

Tuesday – April 9, 2019 - 3:00 p.m.

## Enterprise Funds and Capital Improvement Program Budget 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; City Manager Debra Campbell; and City Clerk Magdalen Burleson

City Manager Campbell said that the goal of this worksession will be to (1) follow-up from the operating worksession; (2) update on the status of the Capital Improvement Program (CIP); (3) share information on planned investments in CIP and enterprise funds; and (4) receive direction on resource allocation.

Chief Financial Officer Barbara Whitehorn explained that an enterprise fund is (1) City functions that should be completely supported by fees; (2) provide public service financed through charges to users or customers; and (3) shows the degree to which service is self-supporting. She then provided Council with a review of the following enterprise funds: Transit; U.S. Cellular Center, Water Resources, Stormwater, Parking Services, and Street Cut Utility.

She then provided Council with the Capital Investment Program update. She said that a capital asset is land; buildings and infrastructure; infrastructure (streets, sidewalks); and equipment and machinery. She explained that capital is separate from operating due to the (1) scale of investment; (2) longer time horizon; (3) use of debt; and (4) project based not program based. She then reviewed the Capital Budget funding sources, along with the historic capital spending. She then outlined the projects completed in the last 5 years; projects under construction; projects in design; and projects in planning. Maintenance projects underway include the ART Transit Center renovations, Shiloh Roof replacement, City Hall maintenance, USCC HVAC/Boiler, and Asphalt preservation. With the current CIP Total (Fiscal Year (FY) 2020-23) of \$60 Million, along with the additional requests for FY 2020-24 of \$330 Million, there is a total identified amount of \$390 Million. She reviewed the deferred maintenance challenges, along with construction challenges (Fire Station 13, Jake Rusher Park, Wesley Grant Center, Walton Street Park/Pool, Richmond Hill Park). To strike a balance, (1) construction costs/bids coming in well over budget; (2) designing projects within budget (a) value engineering; and (b) scope limitations; (3) value for residents/customers versus cost; (4) community needs and expectations; and (5) sustainability goals and related costs.

Ms. Whitehorn then reviewed the proposed FY 2020 CIP investments. She outlined the proposed ongoing allocations along with the FY 2020 proposed project additions.

Using a chart, she outlined the projected capital spending and need. A need for an ongoing bond program is necessary for several reasons (1) additional investment in capital is essential to effective service provision; (2) a routine bond program addresses the gap between capital investment and resources; and (3) routine investment in existing assets enhances the customer experience. Communities with regular General Obligation (GO) Programs include Raleigh, Charlotte, Durham, Greensboro, Winston-Salem, Hickory, Holly Springs, High Point and Wilmington.

Asheville is challenged to meet identified needs within existing financial capacity. Many communities have utilized GO bonds on a regular cycle to address capital needs. A regular GO bond cycle and/or new revenue streams could provide the opportunity to address these needs.

She then reviewed the projects, plans and staff resources from the March 26, 2019, worksession, along with the budget process calendar.

Ms. Whitehorn responded to various questions/comments from Council, some being, but are not limited to: why are we not looking at expanding parking metered spaces in downtown, Biltmore Village and west Asheville; do we have tentative schedules on the projects in design; request that Walton Street Park/Pool be completed with Parks & Rec Bond funds; how many computers are in the computer replacement allocation; could the Fire Station 13 construction be done in phases; are other community needs incorporated in the Fire Station 13 construction and allocation; how long has Fire Station 13 been in the CIP; regarding the U.S. Cellular Center, what did we spend this last fiscal year; can we get a list of improvements still pending that require funding, excluding Thomas Wolfe; can Thomas Wolfe be broken out separately; how much is being budgeted this upcoming fiscal year in funding towards improvements at the U.S. Cellular Center; are there any pending request from SoCon to make improvements at the U.S. Cellular Center and if so, what are they specifically with costs; what was the naming rights money used for the previous years regarding the U.S. Cellular Center and was the money earmarked for specific projects; should Council provide the City Manager with an affirmative statement that they want to get on a regular GO bond program; can staff provide Council with the last CIP chart; regarding the small business training, have we talked with any of our partners to see if this is something that they are already doing or could easily incorporate; is there any support by Council to increase property taxes; need to talk about other options to find revenue to fund important projects; list of agreements and partnerships that don't go through the formal process to get funding from the City; and how many city employees on all levels have received raises beyond the annual increase that City Council approves, specifically in the last 18 months. For those questions not readily answered, staff will provide Council with a memorandum.

City Manager Campbell said that Council can provide her direction on the projects, plans and staff resources prior to the development of the City Manager's budget on May 14, 2019.

At 4:12 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 9, 2019 - 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; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: None

#### **PLEDGE OF ALLEGIANCE**

Mr. Aiden McAbee from Troop 75 led City Council in the Pledge of Allegiance.

#### **ADDITION TO AGENDA**

Mayor Manheimer added an update on parking at Memorial Stadium/McCormick Field to the agenda.

#### **I. PROCLAMATIONS:**

**A. WALK FRIENDLY COMMUNITY AWARD**

Ms. Grace Curry, and other members from the Bike/Pedestrian Task Force, presented the City of Asheville with the Walk Friendly Community Award.

On behalf of the City of Asheville, Mayor Manheimer thanked Ms. Curry for the award and thanked everyone responsible to make our city a more inviting and walkable community. She understood that Asheville was the first city in North Carolina to earn the award at any level above bronze, and remains one of only two such cities in the state. She recognized that we have a long way to go in the battle of keeping pedestrians safe and comfortable, and we need to be reminded of the importance of doing something every day to make Asheville a better place to live and walk.

**B. PROCLAMATION PROCLAIMING APRIL, 2019, AS "PARKINSON'S DISEASE AWARENESS MONTH"**

Vice-Mayor Wisler read the proclamation proclaiming April, 2019, as "Parkinson's Disease Awareness Month" in the City of Asheville. She presented the proclamation to Bob and Beth Pape, and others, who briefed City Council on some activities taking place during the month.

**C. PROCLAMATION PROCLAIMING APRIL 22, 2019, AS "EARTH DAY"**

Councilwoman Mayfield read the proclamation proclaiming April 22, 2019, as "Earth Day" in the City of Asheville. She presented the proclamation to Sophie Mullinax from the Blue Horizons Project, who briefed City Council on some activities taking place during the day.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 26, 2019**

**B. RESOLUTION NO. 19-72 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE A VEGETATION MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE CITY TO ACCEPT THE RESPONSIBILITY TO PROVIDE VEGETATION CONTROL ON PROPERTY ADJACENT TO THE INTERSECTION OF WEST HAYWOOD STREET AND PARK AVENUE NORTH**

**RESOLUTION NO. 19-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE A VEGETATION MAINTENANCE AGREEMENT WITH THE WEST END CLINGMAN AVENUE NEIGHBORHOOD (WECAN) FOR WECAN TO ACTUALLY PERFORM VEGETATION CONTROL ON PROPERTY ADJACENT TO THE INTERSECTION OF WEST HAYWOOD STREET AND PARK AVENUE NORTH ON BEHALF OF THE CITY**

**Action Requested:** Adoption of two resolutions - (1) a resolution authorizing the City Manager to enter into and execute a vegetation maintenance agreement with the North Carolina Department of Transportation (NCDOT) for the City to provide vegetation control on a property adjacent to the intersection of West Haywood Street and Park Avenue North; and (2) a resolution authorizing the

City Manager to enter into and execute a vegetation maintenance agreement with the West End Clingman Avenue Neighborhood (WECAN) for WECAN to perform vegetation control on the property on behalf of the City.

**Background:**

- WECAN requested to perform vegetation control on the property as an aesthetic improvement for their neighborhood.
- The property is owned by the NCDOT. NCDOT prefers to enter into maintenance agreements with another governmental entity.
- The City agrees to be that governmental entity and partner with WECAN to provide the appropriate vegetation control (i.e. mowing, trimming, planting, removal of weeds, trash and debris)
- WECAN agrees to perform vegetation control properly and continually in accordance with generally accepted horticultural practices.
- The Transportation Department is the primary point of contact for the community.
- As the owner of the property, the NCDOT has the right to periodically inspect the maintenance practices being used and they would notify the City regarding any issues. The Transportation Department would then notify WECAN to make the appropriate changes.
- If WECAN does not perform vegetation control properly and continually in accordance with generally accepted horticultural practices including all costs, the agreement between the NCDOT and the City and the agreement between the City and WECAN would be terminated with 30 days written notification. After the 30 days, NCDOT would be responsible for the maintenance.

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- This action enables a partnership between the NCDOT, the City, and WECAN.
- This action enables WECAN to make an aesthetic improvement in their neighborhood.

**Con(s):**

- None

**Fiscal Impact:**

- None

**Motion:**

- Motion to (1) approve a resolution authorizing the City Manager to enter into and execute a vegetation maintenance agreement with the North Carolina Department of Transportation (NCDOT) for the City to provide vegetation control on a property adjacent to the intersection of West Haywood Street and Park Avenue North; and (2) approve a resolution authorizing the City Manager to enter into and execute a vegetation maintenance agreement with the West End Clingman Avenue Neighborhood (WECAN) for WECAN to perform vegetation control on the subject property on behalf of the City.

**RESOLUTION NO. 19-72 - RESOLUTION BOOK NO. 40 - PAGE 350  
RESOLUTION NO. 19-73 - RESOLUTION BOOK NO. 40 - PAGE 351**

**C. RESOLUTION NO. 19-74 - RESOLUTION AUTHORIZING THE SALE OF ONE 2010 CAT 305C CR MINI EXCAVATOR DEEMED SURPLUS CITY PERSONAL PROPERTY**

**Action Requested:** Approval of a resolution authorizing the sale of one (1) 2010 CAT 305C CR Mini Excavator deemed surplus City personal property.

**Background:**

- The City's Water Resources Department -- Maintenance Division, identified a 2010 CAT 305C CR Mini Excavator 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 the 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 2010 CAT 305C CR Mini Excavator is listed at \$30,000+, \$1,000 - \$10,000 above wholesale, depending on condition. Bids will be solicited through Public Surplus online auction.

**Council Goal(s)**

- N/A

**Committee(s)**

- None

**Pro(s):**

- Good fiscal and asset management
- Space utilization eliminates the need to store large, unused equipment
- Competitive process yielded market price

**Con(s):**

- None

**Fiscal Impact:**

- The mini excavator is fully depreciated and the Water Resources Fund will recognize the entire amount as revenue from the sale of assets.

**Motion:**

- Move to adopt a resolution authorizing the sale of one (1) 2010 CAT 305C CR Mini Excavator deemed surplus City personal property.

**RESOLUTION BOOK NO. 40 - PAGE 352**

**D. RESOLUTION NO. 19-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH EARL SWENSSON ASSOCIATES INC. FOR PHASE ONE DESIGN OF THE THOMAS WOLFE AUDITORIUM RENOVATIONS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a phase one professional services contract for programming, conceptual design and cost estimating with Earl Swensson Architects for the Thomas Wolfe Auditorium Renovation.

**Background:**

- The City of Asheville released an RFQ in October, 2018 to solicit architectural design teams to study multiple improvement design options and associated cost estimating.
- Fourteen separate firms submitted qualifications, and a selection committee interviewed four teams in December, 2018. The design team led by ESa was unanimously selected as the highest qualified firm.
- A contract and scope was negotiated within the existing established budget.
- The scope for this design contract is intended to produce a programming and conceptual design with various levels of improvements that will be used for budgeting purposes.

**Council Goal(s):**

- A well-planned and livable community; Thriving local economy, Connected and Engaged Community, Smart City.

**Committee(s):**

- Civic Center Commission - 2/5/2019 - unanimous vote for Earl Swensson Architects

**Pro(s):**

- This is a phase one preliminary design and will help support project estimating and funding.
- The results from the study will evaluate options for the building improvements in the future.

**Con(s):**

- No additional funding is allocated for the next phase of the project.

**Fiscal Impact:**

- The capital improvement design fee of \$339,300 plus a 10% contingency is already included in the adopted capital improvement program (CIP) budget.

**Motion:**

- Move to approve a resolution authorizing the City Manager to execute a design contract with Earl Swensson Associates, Inc. for a professional services contract for phase one design of the Thomas Wolfe Auditorium Renovation for an amount not to exceed \$339,300.00, and further authorizing the execution of any contract amendments up to 10% (\$33,930.00) above the contract price, for additional services which may arise during execution of said project.

**RESOLUTION BOOK NO. 40 - PAGE 353**

**E. RESOLUTION NO. 19-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SUNDANCE POWER SYSTEMS INC. FOR THE SOLAR ARRAY PROJECT ON THE ART TRANSIT CENTER**

**ORDINANCE NO. 4738 - BUDGET AMENDMENT FOR THE SOLAR ARRAY PROJECT ON THE ART TRANSIT CENTER**

**Action Requested:** Adoption of a resolution authorizing the City Manager to: 1) adopt a budget amendment in the amount of \$230,000 in the General Capital Projects Fund to move budget from the Sustainability Fund to the ART Station Solar Array Project for the solar array installation; 2) execute a contract with Sundance Power Systems, Inc. in the amount of \$121,882.08; and 3) execute contract amendments up to the established budget amount of \$230,000.

**Background:**

- This will be the first solar photovoltaic installation in the City's history.
- A 64 kilowatt solar array will be installed on the ART Transit Station bus canopy.
- The Clark Patterson Lee company has designed the plans and specifications and will provide construction management.
- The construction schedule is dependent on approval from Duke Energy Progress which may require infrastructure improvements to integrate the solar panels.
- The request for the City Manager to have the ability to increase the contract up to the budgeted amount is to allow for any unforeseen infrastructure improvements and the option to increase capacity and warranty of solar array.
- Funds not used on this project will be used for future renewable energy projects.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- Finance and Human Resources Committee on March 26, 2019

**Pro(s):**

- This is the first renewable energy project that will support Resolution 18-279 which established a 100% renewable energy goal for municipal operations.
- Supports Resolution 11-77 reducing the City's carbon emissions by 80%. This system is estimated to offset 0.25% of our annual 4% carbon reduction goal.
- The revenue generated from the solar energy will fund the operations and maintenance of the PV system and future renewable energy installations.

**Con(s):**

- None

**Fiscal Impact:**

- \$230,000 from the Fiscal Year 2019 Office of Sustainability budget for the Energy Innovation Task Force Initiative in combination with savings from the Green Revolving program. Funding is already budgeted and available in the Sustainability Fund; this budget amendment will simply move the budget from that fund to the General Capital Projects Fund. The \$230,000 will be used to fund the contract and any additional costs associated with the installation. Any savings will remain in the General Capital Projects Fund for future renewable energy projects.

**Motion:**

- Motion to approve a resolution authorizing the City Manager to: 1) execute a budget amendment in the amount of \$230,000 redirected from the Fiscal Year 2019 Office of Sustainability budget for the Energy Innovation Task Force Initiative in combination with savings from the Green Revolving Program to the General Capital Projects Fund to support renewable energy projects; 2) execute a contract with Sundance Power Systems,

Inc. in the amount of \$121,882.08; and 3) execute contract amendments up to the established budget amount of \$230,000.

**RESOLUTION BOOK NO. 40 - PAGE 354  
ORDINANCE BOOK NO. 32 - PAGE 349**

**F. RESOLUTION NO. 19-77 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CONTRACT WITH ALLISON  
CONTRACTORS LLC FOR THE BUS SHELTERS - PHASE 2 BOND  
PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Allison Contractors, LLC for the construction of bus shelters, concrete pads and attached sidewalk at some locations in the amount of \$116,969.00 plus a 10% contingency of \$11,696.00.

**Background:**

- The City of Asheville passed a General Obligation Bond in 2016 which included the budget to construct new bus shelters with some attached sidewalks.
- The bus shelters identified for the project help to ensure that the City of Asheville remains compliant with current City standards and Americans with Disabilities Act (ADA).
- Some of the new shelters will be built to replace older shelters that are in disrepair.
- The shelters will be constructed in areas with a large ridership and where no bus shelters are currently available.
- The added sidewalk will make connection to ADA ramps helping with pedestrian safety.
- Bids received were:
  - Allison Contractors of Hendersonville, NC for \$116,969.00
  - Patton Construction Group of Asheville, NC for \$228,400.00

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- NA

**Pro(s)**

- Improve mobility and safety on city streets
- Project works towards fulfillment of the General Obligation Bond.

**Con(s):**

- None

**Fiscal Impact:**

- The project is funded by the General Obligation Bond from 2016.

**Motion:**

- Motion to authorize the City Manager to execute a contract with Allison Contractors, LLC for the construction of bus shelters, concrete pads and attached sidewalk at some locations in the amount of \$116,969.00 plus a 10% contingency of \$11,696.00.

**RESOLUTION BOOK NO. 40 - PAGE 355**



**G. RESOLUTION NO. 19-78 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ALLOW MOUNTAIN HOUSING OPPORTUNITIES TO REFINANCE THE DEVELOPMENT KNOWN AS EAGLE MARKET PLACE BY MODIFYING THE LIEN POSITIONS AND MATURITY DATES OF CITY OF ASHEVILLE LOANS, AND AMENDING DEED RESTRICTIONS EXISTING ON AFFORDABLE HOUSING UNITS**

**RESOLUTION NO. 19-79 - RESOLUTION AUTHORIZING THE SUBORDINATION OF THE CITY'S COMMERCIAL LOAN WITH EMP COMMERCIAL INC.**

**Action Requested:** Approval of Loan Modifications requested by Mountain Housing Opportunities ("MHO") to allow them to borrow new funds to refinance the Eagle Market Place Project and authorization for the City Manager to negotiate and execute all documents necessary to give effect to this approval.

**Background:**  
Residential

- The Eagle Market Place property developed by MHO is divided into separate entities for the residential and commercial components. The residential entity (Eagle Market Place, LLC) currently possesses eleven sources of debt financing as listed below.
  1. TD Bank (\$3,440,303)
  2. NCHFA (\$930,000)
  3. City of Asheville Urban Redevelopment and Loan Agreement ( URLDA) (\$3,867,618)
  4. Buncombe County (\$1,500,000)
  5. City of Asheville Housing Trust Fund (\$800,000)
  6. Buncombe County (\$300,000)
  7. NCHFA ISHP (\$750,000)
  8. NCHFA (\$1,168,338)
  9. MHO (\$1,500,000)
  10. MHO (\$462,600)
  11. JBM Community Resources, Inc. (\$1,000,000)
- The TD Bank construction loan is due in full on June 2, 2019, and the JBM Community Resources loan was due in January of 2019. MHO has secured a financing commitment of \$3,313,000 through Bellwether Enterprise Real Estate Capital, LLC. Upon closing of this loan, MHO is also receiving a scheduled equity payment from CAHEC. The combined funding from Bellwether and CAHEC will be used to pay off the remaining balance of the TD Bank and JBM Community Resources, Inc. loans.
- Bellwether requires that their new loan be placed in the first lien position, which requires that the City of Asheville's URL and Housing Trust Fund loans be subordinated to it.
- Bellwether also requires that existing loans possess a maturity date for a certain period of time after the date that their loan is due in full. The current maturity dates of the Housing Trust Fund and URL loans are January 10, 2033 and December 10, 2033, respectively. To comply with Bellwether's conditions, the maturity date for both loans will have to be changed to December 10, 2034.
- The proposed new lien priorities (Bellwether Loan replaced TD Bank Loan):
  1. Bellwether (\$3,313,000)
  2. NCHFA (\$900,000)
  3. City of Asheville URL (\$3,867,618)
  4. Buncombe County (\$1,500,000)
  5. City of Asheville Housing Trust Fund (\$800,000)
  6. Buncombe County (\$300,000)

7. NCHFA ISHP (\$750,000)
  8. NCHFA (\$1,168,338)
  9. MHO (\$1,500,000)
  10. MHO (\$462,600)
- Per City Council vote on November 10, 2015, the Eagle Market Place project was modify the amount and type of its affordable housing units.
    - The original agreement included 62 units for households at or below 60% of AMI.
    - The new agreement reduced that amount to 32 units at 60% AMI and 30 units for workforce housing at 120% AMI. NCHFA's Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits, needs to be updated to reflect this change in the percentage of affordable (60% AMI) units, and the City will need to consent (i.e. subordinate) to this change.
  - In summary, the modifications to the City Loans requested by MHO in order to enter into the new loan with Bellwether are as follows: 1) HTF Loan-Extend the maturity date by 11 months to December 10, 2034, and keep this loan in 5th place lien position (rather than it moving up to 4th lien position as required by City Resolution No. 14-253 and 2) URLA Loan-Extend the maturity date by 12 months to December 10, 2034 and keep this loan in a 3rd place lien position (rather than the 2nd place lien position contemplated via Resolution No. 14-253).
  - The documents which are anticipated to be executed by the City in order to give effect to these changes are as follows:
    - Two subordination agreements with Bellwether (one for the HTF Loan and one for the URL);
    - Third Loan Modification to the HTF to reflect the change in maturity date and lien position;
    - Second Loan Modification to the URL to reflect the change in maturity date and lien position; and,
    - Subordination Agreement for the NCHFA Amended and Restated Land Use Restrictive Covenants to reflect the percentage change in affordable units from 100% to 51.6%.

#### Commercial

- The Eagle Market Place property developed by MHO is divided into separate entities for the residential and commercial components. The commercial entity (EMP Commercial LLC) currently possesses four sources of debt financing as listed below.
  1. Carolina Small Business Development Fund (\$1,700,000)
  2. Buncombe County (\$500,000)
  3. City of Asheville (\$718,000)
  4. Mountain Housing Opportunities (\$1,000,000)
- The existing Buncombe County loan of \$500,000 is a portion of a greater \$2,000,000 loan that shares security interests on both the residential and commercial entities associated with the property. The new lender on the residential entity requires that the \$2,000,000 Buncombe County loan be replaced with a separate, single \$500,000 loan. The County will agree to this change if it can be secured in the same priority status (2nd lien position) as its current \$500,000 Deed of Trust.
- In order for the County loan to remain in its same lien position, the City must sign a subordination agreement consenting to the revised County loan.
- The City of Asheville's loan of \$718,000 secured by a Deed of Trust will remain in the existing third repayment position.

#### **Council Goal(s):**

- An Equitable and Diverse Community
- Quality Affordable Housing
- A Well-Planned and Livable Community

**Committee(s):**

- None

**Pro(s):**

- The Eagle Market Place project will be able to restructure its debt in a manner that improves the project's long-term financial stability.
- The legal restrictions on the property will be formally modified to accurately reflect prior binding agreements by Asheville City Council.
- The separation of Buncombe County's Deeds of Trust will offer legal clarity and protect the City of Asheville's interests should a default event occur.

**Con(s):**

- There is a short extension of the maturity dates for both City of Asheville loans which pushes back a prospective payoff date for each.
- The City of Asheville residential loans will be placed in a lower lien position and have additional debt ahead of its security interest than was anticipated after the Council Resolution which approved the amendment of loan terms in November 2014.

**Fiscal Impact:**

- There is limited fiscal impact. None of the City of Asheville loans are amortizing and will not affect regular payments. In the event of a default or payoff, the City would be in a lower position than previously agreed upon in Resolution 14-253.

**Motion:**

- Move to approve the loan modifications requested by MHO for the Eagle Market Place development and to authorize the City Manager to negotiate and execute any and all documents necessary to give effect to this approval.

**RESOLUTION NO. 19-78 - RESOLUTION BOOK NO. 40 - PAGE 356  
RESOLUTION NO. 19-79 - RESOLUTION BOOK NO. 40 - PAGE 358**

**H. RESOLUTION NO. 19-80 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY MARKET**

**RESOLUTION NO. 19-81 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE ASPIRE EXPERIENCE**

**RESOLUTION NO. 19-82 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY SOCCER  
CLUB GAMES**

**RESOLUTION NO. 19-83 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR**

**THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE ASHEVILLE VEGANFESTIVAL**

**RESOLUTION NO. 19-84 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT BEER CITY CUP**

**RESOLUTION NO. 19-85 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE CHOW CHOW ASHEVILLE  
CULINARY FESTIVAL**

**RESOLUTION NO. 19-86 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT THE ZERO PROSTATE CANCER 5K  
RUN/WALK**

**RESOLUTION NO. 19-87 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO APPROVE A RESOLUTION MAKING provision FOR  
THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES  
AND/OR UNFORTIFIED WINE AT BREWS & BEARS**

**Action Requested:** Adoption of resolutions to permit the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market, The Aspire Experience, Asheville City Soccer Club Games, Asheville VeganFest, Beer City Cup, Chow Chow Asheville Culinary Festival, Zero Prostate Cancer 5K Run/Walk, and Brews & Bears events.

**Background:**

- The following organizations have requested that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at the events:
  - Asheville Sustainable Agriculture Project for the Asheville City Market, to occur on Market Street weekly on Saturdays, April 13 - December 21, 2019, from 8:00 a.m. - 12:00 p.m.
  - AIA Asheville for The Aspire Experience, to occur at Pack Square Park on April 14, 2019, from 6:00 p.m. - 10:00 p.m.
  - Asheville Brewers Alliance for the Asheville City Soccer Club Games, to occur at Memorial Stadium on April 26, 27, May 7, 10, 16, 18, 25, June 7, 8, 12, 18, 25, 28, 29, July 5, 6, 7, 2019 from 6:00 p.m. - 10:00 p.m.
  - Brother Wolf Animal Rescue for Asheville VeganFest, to occur at Pack Square Park on June 9, 2019, from 11:00 a.m. - 6:00 p.m.
  - WNC Soccer Foundation for the Beer City Cup, to occur at Memorial Stadium on September 1, 2019, from 12:00 p.m. - 10:00 p.m.
  - Asheville Culinary Festival for the Chow Chow Asheville Culinary Festival, to occur at Pack Square Park on September 13 from 11:00 a.m. - 5:00 p.m., September 14 from 9:00 a.m. - 5:00 p.m., and September 15, 2019, from 11:00 a.m. - 5:00 p.m.

- ZERO - The End to Prostate Cancer for the ZERO Prostate Cancer 5K Run/Walk, to occur at Carrier Park on August 24, 2019, from 7:00 a.m. - 11:00 a.m.
  - Friends of the WNC Nature Center for Brews & Bears, to occur at the WNC Nature Center on May 11, June 14, July 12, and August 9, 2019, from 5:30 p.m. - 8:00 p.m.
- Alcohol boundaries are defined for each request as per the accompanying event site maps.

**Council Goal(s):**

- These actions have no direct connection with the City Council 2036 Vision.

**Committee(s):**

- None

**Pro(s):**

- Allows fundraising opportunities for the sponsoring nonprofit organizations

**Con(s):**

- None

**Fiscal Impact:**

- None

**Motion:**

- Motion to permit the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market, The Aspire Experience, Asheville City Soccer Club Games, Asheville VeganFest, Beer City Cup, Chow Chow Asheville Culinary Festival, Zero Prostate Cancer 5K Run/Walk, and Brews & Bears events.

**RESOLUTION NO. 19-80 - RESOLUTION BOOK NO. 40 - PAGE 359**

**RESOLUTION NO. 19-81 - RESOLUTION BOOK NO. 40 - PAGE 362**

**RESOLUTION NO. 19-82 - RESOLUTION BOOK NO. 40 - PAGE 365**

**RESOLUTION NO. 19-83 - RESOLUTION BOOK NO. 40 - PAGE 368**

**RESOLUTION NO. 19-84 - RESOLUTION BOOK NO. 40 - PAGE 371**

**RESOLUTION NO. 19-85 - RESOLUTION BOOK NO. 40 - PAGE 374**

**RESOLUTION NO. 19-86 - RESOLUTION BOOK NO. 40 - PAGE 377**

**RESOLUTION NO. 19-87 - RESOLUTION BOOK NO. 40 - PAGE 380**

- I. **RESOLUTION NO. 19-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO A LICENSE AGREEMENT WITH DUKE ENERGY PROGRESS INC. AND MAPLE CREST LLC FOR DEMOLITION, IMPROVEMENTS AND OTHER CONSTRUCTION RELATED ACTIVITIES AT 319 BILTMORE AVENUE**

**Action Requested:** Adoption of a resolution to authorize the City Manager to negotiate and enter into a license agreement with Duke Energy Progress, Inc. and Maple Crest LLC for demolition, improvements and other construction related activities on property at 319 Biltmore Avenue.

**Background:**

- The City entered into a Memorandum of Understanding with Duke Energy in January 2017 for property located at 319 Biltmore Avenue and later entered into an Option to Purchase the property in October 2017 in order to redevelop the property for an affordable, mixed income community.
- In 2018, the City developed site concepts and performed pro-forma analysis for affordable housing on 319 Biltmore and is taking next steps to market the site for redevelopment. The site is one of the “High Impact Sites” included within the Affordable Housing Bond program.
- The adjoining property is known as Lee Walker Heights and the Housing Authority, in partnership with Mountain Housing Opportunities, Inc, is currently in the process of commencing construction for the major redevelopment of the site. The Housing Authority and MHO have collectively formed Maple Crest, LLC for this endeavor.
- A new roadway is planned to connect Lee Walker to Biltmore Avenue through the property at 319 Biltmore. As part of the Lee Walker Heights Redevelopment, Maple Crest will demolish the existing car dealership on 319 Biltmore, perform significant grading on the property, construct a new roadway on the property and perform related construction activities on the 319 Biltmore property. These improvements were outlined in the original Option Agreement between the City and Duke.
- At this time, the City, Duke and Maple Crest would like to enter into an agreement that clarifies the details of this arrangement for the 319 Biltmore site. Maple Crest will be performing the improvements on the property at 319 Biltmore, using the site for a construction office and lay down area, and installing a fence around the perimeter of the 319 Biltmore property. The City will provide oversight in order to protect its future interest in the redevelopment of 319 Biltmore. Duke, as the underlying property owner, will be protecting its interest in the property.

**Council Goal(s):**

- Well Planned and Livable Community
- Quality Affordable Housing

**Committee(s):**

- None.

**Pro(s):**

- Agreement will facilitate the redevelopment of Lee Walker Heights
- Agreement will protect City’s interests in 319 Biltmore

**Con(s):**

- None

**Fiscal Impact:**

- None

**Motion:**

- Motion to adopt a resolution that authorizes the City Manager to negotiate and enter into a license agreement with Duke Energy Progress, Inc. and Maple Crest LLC for demolition, improvements and other construction related activities on property at 319 Biltmore Avenue.

**RESOLUTION BOOK NO. 40 - PAGE 383**

**J. RESOLUTION NO. 19-89 - RESOLUTION AMENDING THE**

## HOMELESS INITIATIVE ADVISORY COMMITTEE BY-LAWS

**Action Requested:** Approval of proposed one-time exception to Article IV A. 2 of the HIAC Bylaws regarding the maximum term of service for the Committee Chair, and amendments to the Bylaws to allow non-HIAC members to serve on subcommittees, and to adopt Robert's Rules of Order as procedural guidance in cases where the Bylaws do not specify a procedure.

### **Background:**

- By Resolution 08-227 November 11, 2008, as amended by Resolution 18-20, January 23, 2018, the Homeless Initiative Advisory Committee was established as a joint City and Buncombe County Committee to advise on issues related to homelessness.
- Article IV A. 2. of the HIAC Bylaws limits the terms of Committee Officers (Chair and Vice Chair) to no more than two consecutive terms. Currently, HIAC has an experienced Chair who would be prevented by this rule from serving beyond May 2019. The Committee is requesting that Council approve a one-time exception to this rule to allow the current Chair to continue to serve for an additional year to May 2020.
- Article VI of the HIAC Bylaws limits subcommittee composition to HIAC members only. HUD Continuum of Care funding regulations encourage participation from specific sectors not currently represented at any level in HIAC (i.e. major healthcare systems, behavioral health providers, business leaders, law enforcement etc.) HIAC proposes to amend this section of the Bylaws to allow the appointment of non-HIAC members to subcommittees in order to increase community participation in the work of the Committee. This amendment was previously approved via Resolution No. 18-20, however, the Bylaws were not updated at that time.
- Currently, the HIAC Bylaws specify only a handful of procedures for the Committee to follow. The Committee proposes amending its Bylaws to replace the provision in Article VIII with a new provision regarding Parliamentary Authority. This will require the adoption of Robert's Rules of Order, Newly Revised as parliamentary authority and procedural guidance in situations in which the Bylaws do not specify a particular procedure to be followed. This provision regarding Bylaw Amendments moves to a new Article IX.

### **Council Goal(s):**

- A Connected and Engaged Community

### **Committee(s) and/or workgroups(s):**

- Homeless Initiative Advisory Committee, February 26, 2019 and March 26, 2019 - approved unanimously
- City Council Boards & Commissions Committee March 12, 2019 - approved unanimously

### **Pro(s):**

- Provides continuity of leadership when needed by allowing an otherwise term-limited individual to serve as chair; enables greater community input to subcommittee work by expanding composition to include non-HIAC members; and establishes the use of a widely accepted parliamentary process for more efficient conduct of meetings.

### **Con(s):**

- None

### **Fiscal Impact:**

- None

### **Motion:**

- Move to approve a one-time exception to Article IV, Section A (2), the rule that limits the term of a Committee Chair, to allow the current Chair to serve for an additional one year period to May 2020; to amend Article VI of the HIAC Bylaws to allow participation of non-HIAC members in subcommittees; and to add a new Article VIII to the HIAC Bylaws which will require that Robert's Rules of Order, Newly Revised, be used as parliamentary authority and procedural guidance in situations where the existing Bylaws do not contain a specific procedural requirement.

**RESOLUTION BOOK NO. 40 - PAGE 385**

**K. RESOLUTION NO. 19-90 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH J. BRADY CONTRACTING INC. TO COMPLETE THE HVAC & MECHANICAL MODERNIZATION PHASE FOR THE U.S. CELLULAR CENTER FACILITY RENOVATION & HVAC MODERNIZATION PROJECT**

**ORDINANCE NO. 4739 - BUDGET AMENDMENT FOR THE U.S. CELLULAR CENTER FACILITY RENOVATION & HVAC MODERNIZATION PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to amend the contract with J. Brady Contracting, Inc. in the amount of \$3,378,130 to complete the HVAC & Mechanical Modernization phase for the U.S. Cellular Center (USCC); and Adoption of a budget amendment in the amount of \$1,200,000 from the USCC fund balance.

**Background:**

- This three phase project provides 1) flexible theater seating in the arena, a sound and lighting package, 2) converts a storage room into a press/meeting room with additional supporting projects including the expansion of storage for the displaced room, and 3) modernization of the building's 1970's era HVAC system.
- The project was included in the City's 2016-17 fiscal year capital improvements budget for the amount of \$3,290,600. The project is partially funded by a \$1,500,000 grant from the 2016 Tourism Product Development Fund.
- The first two phases of the project are complete with the HVAC Modernization phase remaining.
- On August 28, 2018, City Council authorized a contract amendment to begin the facility renovation (press/meeting room renovation and storage expansion). This phase was completed in November 2018.
- The City is using the Construction Manager at Risk (CMAR) delivery method, and is contracted with J. Brady Contracting, Inc. to complete the facility renovations and HVAC modernization.
- The CMAR delivery method groups the work into smaller "bid packages".
- The minority business participation (MBE) for the CMAR contract will exceed \$396,250. This amount is 10.1% of the overall construction value of this contract.

**Council Goal(s):**

- A Thriving Local Economy
- A Clean and Healthy Environment

**Committee(s):**

- Finance Committee March 26, 2019 - approval to move forward to Council

**Pro(s):**

- Improves the venue's ability to host a wider range of events.



- Reduces energy consumption with new efficient equipment or with upgrades to existing equipment with intelligent controls.
- Capital investments will provide reliable building infrastructure, reducing repair costs, and downtime associated with broken HVAC equipment.
- Achieves MBE participation exceeding 10% of the construction value.

**Con(s):**

- Redirecting budget from other capital maintenance projects means that less funding is available in the short term for other deferred maintenance needs.

**Fiscal Impact:**

- Funding for this contract amendment will come from the existing US Cellular Capital Maintenance Project budget and USCC fund balance. An additional \$1,875,000 is needed to fully fund this project.
- \$675,000 from the existing USCC Capital Maintenance Fund budget will be redirected to this project, and \$1.2 million will come from USCC fund balance.
- The USCC Operating Fund has performed better than budgeted in each of the last two fiscal years. As a result, USCC fund balance was approximately \$1.4 million above the City's fund balance policy goal at the end of Fiscal Year 2017-18. After the \$1.2 million appropriation being proposed for this project, USCC fund balance will be \$200,000 above the City's fund balance policy goal. Staff recommends leaving that amount in fund balance to cushion against potential future downturns in performance.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to amend the contract with J. Brady Contracting, Inc. in the amount of \$3,378,130 to complete the HVAC & Mechanical Modernization phase of the U.S. Cellular Center Improvements project; and to adopt the associated budget amendment.

**RESOLUTION BOOK NO. 40 - PAGE 387  
ORDINANCE BOOK NO. 32 - PAGE 351**

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

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

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

**III. PRESENTATIONS & REPORTS:**

**A. WATER SYSTEM UPDATE**

Director of Water Resources David Melton provided Council with an update on the water discoloration test results, noting communication improvements moving forward. He encouraged anyone who would like to receive updates and communications to sign up for AVLAlert on the City's website. This will send out alerts during significant events and clearly state what to do.

**B. PARKING AT MEMORIAL STADIUM/MCCORMICK FIELD/MOUNTAINSIDE PARK**

Director of Parks and Recreation Roderick Simmons and Transportation Director Ken Putnam provided Council with an update on parking at Memorial Stadium/McCormick Field, and responded to Council's questions raised.

The following individuals spoke about inadequate parking at Memorial Stadium/McCormick Field/Mountainside Park due to the Asheville Tourists games, pushing some vehicles to park on the turf at Memorial Stadium and others to park in surrounding neighborhood streets:

Representatives of Asheville Ultimate Club  
Michael Stratton  
Representatives of the soccer community  
Jonathan Wainscott  
A gentleman

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

**A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING ON PROPERTY LOCATED AT 3 AVON ROAD FROM COMMERCIAL BUSINESS I DISTRICT TO COMMERCIAL BUSINESS I/CONDITIONAL ZONE FOR THE CONSTRUCTION OF A NEW BUNCOMBE COUNTY EAST ASHEVILLE LIBRARY BRANCH BUILDING**

**ORDINANCE NO. 4740 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 3 AVON ROAD FROM COMMERCIAL BUSINESS I DISTRICT TO COMMERCIAL BUSINESS I/CONDITIONAL ZONE FOR THE CONSTRUCTION OF A NEW BUNCOMBE COUNTY EAST ASHEVILLE LIBRARY BRANCH BUILDING**

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 3 Avon Road from Community Business I District to Community Business I District/Conditional Zone for the construction of a new Buncombe County East Asheville Library Branch building. This public hearing was advertised on March 15 and 22, 2019, for the March 26, 2019, meeting; however, on March 26, 2019, this public hearing was continued to this date.

#### **Project Location and Contacts:**

- The project site consists of a 1.8 acre portion of a single parcel located at 3 Avon Road (PIN 9658.87-7320) that is owned by the City of Asheville.
- Owner: City of Asheville; Petitioner: Buncombe County; Contact: Gary Davis.

#### **Summary of Petition:**

- The proposal is for the construction of a new approximately 15,000 square foot Buncombe County East Asheville Branch library building with associated parking, recreation, access and landscaping improvements. The new building will be a single story in height.
- The proposed CB1 CZ zoning would be applied to only the rear portion of the site and excludes the frontage along Tunnel Road, which contains the Fire Station No. 8 building.
- The project includes resurfacing the basketball court in its existing location, relocating the playground amenity within the site and providing new play equipment.
- Vehicular access generally remains in the existing locations, with the single driveway cut from Avon Road and a single cut from Lynnstone Court. 50 parking spaces will be provided.
- The subject site is located along the E2 and I70 lines of the ART bus system and there is an existing transit shelter at the corner of Tunnel Road and Avon Road.

- There are existing sidewalks along Avon Road that lead to the transit shelter. A new five foot sidewalk will be provided behind a grass strip along the entire length of Lynnstone Court.
- There have been ongoing public meetings to solicit input from users of the library to best design the building and site for the needs of the community.
- Staff has recommended the following condition and the applicant has agreed:
  - An enhanced pedestrian crossing at Tunnel Road will be provided at a location to be determined through coordination with the City's Transportation Department and the North Carolina Department of Transportation. The enhanced pedestrian crossing may include a pedestrian activated signalized crossing maximizing use of the existing emergency access traffic signal as well as minor sidewalk, ramps, and signage/pavement markings as needed.
- The applicant is requesting the following conditions to be approved for this project (staff is supportive of these conditions):
  - Increase in footprint and gross floor area (maximum allowed per code is 6,000 SF footprint and 12,000 SF gross floor area).
  - Parking closer to the street than the edge of the structure on Lynnstone due to existing basketball courts and open space use.
  - Decreased channelized storage for the parking lot entrances to Avon Road to 33 feet and on Lynnstone Court to 15 feet (standard is 45 feet for 50 or more parking spaces).
  - Grading will occur within a portion of the buffer near the new building site and will be replanted according to the requirements of Unified Development Ordinance (UDO) Section 7-11-3 but will have areas where the slope is 2:1 (maximum allowed is 3:1). Additionally, the roof overhang will encroach approximately 18 inches into the buffer area.

**Comprehensive Plan Consistency:**

- The Living Asheville Comprehensive Plan Future Land Use Map identifies this area as a Traditional Corridor, where community-based service uses such as this are anticipated. Tunnel Road is identified as a transit-supportive corridor, in which development should support transit, and vice-versa. This project includes improved pedestrian connectivity and an existing bus shelter. Living Asheville also notes the need to continue to serve a growing, diverse population, which the library will help achieve.

**Compatibility Analysis:**

- The new single story library building is compatible with the surrounding building types and uses.
- The library, basketball courts and playground are existing on the site (and will be improved and/or relocated ), while all existing uses will remain.
- Preservation of existing landscaping material will maintain the existing buffer against the adjacent residentially-zoned properties.
- While the size of the building exceeds the standard for the zoning district, the justifications result from extensive community input and result in a structure that functions in a more usable and accessible way.

**Council Goal(s):**

- A Well-Planned and Livable Community
- Transportation and Accessibility

**Committee(s):**

- Technical Review Committee - February 18, 2019 - approved with conditions
- Planning and Zoning Commission - March 6, 2019 - recommended approval (5-0)

- Recreation Board - March 11, 2019 - presentation made

**Staff Recommendation:**

- Staff supports the proposed rezoning in that: 1) it meets most of the standards of the UDO and the deviations from the standards are due to programming that better meets the needs of the entire community; 2) is an improvement to existing uses in place; 3) the existing zoning district is appropriate and supportive of community-based uses; and, 4) the site plan includes landscaping improvements and enhanced pedestrian connectivity.

Maggie DeLap, project architect for the east Asheville Library, said the east Asheville community has been very involved throughout this process. There have been numerous meetings with the community and the Library's Advisory Board. A one-story building of this size is truly the ideal form to economically build and operate and the best way to serve this community.

Mayor Manheimer opened the public hearing at 6:51 p.m.

An east Asheville resident spoke in support of the conditional zoning.

Mayor Manheimer closed the public hearing at 6:52 p.m.

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

Vice-Mayor Wisler moved to approve the conditional zoning request for the East Asheville Library from Community Business I (CBI) to Community Business I Conditional Zone (CBI CZ) for the construction of a new library building and site upgrades and find that the request is reasonable, is in the public interest and aligns with the city's comprehensive plan in the following ways: 1) this is an improvement to existing uses in place; 2) the existing zoning and Future Land Use category in place are appropriate and supportive of these community-based uses; 3) upgrades to parking and landscaping will enhance the site; and, 4) the proposal is aligned with strategies found in the City's comprehensive plan regarding activating the pedestrian experience, siting uses along corridors that are supported by transit, providing spaces available to all members of the community and upgrading community facilities to serve a growing city population. This motion was seconded by Councilwoman Smith and carried unanimously.

**ORDINANCE BOOK NO. 32 – PAGE 353**

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 19-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GROUND LEASE WITH BUNCOMBE COUNTY FOR THE EAST ASHEVILLE LIBRARY LOCATED ON CITY-OWNED PROPERTY AT 902 TUNNEL ROAD**

Real Estate Program Director Nikki Reid said that this is the consideration of a resolution authorizing the City Manager to execute a ground lease with Buncombe County for the East Asheville Library.

**Background:**

- The City of Asheville owns a 2.76 acre parcel at 902-904 Tunnel Road and several uses are contained within the site (PIN 9658-87-7320-00000). At this property, Buncombe County has operated the existing East Asheville Library for many years based on a verbal agreement. Asheville Fire Station #8 is located in front of the library on the property.
- The property includes a former City recreation center that has been leased to LEAF for offices. The lease with LEAF will expire at the end of June 2019. The site also has a City maintained public playground, basketball court and parking.
- Buncombe County has developed plans to construct a new \$5.8M library facility on a 1.8 acre portion of the property (the "Leased Premises"). The existing library and community center would be demolished and new facilities rebuilt within the proposed lease area.
- The new library would be a 14,800 square foot, one story complex and would include multi-use areas for different age groups, staff offices, a large meeting room, parking and a cafe.
- A new playground is included as part of the library improvements and the existing basketball court will be resurfaced. A parking lot would separate the library use from the existing fire station. The County will also construct an enhanced pedestrian crossing at Tunnel Road as detailed in the associated Conditional Zoning petition.
- Buncombe County has requested a 99 year lease at \$1.00 per year and will take responsibility for all maintenance of improvements and grounds within the lease area, to include the playground and basketball courts. The library improvements will serve as a community meeting space for East Asheville in place of the City's recreation center. The Leased Premises will have an address of 3 Avon Road.
- The City's fire station will retain the ability to expand toward Lynnstone Court in an easterly direction.
- Buncombe County desires to commence demolition and construction in Summer 2019. The City's lease with LEAF expires in June 2019 and LEAF will relocate to the Del Cardo Building on Eagle Market Place. City staff and Buncombe County staff will coordinate with LEAF to ensure a smooth transition as construction / relocation efforts come together.

**Council Goal(s):**

- Well Planned and Livable Community
- Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- The existing improvements have reached end of life
- New East Asheville Library will substantially benefit city and county residents.
- Strengthens the City's partnership with Buncombe County.
- Buncombe County performed extensive community engagement and support for the new library.
- The County will be fully responsible for the operation and maintenance of all improvements on the leased premises, including the renovated basketball courts and the new playground.

**Con(s):**

- None

**Fiscal Impact:**

- The rental consideration is a nominal amount.
- Improvements will be made at no cost to the City.

When Councilwoman Mayfield asked if the City considered selling that portion to Buncombe County, Ms. Reid said that they did not because they felt the lease was a good mechanism to show the partnership and to allow for an ongoing partnership.

When Councilman Kapoor asked if this will continue to be a library, Ms. Reid said that the conditional zoning governs the use as a library.

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

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

Vice-Mayor Wisler moved to approve a resolution authorizing the City Manager to execute a ground lease with Buncombe County for the East Asheville Library. This motion was seconded by Councilwoman Mayfield and carried unanimously.

## **RESOLUTION BOOK NO. 40 - PAGE 388**

### **B. ORDINANCE NO. 4741 - ORDINANCE ADOPTING THE FISCAL YEAR 2019-20 FEES & CHARGES**

Assistant Finance Director of Budget and Forecasting Tony McDowell said that this is the consideration of an ordinance amending the fees and charges manual for Fiscal Year (FY) 2019-20.

#### **Background:**

- Fees and charges comprise 35% of City-wide revenue and 10% of General Fund revenue. Fees generally fall into three categories: general user fees, regulatory fees, and public enterprise fees.
- Fees and charges are reviewed throughout the year.
- Proposed fee adjustments for FY 2019-20 include minor adjustments in the General Fund, along with continued incremental annual increases to Water and Stormwater rates.
- All of the proposed fee adjustments would become effective July 1, 2019, with the exception of changes to the charges on the combined utility bill for water and stormwater, which will become effective September 1, 2019. This ensures that only services provided at the new rate are being billed.
- Staff may bring additional fee adjustments forward as part of the recommended budget presentation in May. Please note that there is one additional fee for small wireless facilities added since the March 26 review by the Finance & Human Resources Committee.

The proposed fee adjustments would generate estimated revenue as follows:

General Fund	\$30,275	Water Capital Reserve Fund	\$98,000
Stormwater Fund	\$304,036	US Cellular Center Fund	\$9,000
Water Operating Fund	\$894,086	Street Cut Fund	\$13,000

**Council Goal(s):** A Financially Resilient City

**Committees:** Finance & Human Resources Committee - March 26, 2019

**Pros:**

- Provides opportunity to recover the cost of services from those that directly utilize or benefit from the service where appropriate, reducing the financial burden of City services on taxpayers.
- Provides additional revenue to help balance the FY 2019-20 budget.
- Allows staff to begin communicating fee changes to citizens, customers, and stakeholders so they are aware of changes that will be implemented on July 1.

**Con:**

- Small increase in the annual costs to Asheville residents and customers.

**Fiscal Impact to Residents:**

- The annual impact to the typical single family household would be as follows:

Water	\$6.60		
Stormwater	<u>\$1.80</u>		
Annual impact	\$8.40	Monthly impact	\$0.70

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 Kapoor moved to approve an ordinance amending the fees and charges manual for Fiscal Year 2019-20. This motion was seconded by Councilwoman Smith and carried unanimously.

**ORDINANCE BOOK NO. 32 – PAGE 362**

**C. RESOLUTION NO. 19-92 - RESOLUTION AMENDING THE ASHEVILLE STANDARD SPECIFICATIONS & DETAILS MANUAL ADDING MICROCELL TECHNOLOGY AND AESTHETIC STANDARDS**

Principal Planner Shannon Tuch said that this is the consideration of a resolution to amend the *City of Asheville Standard Specifications and Details Manual* to add a new "Section 11. Small Wireless Facilities" with said section establishing new standards and details for the installation of small wireless facilities, including equipment boxes, cables and antennae, attached to public utility infrastructure, as well as the establishment of new poles for the purpose of supporting these facilities.

**Background:**

- The City has maintained a technical manual that includes construction standards and details that establishes minimum standards for private and public infrastructure improvements related to developing, redeveloping, and subdividing land, as well as providing necessary rights-of-way, transportation and utility services.
- The current manual was adopted May 13, 2014 and most recently revised and updated June 14, 2016.
- House Bill 310/Session Law 2017-159 was adopted July 21, 2017 and broadly establishes opportunities for new emerging small cell wireless facilities to be added to existing utility (poles) infrastructure, and to install new pole infrastructure where needed. It is anticipated that most small cell wireless installations will occur in public rights-of-way.
- HB 310/SL 2017-159 is a legislative mandate that prohibits municipal regulation that would unduly regulate small cell wireless facilities on public infrastructure but does allow opportunity for some limited "aesthetic" standards to be adopted by cities.

- The Federal Communications Commission's Order number 18-133, which went into effect January 14, 2019, establishes the deadline of April 15, 2019 by which municipalities may publish aesthetic standards for small cell wireless installations.
- While FCC Order number 18-133 is currently being challenged in court by a number of municipalities across the county, City staff believes prudence requires that the City issue its aesthetic standards prior to the April 15, 2019 deadline.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- N/A

**Pro(s):**

- Allows the City to comply with the FCC's April 15 deadline for publishing small wireless facility aesthetic standards.
- Proposes basic standards that would "conceal" installations designed to improve aesthetics over what could occur if left unregulated.

**Con(s):**

- Impact is limited due to the constraints established by the State legislation and Federal regulations.

**Fiscal Impact:**

- Legislation imposes a limit on fees at a maximum of \$500 per application, with up to 25 sites included in a single application. Cost recovery for a typical application is not yet known. A new fee has been added to the City's Fees & Charges.

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

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

Vice-Mayor Wisler moved to adopt a resolution amending the *City of Asheville Standard Specifications and Details Manual* to add a new "Section 11. Small Wireless Facilities" with said section establishing new standards and details for the installation of small wireless facilities attached to public utility infrastructure, as well as the establishment of new poles for the purpose of supporting these facilities. This motion was seconded by Councilman Young and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 389**

**D. BOARDS & COMMISSIONS**

**RESOLUTION NO. 19-93 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE**

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

Mr. Jayden Gurney (resident of Housing Authority property) resigned, thus leaving an expired term until June 30, 2019.



The following individual applied for the vacancy and meets the requirements: Sandy Aldridge..

Vice-Mayor Wisler moved to appoint Sandy Aldridge (resident of Housing Authority property) to serve the unexpired term of Mr. Gurney, term to expire June 30, 2019, and then a full three-year term, term to expire June 30, 2022, or until her successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 390**

**RESOLUTION NO. 19-94 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION**

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

Jay Miller resigned as a member of the Public Art & Cultural Commission, thus leaving an expired term until June 30, 2020.

The following individuals applied for the vacancy: Mariana Avila Llorente, Karen Depew, Karin Peterson, Travis Smith, Jasmine Washington, Nadita Vyas, Honor Moor and Anne Manner-Mclarty.

Vice-Mayor Wisler moved to appoint Jasmine Washington to serve as a member of the Public Art & Cultural Commission, to serve the unexpired term of Mr. Miller, term to expire June 30, 2020, or until her successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

**RESOLUTION BOOK NO. 40 - PAGE 391**

**RESOLUTION NO. 19-95 - 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.

Shawn Swartz resigned as a member of the Tree Commission, thus leaving an expired term until December 31, 2019.

The following individuals applied for the vacancy: Chip Hood, Patrick Gilbert, Jonathan Watterson, Tommy Masters and Robert Brown.

Vice-Mayor Wisler moved to appoint Patrick Gilbert to serve as a member of the Tree Commission, to serve the unexpired term of Mr. Swartz, term to expire December 31, 2019, or 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:**

Lt. Colonel of the NC Army National Guard Chris Castro explained that in his role with the NC National Guard, he works at the behest of the Selective Service System in Washington, D.C.. The Selective Service System reimburses the Army Guard for their salaries, in exchange for

Guard members performing a recruiting function for Local Board members. Most people are not aware of the fact that counties throughout the nation have Local Boards comprised of citizen volunteers. These volunteers fulfill a vital role in ensuring that our draft system is ready, in case the need were to arise for a draft. Of course, as you are aware, our military is functioning just fine with an all-volunteer force. However, the Selective Service System exists in case of national emergency. His job is to staff each local board with five civilian volunteers, and to provide those volunteers with training. Currently, there are two openings in Buncombe County for Local Board members. The wonderful thing about the position is that the particular volunteer really has no job requirement – as the draft is not in place. Once they are selected, we send to them, via email, a Power Point training package to complete at their leisure. Furthermore, this is a Presidential appointment. The appointment is routed through the Governor's office, but is completed by the Governor on behalf of the President. In his recruitment process, he meets with the potential board member and discusses the position. They complete an application, which is then analyzed by the Selective Service System Regional Office. The Regional Office then forwards the application to the Governor of North Carolina for their approval. Once approved, the new Board Member receives a certificate from the Governor's office. To be eligible, a person has to be eighteen years of age, and cannot be in law enforcement or in a prosecutorial role. They also cannot be a retired member of the military. Veterans, of course, are welcomed – they just cannot be receiving retirement pay from a branch of the military.

Deanna Williams spoke about potential \$1 Million funding from the U.S. Dept. of Housing and Urban Development for homeless youth.

Sharon Sumrall spoke to Council about the need for an urban forester.

Amy Kemp spoke to Council about her concerns related to development and aesthetics of the boundaries of downtown.

Rob and Zach Hebb spoke against abortion.

Reid Thompson and Velvet Hawthorne spoke to Council about truck violations and noise on Maxwell Street.

Jonathan Wainscott spoke to Council regarding district elections.

An east Asheville resident urged Council to oppose turning the Flat Iron Building into a hotel.

### **Closed Session**

At 7:36 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, but not limited to a lawsuit, or potential lawsuit. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilwoman Mayfield and carried unanimously.

At 8:23 p.m., Councilman Kapoor to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:23 p.m.

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CITY CLERK

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MAYOR