

Tuesday – September 10, 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

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer invited the public to the City of Asheville 911 Remembrance Ceremony at 8:30 a.m. on September 11, 2019, in front of the Municipal Building. This ceremony will pay solemn tribute to those who heroically sacrificed their own lives to save thousands of others and to remember those who helped in the rescue/recovery efforts that followed at ground zero.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 8-14, 2019, AS “2019 NATIONAL SUICIDE PREVENTION WEEK”

Mayor Manheimer read the proclamation proclaiming September 8-14, 2019, as "2019 National Suicide Prevention Week " in the City of Asheville. She presented the proclamation to Nicole Rikard, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 2019

B. RESOLUTION NO. 19-203- RESOLUTION TO NAME TENNIS COURT 1 AT THE ASTON PARK TENNIS CENTER IN MEMORY OF LEWIS ISAAC

Action Requested: Adoption of a resolution naming Court 1 at Aston Park Tennis Center located at 336 Hilliard Ave. in memory of Lewis Isaac.

Background:

- Pursuant to the City’s public property naming policy, Parks & Recreation staff requests the naming of a tennis court 1 at Aston Park Tennis Center in memory of Lewis Isaac.
- Mr. Lewis Isaac was a retired City of Asheville employee in the Human Resources Dept. (7 years) and the Parks & Recreation Department (3 years).
- Mr. Lewis Isaac served on the Recreation Advisory Board.
- Mr. Lewis Isaac was an avid tennis player and supporter of Aston Park Tennis Center.
- Mr. Lewis lived a life of service to his community in both his professional life and personal life. He served on numerous boards and commissions.
- This action is supported by Asheville Tennis Association and many other people and organizations.

Council Goal(s):

- Well-Planned and Livable Community
- Diverse Community

Committee(s):

- Recreation Advisory Board - July 8, 2019 - unanimous support

Pro(s):

- Recognize a dedicated public servant.
- Honor a volunteer and tennis player at a location that he dedicated time, energy and resources.

Con(s):

- None

Fiscal Impact:

- It is estimated that the plaque and installation may cost up to \$2,000. These funds are available in the Parks & Recreation operating budget.

Motion:

- Move to adopt a resolution to name Court 1 at Aston Park Tennis Center located at 336 Hilliard Avenue in memory of former Parks & Recreation employee Lewis Isaac.

At the request of Councilwoman Mayfield, City Clerk Burleson said that she would advise City Council when the ceremony honoring Mr. Isaac was set.

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C. ORDINANCE NO. 4759 - BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION FOR SECTION 5310 FUNDS

Action Requested: Adoption of Budget Amendment in the amount of \$329,294 from Federal Transit Administration Section 5310 Funds (NC-2019-017).

Background:

- At its March 12, 2019, meeting, City Council approved a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization for Section 5310 Funds, and to accept the grants and sign all the appropriate agreements with the French Broad River Metropolitan Planning Organization, Federal, and/or State agencies.
- The purpose of the Section 5310 funding program is to improve mobility for seniors and individuals with disabilities by removing barriers to transportation services and expand transportation mobility options.
- These are Federal Transit Administration (FTA) funds under Award # NC-2019-017 for the Enhanced Mobility of Seniors and Individuals with Disabilities program that the City is the designated recipient for the region. The funds will be distributed to each of the applicants via an application process through the Metropolitan Planning Organization.
- The City is responsible for overseeing and disbursing the funds to the applicants. The chart below outlines the amount funded for each recipient.
- The budget amendment will provide expenditure authorization for the \$329,294 in grant funds.

Subrecipient	Project	Amount	Local Match
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City of Asheville	ADA Paratransit	\$135,000	\$33,750
Buncombe County	SED TAP	\$46,575	\$11,644
Council on Aging	Call-A-Ride and SWS	\$16,311	\$16,311
Land of Sky Regional Council	Senior Companion Program	\$33,426	\$33,426
Buncombe County	RIDE Vouchers Program	\$60,053	\$60,053
Madison County	Senior Center/Meal Sites Transportation	\$5,000	\$5,000
City of Asheville	Program Administration	\$32,929	N/A

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- Project funding is provided by the FTA, 50% of operating projects and 80% of capital projects. The sub-recipients are responsible for their local match.
- The City is provided \$32,929 for administration purposes, which does not require a local match.

Con(s):

- None

Fiscal Impact:

- The total grant award for the projects is \$329,294 and will be funded with Federal Funds.
- As noted above, \$32,929 will be reimbursed to the city for administrative costs, and Asheville's local match for the provision of the Americans with Disabilities Act paratransit services totals \$33,750.
- The City's local match in the amount of \$33,750, is already budgeted in the Adopted Transit Services Fund Fiscal Year 2019-20 budget.

Motion:

- Motion to adopt a budget amendment in the amount of \$329,294 from Federal Transit Administration Section 5310 Funds (NC-2019-017).

ORDINANCE BOOK NO. 32 - PAGE 412

- D. RESOLUTION NO. 19-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO ISSUE A JOINT REQUEST FOR PROPOSALS IN THE DEVELOPMENT SERVICES FOR DUKE ENERGY'S GREEN SOURCE ADVANTAGE PROGRAM**

Action Requested: Adoption of a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to issue a joint Request for Proposal (RFP) in the development services for Duke Energy's Green Source Advantage Program.

Background:

- The City of Asheville will enter into an interlocal agreement with Buncombe County to give authority to issue a joint Request for Proposal (RFP) for development services for Duke Energy's Green Source Advantage Program.
- [Duke Energy's Green Source Advantage Program](#) provides the opportunity to support renewable energy development in North Carolina for military installations, University of North Carolina institutions, and large business customers.
- This program was established by the Competitive Energy Solutions Law (HB 589) and was approved by the Utilities Commission on February 1, 2019. Applications will be accepted by Duke Energy starting on October 1, 2019. It is available on a first come, first serve basis.
- The intention of the RFP is to secure a purchased power agreement and renewable energy credits from a private supplier of solar energy in the Duke Energy Progress territory.
- Buncombe County staff will administer the RFP. The City will have a role in the selection of and negotiations with the responsive bidder.

Council Goal(s):

- A Clean and Healthy Environment
- A Connected and Engaged Community

Committee(s):

- Planning and Economic Development Committee - August 29, unanimous approval

Pro(s):

- Supports Resolution 18-279 to transition municipal operations to 100% renewable energy by 2030
- An interlocal agreement with Buncombe County will increase the requested demand (megawatts) which will attract larger solar developers.

Con(s):

- None

Fiscal Impact:

- None at this time. If staff determines that responsive bidders provide a fiscally viable option, a contract will be executed between the City, responsive bidder, and Duke Energy and will be funded through the Green Revolving program subject to further approval by the City.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to issue a joint RFP in the development services for Duke Energy's Green Source Advantage Program.

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- E. RESOLUTION NO. 19-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE A RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST**

**RESOLUTION NO. 19-206 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO APPROVE A RESOLUTION MAKING PROVISIONS FOR THE
POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR
UNFORTIFIED WINE AT THE WICKED HALLOWEEN 5K & FUN RUN**

**RESOLUTION NO. 19-212 - 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 GOOMBAY FESTIVAL**

Action Requested: Adoption of resolutions to permit the possession and consumption of malt beverages and/or unfortified wine at Asheville Oktoberfest, the Wicked Halloween 5K & Fun Run, and the Goombay Festival.

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 Downtown Association for Asheville Oktoberfest, to occur at Pack Square Park on October 5, 2019, from 1:00 p.m. - 6:00 p.m.
 - Charity Water for the Wicked Halloween 5K & Fun Run, to occur Carrier Park on October 19, 2019, from 8:00 a.m. - 2:00 p.m.
 - YMI for Goombay Festival, to occur September 20, 21, 22, 2019, at an approved event site map location along Eagle/Market Street area, alcohol sales not to exceed 5 p.m. - 10 p.m. on September 20, and 10 a.m. - 10 p.m. on September 21.
- 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 Asheville Oktoberfest, the Wicked Halloween 5K & Fun Run, and the Goombay Festival.

**RESOLUTION NO. 19-205 - RESOLUTION BOOK NO. 41 - PAGE 68
RESOLUTION NO. 19-206 - RESOLUTION BOOK NO. 41 - PAGE 71
RESOLUTION NO. 19-212 - RESOLUTION BOO KNO. 41 - PAGE 79**

F. RESOLUTION NO. 19-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AMENDMENT WITH CROWN CASTLE (D/B/A PINNACLE TOWERS LLC) TO CONTINUE THE CITY'S PRESENCE ON THE TELECOMMUNICATIONS TOWER LOCATED AT 1599 SPIVEY MOUNTAIN

Action Requested: Adoption of a resolution authorizing the City Manager to renew the telecommunications lease between the City of Asheville and Crown Castle (DBA Pinnacle Towers) at Spivey Mountain.

Background:

- The City of Asheville leases space on a telecom tower located on Spivey Mountain for public safety communications. The original lease between Crown Castle and the City of Asheville was signed in May of 2001.
- This lease has been amended several times and is set to expire in 2021. The current rental amount is \$3,775.08 per month with a 4% annual escalation rate. The monthly rate will increase to \$3,926 in 2020 and then to \$4,083 in 2021. The City has the right to terminate the lease at 90 days notice.
- The original term was 60 months (5 years) with three automatic renewals of five years each. Because of its importance to the City's public safety communications, new terms have been negotiated well in advance of the scheduled termination.
- Crown Castle has agreed to lower the escalation rate to 3% and the rental amount will continue at \$4,083 as the existing lease ends in 2021. The proposed new term is an extension of 10 years, plus one renewal of five years. City staff recommends acceptance of these terms.

Council Goal(s):

- Financially Resilient City.

Committee(s):

- None

Pro(s):

- The City's presence on this tower will be stabilized with a 10 year term, plus a five year renewal.
- The current escalation rate will be reduced to 3%.

Con(s):

- None

Fiscal Impact:

- The current and future rental payments are budgeted in the Information Technology Department's Operational budget. Once the new lease takes effect in 2021, the rental payments will commence at \$4,083 per month and escalate by 3% each year.

Motion:

- Move to adopt a resolution authorizing the City Manager to sign a lease amendment with Crown Castle to continue the City's presence on the tower.

G. RESOLUTION NO. 19-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MISSION HOSPITAL ACCEPTING A DONATION TO BE USED FOR THE CONSTRUCTION OF A BUS SHELTER IN THE VICINITY OF LIVINGSTON STREET

ORDINANCE NO. 4760 - BUDGET AMENDMENT FOR THE CONSTRUCTION OF THE BUS SHELTER IN THE VICINITY OF LIVINGSTON STREET

Action Requested: Authorize the City Manager to adopt (1) a resolution to execute an agreement with Mission Hospital accepting a donation of up to \$30,000 to be used for the construction of a bus shelter in the vicinity of Livingston Street; and (2) a budget amendment in the amount of \$30,000 in the Transit Capital Projects Fund for the construction of the shelter.

Background:

- Mission Hospital received a Conditional Use Permit during October 2015 for the construction of the North Tower, which is nearing completion.
- One of the B-1 conditions required Mission Hospital to provide \$30,000 to the City for the construction of a bus shelter.
- The shelter was to be constructed as part of the City's larger Livingston Street improvement project; however, that project is currently on hold and no shelter has been constructed.
- In order to receive the certificate of occupancy and meet the B-1 condition in the Conditional Use Permit, Mission Hospital and the City propose to execute an agreement whereby Mission Hospital would provide the City with \$30,000, which would be allocated to the Transit Capital Fund, and the City would construct the shelter either when it moves forward with the Livingston Street project or as a separate project.
- The Agreement does not include a deadline for construction of the shelter by the City.
- The City would provide Mission Hospital with a refund of any remaining funds after the shelter is constructed.
- The Agreement would enable Mission Hospital to receive their certificate of occupancy (assuming all other requirements of the project have been met).

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- Provides funding for the City to install a transit shelter that will serve the S4 route within the vicinity of Mission Hospital on Livingston Street.
- Enables Mission Hospital to receive the certificate of occupancy when the project is completed.

Con(s):

- None

Fiscal Impact:

- Since the funds will be provided by Mission Hospital, no City funds are impacted in the Transit Capital projects budget.

Motion:

- Move to authorize the City Manager to adopt (1) a resolution authorizing the City Manager to 1. Execute an agreement with Mission Hospital accepting a donation of up to

\$30,000 to be used for the construction of a bus shelter in the vicinity of Livingston Street; and (2) a budget amendment in the amount of \$30,000 in the Transit Capital Projects Fund for the construction of the shelter.

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H. RESOLUTION NO. 19-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HARRISON CONSTRUCTION, DIVISION OF APAC-ATLANTIC, FOR THE CHARLOTTE STREET ROAD DIET PROJECT

Action Requested: Adoption of a resolution authorizing the City Manager to enter into a contract with Harrison Const., Division of APAC-Atlantic, Inc. in the amount of \$973,556.10 for the construction of the Charlotte Street Road Diet project and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$64,694 (6.7%).

Background:

- In April 2018, City Council via Resolution 18-93 directed staff to implement a road diet and make spot safety improvements as part of the Charlotte Street Improvements project.
- In November 2018, Council authorized the City Manager to execute a design contract for these improvements.
- Design, engineering, and public engagement continued through the Spring of 2019.
- Construction bids were advertised on July 15, 2019 with the original bid opening scheduled for August 15th. Because only two bids were received, the project was re-advertised and bids were opened on August 22, 2019. No additional bids were submitted. Contractor names and bid amounts are listed below:
 - Harrison Construction, Division of APAC-Atlantic, Inc. (Candler, NC) \$973,556.10
 - Bryant's Land Development Industries, Inc. (Burnsville, NC) \$1,364,546.10
- Harrison Construction was the lowest responsive, responsible bidder.

Vendor Outreach Efforts:

- Staff performed outreach to minority and women-owned business through solicitation processes which included posting on the State's Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- 14.48% of the total dollar amount of this contract will be performed through a certified MWBE. New Dimensions in Pavement Markings from Fletcher, NC and Hamilton Hauling from Candler, NC are the certified MWBE subcontractors on this project.

Council Goal(s):

- Transportation and Accessibility
- A Well Planned and Livable Community

Committee(s):

- Multimodal Commission - May 22, 2019 - Informational only; no vote requested

Pro(s):

- Currently listed in the adopted Capital Budget and is consistent with City Council's direction related to the Charlotte Street Road Diet and safety improvement recommendations provided in April 2018.

- Implements multi-modal principles.
- Enhances travel safety for multiple modes of transportation.

Con(s):

- Possible reduced levels of service for automobiles and increased queue lengths during peak hours with a maximum projected delay of 18.8 seconds.

Fiscal Impact:

- The Charlotte Street Improvements project has been listed in the Capital Improvement Program document since Fiscal Year (FY) 2014-15. The adopted budget for the project is \$1,250,000.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Harrison Construction Division of APAC-Atlantic, Inc. in the amount of \$973,556.10 for the construction of the Charlotte Street Road Diet project and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$64,694 (6.7%).

At the request of Councilwoman Smith, Director of Transportation Ken Putnam, along with Capital Projects Director Jade Dundas, responded to questions related to this project related to emergency access and stormwater infrastructure issues.

Mr. Sidney Bach urged City Council to suspend this major City road project pending completion of a professional Traffic Impact Analysis (TIA) by a firm acceptable to the City, especially since the City will not have to contribute to the costs of this TIA and the contractor can't start on the project until February 2020. He provided Council with an excerpt from the August 2013 Charlotte Street Corridor Traffic Study Report that reads in part "... it is difficult to identify tangible benefits justifying moving forward with the project as currently defined."

Mr. Jonathan Wainscott also supported suspending the project, noting that there are many other more immediate infrastructure needs.

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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.

Councilwoman Mayfield moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS: None

IV. PUBLIC HEARINGS:

- A. PUBLIC HEARING TO CONSIDER REZONING TWO LOTS LOCATED AT 120 EMMA ROAD AND 99999 EMMA ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RIVER ARTS DISTRICT - OPEN SPACE**

ORDINANCE NO. 4761 - ORDINANCE TO REZONE TWO LOTS LOCATED AT 120 EMMA ROAD AND 99999 EMMA ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RIVER ARTS DISTRICT - OPEN SPACE

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to rezone two lots located at 120 Emma Road and 99999 Emma Road from RS-2 Residential Single-Family Low Density District to River Arts District - Open Space. This public hearing was advertised on August 30 and September 6, 2019.

Action Requested: Rezone portions of two properties located at 120 and 99999 Emma Road (PINs 9639-70-7269 & 5433) from RS-2 to RAD-OSP and amend the City's future land use map for the purpose of supporting recreational activities and other uses compatible with the limitations of the existing flood hazard areas.

Background:

- The subject properties are 1.10 and 1.20 acres respectively, and are both zoned RS-2.
- The properties are located along Emma Road in the River Arts District area, very close to the French Broad River.
- The rezoning petition requests to rezone only the eastern half of each parcel.
- The properties are bi-sected by Emma Road with most of the eastern half of each parcel largely falling within the regulated floodway of the French Broad River.
- The western half of 120 Emma Road is developed with a single family home; the western half of 99999 Emma Road remains undeveloped.
- The properties are bordered by RS-2 zoning to the west and north, RAD-RIV to the east across the river, and RAD-OSP to the south.
- The purpose of the RS-2 zoning district is to establish a low density for single-family dwellings and other compatible uses in recognition of environmental constraints such as, but not limited to, steep slopes, impervious soils, high water tables, and flooding. The RS-2 zoning designation does not allow for business uses.
- The purpose of the RAD-OSP is intended to provide for public park and recreational facilities, natural areas, trails, wetlands, and similar types of open space owned/leased and managed by a local government.
- The portions of the properties that are proposed to be rezoned are identified as *Residential Neighborhood* on the Future Land Use map which describes what are typically lower density, single family homes that are part of a larger community masterplan. These properties may require some separation of heavier industrial uses from more sensitive uses but can generally be appropriate neighbors to other commercial or mixed-use areas (p. 346).
- The rezoning proposal, if approved, will necessitate a change to the Future Land Use map to *Parks / Open Space* which is reserved for active and passive open space, and is an important component of a sustainable community.

Council Goal(s):

- A Clean and Healthy Environment
- A Thriving Local Economy

Committee(s):

- This request was reviewed by the Planning & Zoning Commission at their July 18, 2019, meeting where it was recommended for approval, 7:0.

Pro(s):

- Assigns a classification that is consistent with the existing environmental constraints (floodway).

- Allows opportunity for active recreational uses.
- Preserves the existing single-family use which will remain conforming.

Con(s):

- Requires two different zoning categories for the same parcel (split-zone).

Fiscal Impact:

- None

Staff Recommendation:

- Staff finds that the natural limitations of the property will prevent further development under the existing zoning designation and a rezoning would allow for other, compatible open space uses of land that would not preclude the use of property for single-family use. Staff is supportive of the request.

Mayor Manheimer opened the public hearing at 5:34 p.m., and when no one spoke, she closed the public hearing at 5:34 p.m.

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

Vice-Mayor Wisler moved to approve the rezoning request from Residential Single-family, Low Density (RS-2) to River Arts District - Open Space (RAD-OSP), and find that the request and resulting Future Land Use Map amendment from Residential Neighborhood to Parks/Open Space, is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans and meets the development needs of the community in the following ways: the rezoning will, 1) be consistent with existing environmental constraints of the properties; 2) will allow opportunities for active recreation, and 3) preserves the existing single-family use. This motion was seconded by Councilwoman Smith and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF THREE PARCELS FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT EXPANSION/ CONDITIONAL ZONING FOR THE CONSTRUCTION OF A MIXED-USE BUILDING AT 71 BROADWAY AND 61 AND 67 NORTH MARKET STREET

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone three parcels from Central Business District to Central Business District Expansion/Conditional Zone for the construction of a mixed-use building at 72 Broadway Avenue and 61 and 67 North Market Street. This public hearing was advertised on August 30 and September 6, 2019.

Action Requested: Consider adoption of a conditional zoning petition for property currently zoned Central Business District (CBD) to Central Business District Expansion Conditional Zone (CBD EXP CZ)

Project Location and Contacts:

- The project site consists of three parcels with a combined area of 0.56 acres located at 72 Broadway Street and 61 and 67 North Market Street (PINs 9649.41-2358, 9467.41-3451 and 9469.41-3355) owned by S&R Investment Company and Broadway Lot LLC.

- Petitioner: Birju Patel; Contact: Chris Day.

Summary of Petition:

- The proposal is for a new mixed-use building containing 138 hotel rooms, 37 residential units (including affordable and live/work units), approximately 1,187 square feet of retail space, and additional restaurant/bar space within the building associated with the hotel use.
- The petition includes a rezoning via conditional zoning from Central Business District (CBD) to Central Business District Expansion Conditional Zone (CBD EXP CZ) due to the lodging use, which is prohibited in the CBD zoning district.
- The Future Land Use category is Downtown, where lodging and mixed-use developments are permitted as described in the Comprehensive Plan Consistency section of this report.
- There are two small buildings that would be removed if approved, both are contributing resources to the Downtown National Register District (built in 1947 and 1934, respectively) but neither is noted as being individually significant.
- The building is shown as nine stories with a height of 74 feet (approximately 88 feet to the top of the roof).
- The project includes compliant 12 foot wide sidewalks on both frontages, both of which are considered “key pedestrian streets.” Both frontages provide street trees.
- The proposal includes a mid-block pedestrian connection along the north face of the building with a width between six and 10 feet.
- Vehicular access to the development is a single driveway from North Market Street that provides access to approximately 126 structured parking spaces (parking is only required for the lodging use at a range between 69-138 spaces). Guest drop-off for the hotel use is internal to the building as prescribed by the Unified Development Ordinance, with the lobby located on the top level to maintain active commercial space along the ground-level (retail space on Broadway and live/work units along North Market Street).
- Two existing curb cuts along Broadway will be eliminated, and with this action there is the possibility to gain some on-street parking. One driveway cut will remain on North Market Street.
- There is a portion of an existing alley that dead-ends within the project site. The closure of the end portion of this right-of-way is following the City’s process and will necessitate action by City Council. There is a condition that approval of the closure for a portion of the alley that lies within the project area is required prior to issuance of a zoning permit.
- Design and operational standards for downtown projects are all met, providing active pedestrian-friendly uses along the ground level, street wall step-backs, upper-level active “roof” decks and compliant fenestration on all facades. Additional design elements proposed by the applicant include art displays along the internal walkway, a mural piece on the un-fenestrated portion of the facade where the elevator shaft is located, dedicated units for artists and residential access from North Market Street. The applicant is seeking an art gallery to be placed on the Broadway frontage to align with the developing Broadway Arts Corridor District.
- City Market (seasonal farmer’s market) operates Saturdays, April through December; the vehicular access point into this development is impacted by the footprint of the market as noted in the Compatibility Analysis section of this report.
- The project was reviewed by the Downtown Commission on July 12, 2019, where several concerns were expressed, including the negative impacts from the use of exterior insulation and finish system (EIFS) (possibly mitigated with

wrap/screening at key points during the construction process), the value of additional brick along the Broadway frontage for compatibility and harmony, waste management, the need for additional affordable residential units throughout downtown and the impact of hotels on the community in general.

- The Planning & Zoning Commission voted unanimously to support the proposal at their meeting on August 7, 2019. Public comment was heard regarding concern for impact to the City Market, the need for more affordable housing downtown, the lodging use and parking impacts.
- The applicant is not requesting any variances for the project due to any issues complying with City standards; however, they are offering the following (see revised attached B1 conditions list for further details):
 - At least six of the rental units will be dedicated as affordable at 60% area median income (AMI) in perpetuity and designated as “for creatives”. Also one for-sale unit and two live/work for-sale units will be dedicated as affordable for 60% AMI.
 - An easement for public access will be dedicated following the pedestrian walkway across the project site.
 - The portion of the alley that is within the project site will follow the City’s closure process including review by the Multimodal Commission and City Council.
 - The applicant will provide an upgraded transit shelter in the vicinity at a location to be determined by the Transportation Department.
 - Best practices will be employed during construction to minimize the impacts of the EIFS application process.
 - The City Market will not be disrupted during the construction process. (revised condition as of 9-10-19)
 - During the times of road closure associated with the City Market in its current configuration on North Market Street in front of the development site, there will be no vehicular access to the development from the primary driveway on North Market Street, except for emergency uses. (revised condition as of 9-10-19)

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that the Downtown Future Land Use category encourages mixed-use developments prioritizing pedestrian infrastructure and connectivity, proposes a variety of active commercial spaces and provides for both market-rate and affordable residential options.
- The comprehensive plan suggests creating Downtown character districts and elevating the arts and this project aligns with that idea by using complementary materials and supporting artists as described above.
- The plan also acknowledges that while lodging and hotels are part of what makes Downtown the primary commercial center of the city, they “must be considered in context with other development so that the variety and mix of uses, which give downtown its distinctive character is not compromised” (p. 339). By incorporating a mix of uses within the same building, the proposal seeks to meet this goal.
- The Resilient Economy section of the plan notes the need for more affordable housing; this project dedicates nine units.
- There is a goal in the Healthy Community section to promote and support access to farmer’s markets.

Compatibility Analysis:

- The proposal provides a mix of uses and integrates them within one structure, including parking.
- Ground level spaces on both street frontages are reserved for active commercial uses.

- The design and materials incorporate brick on the lower levels to mirror the character of other historic buildings in the vicinity.
- Widened sidewalks are provided on both frontages and two existing curb cuts are eliminated, enhancing the pedestrian realm. The walkway provided across the north side of the building provides mid-block connectivity.
- Due to the design of site and building elements, the structure and design is considered compatible in this urban location and the height is mitigated through materials on the lower levels and facade step-backs.
- The vehicular access point on Market Street would negatively impact the City Market operations if left open for resident and hotel guest access. Staff recommends that the existing policy for special events be followed where vehicular access is restricted (except for emergency vehicles), similar to all other properties within a special event boundary.
- Staff and the City Market organizers could explore a process for identifying a possible alternative location; however, this would not be a quick or simple process and may require modification of existing policies.

Council Goal(s):

- A Well-Planned and Livable Community
- Quality Affordable Housing
- Transportation and Accessibility

Committee(s):

- Technical Review Committee (TRC) - August 5, 2019 - approved with conditions
- Downtown Commission - July 12, 2019 - approved design review (6-3)
- Multimodal Commission for related alley closure - August 28, 2019 - recommended approval (4-3)
- Planning and Zoning Commission - August 7, 2019 - recommended approval (7-0)

Staff Recommendation:

- Staff finds that the mix of uses and project design is compatible with the requirements of the zoning district, design standards and guidelines and the Living Asheville Comprehensive Plan.
- By reducing curb cuts, integrating structured parking, committing to a transit shelter upgrade in the vicinity, providing a mid-block pedestrian walkway, activating the ground level and including dedicated affordable units, the project meets City goals on connectivity, pedestrian safety and increased housing options downtown.
- Staff does not have objective criteria to apply in determining whether there is a need/value for additional hotel rooms nor for evaluating whether there are potential impacts caused by the lodging use.

Councilwoman Mayfield questioned if vehicles don't come in through North Market Street, how will they access the building. Ms. Bernstein said all the uses along North Market Street have the same restriction (just like a special event) - you may not have vehicular access at that time. That would be on the operator of the hotel to manage where the parking would be and how that would be coordinated.

In response to Councilman Kapoor, City Attorney Branham said that this is a conditional zoning. N. C. Gen. Stat. sec. 160A-383 gives City Council the guidance on what the considerations should be. That section specifically provides that Council's consideration should be primarily a review of whether or not the proposal is consistent with the approved area plans, whether the project itself is reasonable and in the public interest. Additionally, case law provides that decisions should not be arbitrary or capricious based on those three factors, and dealing with the property rights themselves and with surrounding property rights.

Mr. Derek Allen, attorney for the developer BPR Properties, clarified that the revised Condition No. 13 will not read "During the times of road closure associated with the City Market in its current configuration on North Market Street in front of the development site, there will be no vehicular access to the development from the primary driveway on North Market Street, except for emergency vehicles. *During these times, non-emergency vehicular access to the development will be from the alley.*" Mr. Allen gave a brief procedural history of the project, along with a brief overview. We have tried to come up with a project that has residential components (25% of which are affordable housing at 60% AMI) and make that make sense in the context of having a place for everyone to live in Asheville. This is not just another hotel or an affordable housing project - it's both. They listened to comments from the Downtown Commission in July and explored the needs of Asheville - need for affordable housing. This promotes full-time residents in downtown - not just wealthy visitors who buy expensive condos downtown. We want to support artists and that has been incorporated into this project - both inside and outside. We want to support the live/work lifestyle, and we want to make sure we have a living wage. We will promote alternative transportation options, walkability, bus routes, etc. We want people to live where they work and we want to make sure we incorporate more resident-created art into our downtown infrastructure. The project complies with the Living Asheville Comprehensive Plan in that it has affordable housing; promotes year-round full-time residents downtown; supports artists; elevates the arts and cultural sectors to strengthen and preserve heritage and history; supports live/work lifestyle; living wage; promotes alternative transportation options; incorporates more resident-created art into downtown infrastructure; supports the Broadway cultural gateway vision; is compatible with the requirements of the zoning district, design standards and guidelines; enhances the pedestrian experience; is compatible with the surrounding area; and is in compliance with the Downtown Commission Design Review Guidelines.

Mr. Allen said the project site (1) consists of three parcels with a combined area of 0.56 acres located at 72 Broadway Street and 61 and 67 North Market Street; (2) two small empty buildings; (3) law firm; (4) all willing sellers; (5) current combined value of properties is \$1,769,600; (6) projected value after completion of project is \$50,000,000; and (7) current taxes paid \$19,074.53/estimated taxes after development \$432,000.

Mr. Allen said Create 72 Broadway has 37 residential units - 6 affordable residential rental units at 60% AMI dedicated in perpetuity; 1 affordable for sale condo unit at 60% AMI for > 50 years; 2 affordable live/work for sale units at 60% AMI for > 50 years; 13 market rate one bedroom condo units; and 15 market rate two bedroom units. It will have 138 hotel rooms; commercial retail space; and a 126 space parking garage (excess parking spaces within the footprint of the project).

Mr. Chris Day from Civil Design Concepts, said that this is a surface lot on Broadway. We will eliminate two existing curb-cuts and make Broadway fully pedestrian focused. In doing so, it provides a couple of new parking spaces on Broadway as well as an additional new parallel parking space on North Market Street. They do meet the ordinance as it requires one public access for the project. That being said, they are conditioning that they will restrict that during the City Market hours - and only during the City Market hours would they have some proposed use of the platted 25-foot alley that is in the rear of the project. It is not proposed to use that for typical traffic. It is a service access, but the only time that would be used would be during the conflict with the City Market. In speaking with a developer who runs many hotels, he says Sundays are a very busy day and Saturdays are a little more manageable in terms of check-out. Trying to manage and minimize the amount of traffic that would even need to use that access during the City Market was their initial goal, while having the back-up to be able to get out through the platted right-of-way. Other than that, the project complies with all of the ordinances associated with it.

Mr. Peter Alberice, with architectural firm changed with designing the project, said during the main part of the week when the City Market is not in session (approximately 6 a.m. to 1:00 p.m. on Saturdays) they would restrict all access into and out of the building from the North Market Street entry. They are very passionate about the City Market because not only is it a great institution in the City, it is an integral part of downtown. The developers see it as an amenity and an opportunity for guests at the hotel and residents of the condos to have an amenity right outside their front door on a Saturday morning. There is no way they would ever want to suggest moving them. It enhances what they are doing and gives something back to the City Market as they will be bringing approximately 100 more customers to them every Saturday. On Saturdays when there is a possibility that there would be a random person who would need to leave the garage, we would suggest that they go down the alley. Close to 100% of the time, all the parking will be managed by the operator of the hotel. Guests who leave on a Saturday morning would have their cars valet parked in a parking garage outside the project. Chances are the residents in the project will walk. As far as hotel guests coming in, they will typically check in in the afternoon because check-in time is not until 3:00 p.m. We are working on managing all of that so we don't inconvenience anyone. He showed an overall view of the project site, renderings of a widened sidewalk; parking garage; hotel with 138 rooms; residential condominium; green roof; arts walkway; affordable live/work; affordable apartments; affordable condominiums; and art gallery/local retail.

Mr. Alberice said this will be quality affordable housing with (1) affordable housing at 60% AMI greater than 50 years; (2) market rate rent - \$1,750 monthly; (3) affordable rent rate - \$549 monthly; (4) cost to underwrite unit - \$1,291 monthly; (5) > \$2 Million investment by developer for affordable housing; and (6) hotel component supports the affordable housing and work/live units. Other benefits for residential units include it is located within 0.25 miles of transit; located within .05 miles of grocery store; and located less than 1 mile of downtown job center. Additional benefits include (1) payment of living wage; (2) developer will provide bus passes for employees who want to take public transportation (a) promotes alternative transportation; (b) reduce parking demands; and (c) good for the environment; and (3) display art of local artists.

Mr. Alberice said to address concerns about hotel development, this is a quality of development design; pays a living wage' addresses local needs (affordable housing); no displacement of residents; and has a traffic study.

When Councilwoman Mayfield asked what the plan is for no vehicular access to this building on Saturday mornings, Mr. Alberice said the occasional hotel guest or resident, who has to leave for an emergency, will drive through the double garage bay and down the public alley. Mr. Day said the goal is to minimize, through proper hotel management, knowing if guests are checking out that they have to place their cars in an off-premise parking structure the evening before so it would be available on Saturday morning. The residents recognize and know the City Market is going on and they would not have typical access to their vehicles, like other people on that street during those hours. For emergencies, they will lift the double garage doors and provide the access to the 25-foot alleyway. The alley is not intended to be a public access, but it is a feasible access they can use when necessary.

Councilwoman Mayfield said that she called a couple of hoteliers and they said that Saturday mornings are one of the busiest times for hotels for weekend visitors checking in and out.

When Councilwoman Mayfield asked if the applicant has reached out to any of the property owners adjacent to the alley and discussed what this access might look like. She walks by the alley multiple times a day and sees that it is pretty busy and crowded, with trash cans, parking, etc. Mr. Alberice responded that there have been publicized meetings about the project, noting that the alley has always been for trash collection for the project. There are adjoining

property owners and everyone should be consulted in that regard, but they have not told anyone that they could not use the alley. The alley was always for service. Just within the last week when they were trying to come up with a solution to allow for emergency access to the building from North Market Street without disrupting the City Market, did they look at this option as a reasonable way to provide some access in and out of the building on Saturday mornings.

Mayor Manheimer confirmed that because this is a site specific issue, in reading the conditional zoning statute, we can make this a condition that North Market Street is not used on Saturday mornings during the City Market. It will be up to the applicant to meet the condition requirements.

When Councilwoman Mayfield expressed concern that the City Market was found to be impacted in April of this year, Mayor Manheimer said that the City Market map shows the City Market doesn't begin until further up the street, but in reality the barricades are placed at the end of the street.

Mr. Day said the first goal was to come up with operational management ideas that could significantly minimize the need for the alley access, with the reality that there are times when unexpected things happen. As there are other garages that egress out onto the 25-foot alley, they had suggested the idea that that could be the relief out, if necessary. That has been a relatively recent aspect. He has had some initial conversations with some business owners along that alleyway, but that is an on-going conversation to have. At this point, we are comfortable with a condition from Council that says the project will not allow vehicular traffic out onto North Market Street during the hours of the City Market on Saturdays.

Mr. Allen said that conversations with neighbors along that alley have been happening over the last couple of days. He has not been part of those conversations, but he has seen the email correspondence.

Mayor Manheimer opened the public hearing at 6:19 p.m.

Nineteen individuals spoke in opposition to the conditional zoning, or at least asked for a delay to ensure safeguards for the City Market, mainly because of the disruptive egress/ingress impact on the City Market from North Market Street and the saturation of hotels in downtown.

Thirteen individuals spoke in support of the conditional zoning, mainly because the development has a lot to offer downtown, including affordable housing, support for the arts, parking, retail, etc.

Mr. Allen said that the project (1) will pay a living wage; (2) is for local artists; (3) is in an arts district and this hotel is looking to be a centerpiece of that; (4) has an affordable housing component; (5) has a living roof; and (6) is looking to enhance the City Market and not impact it in anyway whatsoever. During the City Market times, there is no entrance onto North Market Street. During construction, the City Market will not be disrupted. To clarify, they are willing to agree to a condition that there will be no outside construction on the project during City Market hours. We love what the City Market does for our City. When we fix the no interruption of the City Market issue, we inadvertently create this alley issue. Let's say there are 10 hours on Saturdays, but that is 10 hours out of 168 hours - 6% of the hours in a week that we are dealing with the alley issue only on one day - and then we are only dealing with it in terms of in and out. It is not a regular thoroughfare. There are other areas downtown where we have those issues. This issue did come up late, and the maps that staff was using did not show the City Market going down that far until the Planning & Zoning Commission meeting. He requested a continuance until September 24, 2019, in order to facilitate further discussion with the City Market and the business owners along that alleyway.

Mayor Manheimer closed the public hearing at 8:11 p.m

Councilman Kapoor felt that any inclusion of affordable housing at 60% AMI is a pretty important step and the developer should be commended for that. The project will also generate almost \$500,000 in taxes; however, he is concerned over the hotel saturation in the downtown area. He could not support the project.

Councilwoman Mayfield agreed with Councilman Kapoor on the benefits of the project; however, she was also concerned with concentration of hotel rooms downtown, in addition to the use of the alley. She could not support the project.

Mayor Manheimer felt that our markets are an integral part of our community and we have to figure out how to co-exist, grow and enjoy. Other cities have to pay incentives to get a project of this type and we are fortunate to have the opportunity to pick through those who want to invest in our community. We must figure out a way to grow that makes sense for Asheville. After our recently held affordable housing workshop, City Council set a goal of 200 affordable units a year, and while the number of units for this project might be small, it is working towards our goal.

Councilman Kapoor moved to continue this public hearing until September 24, 2019. This motion was seconded by Councilwoman Smith and carried on a 4-3 vote, with Mayor Manheimer, Councilman Kapoor, Councilwoman Mayfield and Councilwoman Smith voting “yes” and Vice-Mayor Wisler, Councilman Haynes and Councilman Young voting “no.”

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 2019, TO CONSIDER A TEMPORARY MORATORIUM ON HOTEL DEVELOPMENT WITHIN THE CITY OF ASHEVILLE

Planning & Urban Design Director Todd Okolichany said the issue is that (1) Since 2015, 1,344 hotel rooms have opened in the COA out of approximately 2,761 total rooms that have been approved; (2) Community members, staff and Council have expressed concerns about the impact of hotels; (3) City currently lacks concrete policies, strategies and tools to effectively manage the impacts of these uses; (4) Lack of direction resulting in uncertainty for developers, staff and community members; and (5) Current conditions resulting in adversarial and sometimes hostile development climate in the community.

The need is (1) To effectively respond and provide some level of certainty and to determine acceptable hotel development proposals, City needs to enhance its land use policies, tools and strategies to better regulate this land use; and (2) Consideration of additional hotel development should be suspended to provide the time needed to determine impacts and remedies.

City Attorney Branham said that North Carolina law allows cities such Asheville to place a temporary moratorium on certain development approvals required by law. N.C. General Statute §160A-381(e)

He said that the development moratoria must have a valid purpose. *NCGS §160A-381(e)(1) - A moratorium ordinance must clearly state the reasons for the moratorium.* Asheville’s purpose is to allow for development of regulations for a particular land use. There must be a specific duration. *NCGS §160A-381(e)(3) - A moratorium ordinance must have a*

termination date and explain why duration is necessary to address the problem. A limitation is that U.S. Supreme Court has suggested durations over a year will warrant skepticism. (Majority are around 6 months). The process (1) Requires Adoption of an Ordinance; and (2) A moratorium with a duration of 61 days or more: (a) Requires 2 meetings; and (b) The second meeting will include a Public Hearing.

The legal summary includes (1) The City has the power to impose a moratorium on hotel development; (2) Duration should be 1 year or less; (3) 2 Council Meetings required (including a public hearing); (4) Time used to develop a policy and analytic process for future hotels; and (5) Any hotel with a pre-existing vested right will be unaffected.

Regarding the planning and analysis, Mr. Okolichany outlined: First Phase (3 months) (1) City is contracting with Urban Land Institute (ULI) Charlotte District Council to provide unbiased, pragmatic advice; (2) The Technical Assistance Panel (TAP) program addresses complex land use planning and development issues; and (3) Who? - A panel of professionals with expertise in areas that are required to focus on the sponsor's particular problem or issues.

Planning and Analysis: Second Phase (up to 9 months) (1) Staff would use final ULI report and conduct any supplemental research and analysis of possible policies, strategies and tools; (2) Develop a community engagement plan that would likely entail establishing a stakeholders group and hosting community forums throughout the City to solicit input on possible policy recommendations, strategies and tools; and (3) Complete public input process and draft recommendations to present to City Council for action.

Staff recommendation for Council consideration include (1) Should the City implement the moratorium - staff recommends yes, following the process recommended above; (2) Moratorium scope (development category) - staff recommends hotels (as defined by the Unified Development Ordinance; (3) geographic area - staff recommends City of Asheville limits; and (4) duration - staff recommends no more than one year.

Mayor Manheimer said that during this moratorium, we anticipate developing specific criteria for City Council to consider when considering hotel development, if hotels are continued to be considered as a conditional zoning.

Ms. Kim Roney suggested a larger meeting room for the September 24, 2019, meeting. Mayor Manheimer said that if the meeting moved to the U.S. Cellular Center Banquet Hall, there is no broadcast to television - only live streaming through YOUTube, and we don't want to shut down access while we open up others.

Councilman Haynes spoke in support of this moratorium, but wished we would have instituted it two years ago.

Councilwoman Mayfield moved to set a public hearing on September 24, 2019, to consider a temporary moratorium on hotel development within the City of Asheville. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

B. RESOLUTION NO. 19-210 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR AT-LARGE ELECTIONS FOR THE MEMBERS OF THE CITY OF ASHEVILLE CITY COUNCIL SETTING A PUBLIC HEARING ON SEPTEMBER 24, 2019, ON THE PROPOSED CHARTER AMENDMENT

RESOLUTION NO. 19-211 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE THAT ASHEVILLE CITY COUNCIL ELECTIONS BE CONDUCTED BY THE NONPARTISAN PRIMARY AND ELECTION METHOD AND SETTING A PUBLIC HEARING ON SEPTEMBER 24, 2019, ON THE PROPOSED CHARTER AMENDMENT

Action Requested: Adoption of two resolutions of intent to consider ordinance amendments to the City of Asheville Charter and setting public hearings on September 24, 2019, for the following purposes:

- A. To provide for at-large elections for the members of the City of Asheville City Council.
- B. To provide that Asheville City Council elections be conducted by the nonpartisan primary and election method.

Background:

- On June 29th, 2018, the N.C. State legislature ratified SB 813 which altered the form of Asheville City Council elections.
- The new local act moved City Council elections from odd to even years, removed primary elections, and established five election districts.
- Under the current law, the City Council will be made up of seven council members, including the Mayor. Five members will be elected from and by their respective districts, while one member and the Mayor will be elected at-large.
- The two proposed charter amendments would reinstate primary elections to be held in March, and return all Council positions to at-large elections.

Council Goal(s):

- An Equitable and Diverse Community
- A Connected and Engaged Community

Committee(s):

- Governance Committee - July 29 (Converted to Full Council Worksession)

Pro(s):

- Returns City Council elections to a form as close as possible to what existed prior to enactment of SB 813.

Con(s):

- A Charter amendment can be further amended by State action
- May result in diminished goodwill and additional provocation from the General Assembly

Fiscal Impact:

- None at this time.

City Attorney Branham responded to questions raised by the public regarding the timing for the March primary, and if the Board of Elections have enough people to run our elections.

Councilman Kapoor said that he proposed an alternative proposal of keeping the five districts, but adding two additional at-large members for a total of nine members. He hoped would also be on the agenda and also be considered by Council. But that is not the case. He encouraged Council members to consider his proposal. He then read the following statement: "Since getting on Council, I've spent more time researching Council districts than any other issue and, based on that analysis, I publicly changed my position to oppose an all at-large system. Hearing the concerns that both sides had, I proposed a compromise mixed district/at-large system that would keep the five districts drawn and add two additional at-large members for a

total of nine members. My compromise would have allowed every resident to be able to vote for a majority of Council members. Regardless of the vote tonight, I will continue to push for that system. The question that we as a City and we as a Council ought to be asking ourselves is "What system is best for the average Asheville resident?" Not, "What system sends a message to the General Assembly?" Not, "What system will most likely elect someone who I support?" Not, "What system benefits the most well-organized and politically-connected groups?" The question for us should be, "What is best for the average Asheville resident?" Here are four reasons for why I think that my proposal, and not an all at-large system, is best for the average Asheville resident:

1. First, a system with some districts ensures that every resident, every neighborhood, and every part of the City will have a Council member who is directly accountable to them. You know who specifically to call when you have an issue. With the current at-large system, the average person is at the mercy of whoever up here decides to respond to their constituent request and, if we're being honest with ourselves, there are certain Council members who do a much better job than others in responding. When you have districts, there's nowhere for us to hide.
2. Second, a system with some districts will better represent the needs of the average resident to City Hall. In her seminal book *The Death and Life of Great American Cities*, Jane Jacobs wrote, "The chief function of a successful district is to mediate between the indispensable, but inherently politically powerless, street neighborhoods, and the inherently powerful city as a whole. Among those responsible for cities, at the top, there is much ignorance... Districts have to help bring the resources of a city down to where they are needed by street neighborhoods, and they have to help translate the experiences of real life, in street neighborhoods, into policies and purposes of their city as a whole." I think that the current at-large system is a contributing reason for why many of our underserved neighborhoods are in the condition that they're in today. They never had a specific person advocating for what they needed and if we go back to the all at-large system, they will miss out on that chance again.
3. Third, the mixed district/at-large system that I'm proposing all but eliminates the concern that parts of the City will be pitted against each other. Under my proposal, there will be four members including the Mayor who will be elected at-large and every Asheville voter will be able to elect a majority of Council. As a result, the Council as a whole will not favor or disfavor any particular area of the City.
4. Fourth, my proposal is an Asheville, not a Raleigh solution. I understand the desire to tell the General Assembly to stay out of our business. It's a point of pride. I get it. That was part of the reason that I voted against the original referendum. But what I'm proposing here isn't Raleigh's solution, it's ours should we have the courage to enact it. I've had many people say to me that they're not necessarily opposed to districts, but that they resented that Raleigh imposed them. I think that if we put my proposal on a referendum, a mixed district/at-large system, it would pass. During this debate, I challenge those who support the decision to go back to the all at-large system to directly answer the question of why they believe an all at-large system is best for the average Asheville resident. I encourage the media, when covering this story, rather than to focus on the sideshow fight with Raleigh, to ask, "What system is best for the average Asheville resident?" If an all at-large system is so good, why does every other large city in North Carolina other than Wilmington have some form of district representation? If an all at-large system is the best system for minority communities, why did the NAACP Legal Defense Fund write: "Fewer and fewer districts still practice at-large voting. That is because courts and decision-makers long have recognized that discriminatory methods of election, like atlarge voting, enhance the discrimination that communities of color experience because of socioeconomic and other disparities in life opportunities between Black and white communities." Even with the huge disparities that we see in this city between white and black residents and white and black communities – all of which occurred under an all at-large system – some believe that a system with districts passed unanimously by the State Senate is racist. Really? Given where we are today under an all at-large system, how could it possibly get worse? Council has the authority to act. Let's have a real and open debate on the substance and be guided by the question, "What system is best for the average Asheville resident?"

Vice-Mayor Wisler moved to adopt a resolution of intent to consider an ordinance amending the City of Asheville Charter to provide for at-large elections for the members of the

City of Asheville City Council and setting a public hearing on September 24, 2019, on the proposed charter amendment. This motion was seconded by Councilman Haynes and carried on a 6-1 vote, with Councilman Kapoor voting “no”.

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Councilman Young moved to adopt a resolution of intent to consider an ordinance amending the City of Asheville Charter to provide that Asheville City Council elections be conducted by the nonpartisan primary and election method and setting a public hearing on September 24, 2019, on the proposed charter amendment. This motion was seconded by Councilwoman Mayfield and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Ashley McDermott spoke about the need to declare a climate emergency. Councilwoman Mayfield said the resolution is making its way through the City’s Sustainability Advisory Committee on Energy & Environment and will be considered at their October meeting. Mayor Manheimer also noted that Councilman Haynes is working on getting this through the proper processes quickly.

Closed Session

At 9:08 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)(1). The statutory authorization is contained in N.C.G.S. 143-318.11(e); (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 involving the following matter: Carrier Riverview Inc., Rano Thomas Mathew, and Anne Irene Mathew v. City of Asheville 19-CVS3692. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6). This motion was seconded by Councilwoman Mayfield and carried unanimously.

At 9:46 p.m., Councilman Kapoor moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:46 p.m.

CITY CLERK

MAYOR