for wireless now. These are built in apartment complexes so people have good signal.

At the request of Councilwoman Mayfield, City Attorney Currin said that there can be an ordinance amendment so that the tenants in an apartment complex are also notified.

Ms. Johnson said that she has credentials to be an expert witness. She does oversight hearings for the Senate and House in D.C. and a lot of her area has been with railroads. She can tell you that there are setbacks. The City would be letting them use part of the residential and that wouldn't meet the criteria of safety for the railroad.

Mayor Manheimer said that if there is a conflict with the railroad, that will be between the railroad and the applicant. Ms. Bernstein also noted that all property owners within 200 feet (including the railroad) were notified by the City.

Mayor Manheimer closed the public hearing at 8:35 p.m.

Councilwoman Mayfield didn't particularly like the project like the project; however, she didn't see a basis to disapprove it.

Councilman Young felt the in the future the tenants in apartment complexes be notified as well as the property owner, and possibly even change the requirement of more than 10 days. This is a conditional use permit which puts Council in certain restrictions of legality to vote in the affirmative based on the seven conditions.

Councilman Young moved to approve the conditional use permit for the telecommunication tower at 1256 Hendersonville Road because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the September 11, 2018, agenda.

**G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 430 MCDOWELL STREET AND THE REZONING OF A SMALL PORTION OF THAT PROPERTY FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONE TO ALLOW THE CHANGE OF USE FOR A MEDICAL OFFICE AND AN AREA FOR AN ADDITIONAL PROFESSIONAL OFFICE OR ONE RESIDENTIAL APARTMENT; AND AMENDMENT TO THE FUTURE LAND USE MAP FOR 430 MCDOWELL STREET FROM TRADITIONAL NEIGHBORHOOD TO TRADITIONAL CORRIDOR**

**ORDINANCE NO. 4697 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 430 MCDOWELL STREET AND THE REZONING OF A SMALL PORTION OF THAT PROPERTY FROM RS-8 RESIDENTIAL**

**SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONE TO ALLOW THE CHANGE OF USE FOR A MEDICAL OFFICE AND AN AREA FOR AN ADDITIONAL PROFESSIONAL OFFICE OR ONE RESIDENTIAL APARTMENT; AND AMENDING THE FUTURE LAND USE MAP TO CHANGE 430 MCDOWELL STREET FROM TRADITIONAL NEIGHBORHOOD TO TRADITIONAL CORRIDOR**

Urban Designer David Hazzard said that this is the consideration of an amendment to the conditional zoning of property located at 430 McDowell Street and the rezoning of a small portion of that property from RS-8 Residential Single-Family High Density District to Institutional District/Conditional Zone to allow the change of use for a medical office and an area for an additional professional office or one residential apartment. In addition, this will also require an amendment to the Future Land Use map to change 430 McDowell Street from Traditional Neighborhood to Traditional Corridor. This public hearing was advertised on August 17 and 24, 2018.

Mr. Hazzard said that the applicant is requesting to amend the conditional zoning (Ordinance Number 3393) of a property located at 430 McDowell Street and PIN 9648-41-5818 to allow the use of a medical office and an area for an additional professional office or one residential apartment for long-term rental within the existing structure. In addition a small portion of this property will be rezoned from Residential Single Family High Density (RS-8) district to Institutional Conditional Zoning (INST-CZ) district as a part of the conditional zoning amendment. Pursuant to a recent amendment to North Carolina General Statute 160A-383, an approval of the amendment and rezoning request would result in an amendment to the Future Land Use Map, from Traditional Neighborhood to Traditional Corridor. The project contact is Mary Weber and the property owner is Academy of Asheville, Inc.

Parcel 9648-41-5818 is approximately 0.84 acres in size and is located at 430 McDowell Street. This parcel currently has an existing structure that is vacant. The site slopes from east to west and is fairly steep adjacent to McDowell St. The parcel is split zoned with the majority of the parcel zoned Institutional Conditional Zoning (INST-CZ) and a small portion of the parcel is zoned Residential Single Family High Density (RS-8). The southern portion of the parcel that is zoned RS-8 is also located in a Local Historic district and will require a Certificate of Appropriateness for a minor work for any site modifications in this area.

On the west side of this parcel is McDowell St. and across the street is Asheville High School and is zoned Institutional (INST). To the North is Grindstaff Dr. and parcels across Grindstaff Dr. are zoned INST and RS-8 and appear to contain a dog grooming business and a single family residential structure. To the east are parcels zoned RS-8 and appear to contain single family residential structures. Parcels to the south are zoned RS-8 and some appear to be vacant while others contain single family residential structures, These parcels are located in the St. Dunstan's Historic District.

The applicant is proposing to modify a previously approved conditional zoning (CZ) that allowed for the use of a daycare facility on this parcel to now allow a medical office and a area for an additional professional office or one residential apartment for long-term rental within the existing structure. Note this parcel is split zoned and a small portion of this parcel is zoned RS-8, thus this proposal is also requesting to rezone that portion of the parcel to INST-CZ.

Access to the existing building and parking area is located off of Grindstaff Road. The applicant intends to expand and improve the existing parking area. A total of 19 parking spaces, including two handicap spaces and a bike rack are proposed. Note some of the parking will encroach into the front setback up to 6' (this has been included in the B.1 Conditions)

Sidewalks are required on the property frontage along both McDowell St. and on Grindstaff Rd. A sidewalk is proposed along Grindstaff Rd. The applicant has requested a B.1 Condition to not build the sidewalk adjacent to McDowell St. due to the existing steep slope and rock outcropping that would require a +/- 6' retaining wall. As per the applicant an estimate for this sidewalk in 2014 was \$235,000 for 160 linear feet. Based on recent city construction projects, construction for a typical sidewalk (without walls, extensive grading, etc.) is approximately \$66.00 a linear foot, thus for 160 linear feet would be approximately \$10,560. In exchange for construction of this sidewalk the applicant has proposed to continue the sidewalk along Grindstaff Rd. to the existing bus stop, provide a bus shelter at this location and install a crosswalk and associated ADA ramps across Grindstaff Rd.

A 30-foot Type B buffer is required along the east and south sides of the property where adjacent to residential uses. The applicant is proposing a reduced buffer width in areas where existing site conditions and expansion of the parking area will limit the buffer width (this request is included as a B.1 condition). The applicant has proposed additional evergreen vegetation in these areas. Street trees are required along McDowell Street and Grindstaff Road. Parking lot, building impact, and street buffer landscaping will also be provided to meet the landscape requirements in the UDO. The majority of existing trees will be preserved and may count as credit towards landscape requirements.

This amendment to the conditional zoning was approved with conditions by the Technical Review Committee (TRC) on July 16, 2018, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning approval. Note the portion of the parcel that is located in the historic district will also require a Certificate of Appropriateness for the expansion of the parking area.

The parcel is split zoned with the majority of the parcel zoned Institutional Conditional Zoning (INST-CZ) and a small portion of the parcel is zoned Residential Single Family High Density (RS-8), thus this proposal is also requesting to rezone that portion of the parcel to INST-CZ. Ultimately resulting in all of parcel Parcel 9648-41-5818 being zoned INST-CZ.

*Conditions -*

- Permitted uses: Medical office and a area for an additional professional office or one residential apartment for long-term rental.
- Encroachment of the parking and existing retaining wall up to 6' into building setback.
- Reduction in the required landscape buffer "B" width as shown on plans.
- Modification of required street tree spacing requirements along McDowell St. as shown on plan.
- One additional street tree along Grindstaff Dr. as shown on plan.
- Elimination of sidewalk along McDowell St.
- Install bus shelter at existing bus stop.
- Install crosswalk and associated ADA ramps across Grindstaff Dr.
- Receive a Certificate of Appropriateness for the area of the parcel that is located in the Local Historic District.

The existing building is residential in scale and was previously approved as a daycare which is similar to the intensity of use as a small scale medical office. Thus staff feels this use is compatible with this area.

Living Asheville: A Comprehensive Plan for our Future identifies this parcel as Traditional Neighborhood on the Future Land Use Map. Traditional Neighborhood are commonly found in in some of the older areas within the city that are generally more compact and walkable, and where homes may be placed closer to the street. The existing and proposed zoning (INST CZ) is inconsistent with the Future Land Use Map. Pursuant to N.C. Gen. Stat. § 160A-383(b)(3),

approving this CZ amendment will automatically amend the Future Land Use Map, from Traditional Neighborhood to Traditional Corridor. Staff supports this amendment to the Future Land Use Map, because it will allow the Future Land Use Map to reflect the existing and proposed land use.

This parcel is on the edge of the existing neighborhood, located on McDowell Street, and adjacent to an existing bus stop. Therefore it is consistent with Traditional Corridor designation in that it has multimodal options and could be considered a community service.

This action does align with the 2036 Council Vision in the following areas (1) *A Well-Planned and Livable Community* - The proposed amendment would promote an area with businesses mixed with residential and commercial uses, and has the potential to be integrated with the city's transportation system; and (2) *Transportation and Accessibility* - This parcel is adjacent to a transit line which would support options for transportation and accessibility.

Considerations:

- This is an appropriate use for the McDowell St. corridor.
- This is a amendment to a previously approved Conditional Zoning for an existing structure with a similar intensity of use.

The Planning and Zoning Commission reviewed this project on August 1, 2018. The Commission voted 7-0 in favor of the project and recommended Council approval of this Conditional Zoning request subject to Final TRC approval and the B-1 Conditions that were presented to Planning & Zoning.

Mayor Manheimer opened the public hearing at 8:47 p.m.

Councilwoman Mayfield felt this is an ideal place that we would want a sidewalk, but was concerned that if we insist on a sidewalk at that location, then no one will use that property, because no one will spend \$235,000 to fix the existing steep slope, and construct a +/- 6' retaining wall for the rock outcropping.

There was considerable discussion about the condition not to build a sidewalk on McDowell Street. Council discussed asking the applicant to contribute \$10,560 into the City's Capital Sidewalk Fund in addition to the applicant continuing the sidewalk along Grindstaff Road to the existing bus stop, provide a bus shelter at this location and install a crosswalk and associated ADA ramps across Grindstaff Road; or accepting the applicant's request that in exchange for building the sidewalk they would continue the sidewalk along Grindstaff Road to the existing bus stop, provide a bus shelter at this location and install a crosswalk and associated ADA ramps across Grindstaff Road, with no contribution to the City's Capital Sidewalk Fund.

Councilman Young felt that we need to have some uniformity when applicants request not to build a required sidewalk.

Ms. Mary Weber, landscape architect for this property, said that this site has been empty for 10 years because of the sidewalk issue. She estimated the applicant's improvements in exchange for not having to build a sidewalk in the range of \$20-30,000.

Mr. Dennis Campbell, property owner, said that he held a neighborhood meeting where several neighbors attended and they were excited about the improvements to the transit system he proposes.

Mayor Manheimer opened the public hearing at 8:57 p.m.

Ms. Lauren Bacchus supported the sidewalk for connectivity and also for the bus shelters. She expressed the need for more funding for public transportation.

Ms. Allison Hammond supported a bus shelter and crosswalk for this high traffic area.

Mayor Manheimer closed the public hearing at 9:00 p.m.

Councilwoman Mayfield felt there is already good connectivity across McDowell which is north from the school.

Mayor Manheimer agreed the sidewalk is a missing link and it will be expensive to build the sidewalk. She felt we do need some consistency and feel strongly that if a sidewalk is not going to be constructed as part of the project for some reason, we need a plan on how to deal with that. She felt a fee that is somehow related to the typical costs of what the sidewalk would be is fine. In this case, there is also the bus shelter construction which is not a requirement.

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

Councilwoman Mayfield moved to approve the amendment to Ordinance No. 3393 to allow for the use of a medical office and a area for an additional professional office or one residential apartment for long-term rental, and the rezoning of a portion of parcel 9648-41-5818 from Residential Single Family High Density (RS-8) to Institutional Conditional Zoning (INST-CZ) (with the B.1 conditions presented to the Planning & Zoning Commission and no fee into the City's Capital Sidewalk Fund) and declare that this approval is also deemed an amendment to the Future Land Use Map within the Living Asheville Comprehensive Plan, changing this parcel from Traditional Neighborhood to Traditional Corridor, and find that the request and resulting Future Land Use Map amendment is reasonable, is in the public interest, and meets the development needs of the community because: (1) The amendment will allow for the adaptive reuse of an existing structure (2) This is a amendment to a previously approved Conditional Zoning with a similar intensity of use (3) The use is consistent with other uses along the McDowell Street corridor (4) The request is compatible with current land uses and desired future land uses and (5) The amendment aligns with community character specified in the Living Asheville Comprehensive Plan. This motion was seconded by Councilman Kapoor and carried on a 6-1 vote with Vice-Mayor Wisler voting "no".

#### **ORDINANCE BOOK NO. 32 – PAGE 199**

#### **H. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 511 BREVARD ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONE AND LODGING EXPANSION/CONDITIONAL ZONE FOR THE DEVELOPMENT OF A 4-STORY HOTEL BUILDING AND A FUTURE DEVELOPMENT PARCEL**

At the applicant's request, Councilman Haynes moved to continue this public hearing until October 9 , 2018. This motion was seconded by Councilman Kapoor and carried unanimously.

#### **Closed Session**

At 9:06 p.m., Councilwoman Smith 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 litigation involving the following parties: James Robert West v. City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To consider the qualifications of appointment of an individual public officer or employee. The statutory authorization is contained in N.C.G.S. 154-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C.G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C.G.S. 154-318.11(a)(1). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 10:06 p.m., Councilman Kapoor moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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

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

##### **A. ORDINANCE NO. 4698 - ORDINANCE AMENDING CHAPTER 11, SECTION 18 AND APPENDIX B, SECTION G, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REGULATE TRESPASS TOWING FROM PRIVATE PARKING LOTS**

Assistant City Attorney Catherine Hofmann said that this is the consideration of amendments to the City's Pre-Towing Ordinance, set forth in City Code Section 11-18, and City Code Appendix B (Schedule of Civil Penalties), to provide additional regulations to protect citizens whose vehicles are towed from private lots within the City.

The City previously enacted a Towing Ordinance, found in City Code Section 11-18, that regulates the act of non-consensual towing and booting (immobilization) of vehicles from private property within the CBD and Biltmore Village Historic District. Pursuant to the City's Towing Ordinance, it is unlawful to engage in non-consensual towing or immobilization of such vehicles, without complying with certain pre-towing notice and other requirements. The person or entity who engages in the unlawful tow or immobilization of a vehicle is subject to the fines set forth in Appendix B to the City Code.

In or around early 2018, due, in part, to questions from citizens regarding the Towing Ordinance, City Council asked our office to review the City's Towing Ordinance provisions and to research whether there are any additional regulations that the City may enact, to further protect citizens whose vehicles are towed from private lots within the City.

On April 10, 2018, our office provided the Governance Committee with a summary of the City's authority to regulate the nonconsensual towing of vehicles from private property, (see Governance Committee April 10, 2018 Staff Report), and presented to the Governance Committee for their consideration, several potential amendments to the City's Towing Ordinance, based on the questions we received and in consultation with the City's Parking Services Department. The potential amendments presented to the Governance Committee included the following:

- Expanding the scope of violators, to include any person or entity who authorizes, directs, engages in or contracts for illegal trespass (non-consensual) towing or booting;

- o With this amendment, our office recommended a few additional clarifying amendments, to ensure that such regulation would not otherwise hinder the rights of private property owners to protect their property from trespass;
- Providing that, when applicable, regulations related to the practice of trespass towing are also applicable to the practice of “booting” or immobilizing vehicles;
- Expanding the scope of the ordinance to regulate towing from private lots in other areas in the City, in addition to the CBD and Biltmore Village Historic District; and
- Increasing the amount of civil penalties assessed for violations of the ordinance.

The Governance Committee recommended that the Towing Ordinance be presented to City Council with all of the above potential amendments. With respect to expanding the area the ordinance covers, the Governance Committee recommended that it be expanded to include the River Arts District, portions of West Asheville and other areas in the City where there are currently private parking lots for a fee. The Governance Committee also requested that we research the amount of fines that other North Carolina municipalities assess for this type of ordinance violation, and consult with the Parking Services Department as to what amount of fines would be appropriate.

In addition to the above, the Governance Committee also requested that our office review the distance a vehicle may be towed, which is currently 10 miles. In reviewing this regulation, we benchmarked other North Carolina municipalities, as well as a parallel State statute that regulates towing in certain municipalities (although not Asheville). Our research did not find a North Carolina municipality that restricts the distance a vehicle may be towed to less than 10 miles.

Finally, the Governance Committee asked our office to research whether the City may enact regulations related to the licensing of towing companies, that would require tow companies to be familiar with the City’s Towing Ordinance regulations, in order to operate within the City. Our research found that, in King v. Town of Chapel Hill, the North Carolina Supreme Court held that cities need specific statutory authority in order to regulate the business or licensing of a tow company and that authority does not currently exist. As such, Asheville currently does not have the statutory authority to enact such a regulation.

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

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

Councilman Young moved to adopt an ordinance amending City Code Chapter 11, Section 18, “Pre-towing notices on private lots,” and City Code Appendix B, “Schedule of Civil Penalties.” This motion was seconded by Vice-Mayor Wisler and carried unanimously.

**ORDINANCE BOOK NO. 32 – PAGE 205**

**B. BOARDS & COMMISSIONS**

Regarding the Citizens-Police Advisory Committee, no one applied for the resident of the Housing Authority property. Therefore, it was the consensus of Council to re-advertise for that seat.

Regarding the Board of Electrical Examiners, no one applied for the layman seat. . Therefore, it was the consensus of Council to re-advertise for that seat.



**RESOLUTION NO. 18-225 - RESOLUTION APPOINTING ALTERNATE MEMBERS TO THE BOARD OF ADJUSTMENT**

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

There currently exists an Alternate vacancy when Mr. Paul Wilczynski was appointed a Regular member. That current vacancy expires on January 21, 2021. In addition, there currently exists a vacancy until January 21, 2019, left by Ms. Misty Miller.

The following individuals applied for the vacancy: Ken Sherlin, Paul Harkrider, Robert Carroll and Suzanne Godsey.

It was the consensus of the Boards & Commissions Committee to appoint Suzanne Godsey.

Vice-Mayor Wisler moved to appoint Suzanne Godsey to serve the Alternate unexpired term of Mr. Wilczynski, term to expire January 21, 2021, or until her successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 94**

**RESOLUTION NO. 18-226 - RESOLUTION APPOINTING THE CHAIR OF THE CIVIL SERVICE BOARD**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that it is the responsibility of City Council to appoint the Chair of the Civil Service Board, and the Chair of the Civil Service Board shall be appointed annually by City Council.

Mr. Alan Escovitz, has resigned as a member and Chair of the Board, and a Civil Service Board election was held on June 25, 2016, for his replacement on the Board as an employee representative.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

All members were advised to contact Deputy City Clerk Sarah Terwilliger if they were interested in serving as Chair. Ms. Carol Goins was the only interested member. The term of Mr. Coxie expires on October 1, 2019.

Vice-Mayor Wisler moved to appoint Carol Goins as Chairman of the Civil Service Board to serve a one-year term, term to expire August 28, 2019, or until her successor is duly appointed or until her term on the Civil Service Board expires, whichever occurs first. This motion was seconded by Councilman Kapoor and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 95**

**RESOLUTION NO. 18-227 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission.

Ms. Janet Whitworth resigned as a member from the Asheville-Buncombe Historic Resources Commission, thus leaving a vacancy until July 1, 2010.

The following individuals applied for the vacancy: Will Hornaday, Linden Ontjes, Mike Kennedy, Wayne Wheeler, Hillary Mannion and Lorraine Tipaldi.

It was the consensus of the Boards & Commissions Committee to appoint Hillary Mannion.

Vice-Mayor Wisler moved to appoint Hillary Mannion to fill the unexpired term of Ms. Whitworth, term to expire July 1, 2020, or until her successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 96**

**RESOLUTION NO. 18-228 - RESOLUTION APPOINTING A MEMBER TO THE NEIGHBORHOOD ADVISORY COMMITTEE**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Neighborhood Advisory Committee.

Mr. Jackson Tierney (at-large representative) has resigned, thus leaving an unexpired term until July 1, 2020.

The following individuals applied for the vacancy: Karl Katterjohn, Bob Swanson and Cissy Dendy.

It was the consensus of the Boards & Commissions Committee to appoint Cissy Dendy.

Vice-Mayor Wisler moved to appoint Cissy Dendy (at-large representative) to the unexpired term of Mr. Jackson, term to expire July 1, 2020, or until until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 97**

**RESOLUTION NO. 18-299 - RESOLUTION APPOINTING A MEMBER TO THE NOISE ORDINANCE APPEALS BOARD**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Noise Ordinance Appeals Board.

The term of Robert Glenn (Alternate member) expired on July 1, 2018.

The following individuals applied for the vacancy: John L. Caldwell and Patrick Gilbert.

It was the consensus of the Boards & Commissions Committee to appoint John Caldwell or Patrick Gilbert.

Vice-Mayor Wisler moved to appoint Patrick Gilbert (Alternate Member) to serve a three-year term, term to expire July 1, 2021, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 98**

**RESOLUTION NO. 18-230 - RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION**

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

Ms. Diane Hillgrove has resigned, thus leaving an unexpired term until December 31, 2020.

The following individuals applied for the vacancy: Martha Dyke, Chip Hood, Guillermo Rodriguez, Patrick Gilbert and Jonathan Watterson.

It was the consensus of the Boards & Commissions Committee to appoint Guillermo Rodriguez.

Vice-Mayor Wisler moved to appoint Guillermo Rodriguez to the unexpired term of Ms. Hillgrove, term to expire December 31, 2020, or until until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

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

Mr. James Gambrell requested more money for the transit system.

Mr. Jack Logan requested a day to be proclaimed in memory of 12-year old Derrick Lee Jr. and urged Council to stress that gun violence will not be tolerated. Mayor Manheimer said that she would be happy to do this and asked that he reach out to City Clerk Burleson for preparation of this proclamation.

Ms. Allison Hammond requested Oakland Road be repaired and sidewalks be constructed. She also felt that speed humps might work on that road as well. Mayor Manheimer asked Ms. Hammond to contact City Clerk Burleson for the process of traffic calming.

Ms. Hollie Davison spoke about the importance of the services at 610 Haywood Road.

Ms. Vicki Meath, Director of Just Economics, spoke about the need to work together to improve the transit system and the need for the City to hold the management company accountable.

Ms. Diane Allen, Transit Union President, said she was ready and willing to assist with any outstanding issues with the transit system, including the shortage of mechanics, condition of the buses and gaps in service.

Ms. Kim Roney asked the City to hold the transit management company accountable and try to find ways to help fill the mechanic needs.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 10:47 p.m.

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CITY CLERK

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MAYOR