

Tuesday – October 22, 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.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING OCTOBER 22, 2019, AS “DEERFIELD RESIDENTS APPRECIATION DAY”**

Mayor Manheimer read the proclamation proclaiming October 22, 2019, as "Deerfield Residents Appreciation Day" in the City of Asheville for their proactive commitment to being a part of the solution to addressing the City's affordable housing needs. She presented the proclamation to Bob Wernet, President and CEO of Deerfields, and members of the Deerfield Community.

**B. PROCLAMATION PROCLAIMING NOVEMBER 1, 2019, AS “SENIOR SUFFRAGE CENSUS KICKOFF DAY”**

Councilman Haynes read the proclamation proclaiming November 1, 2019, as "Senior Suffrage Census Kickoff Day " in the City of Asheville. He presented the proclamation to Ms. Jane White. along with lead supporters MinnieJones Health Care, GO, WNC4 Peace, Veterans for Peace, Medicare 4 all WNC, Nurses United Supporters, NAACP and No Wheels of Bartlett Arms, who briefed City Council on some activities taking place during the day.

**CONSENT AGENDA:**

Mayor Manheimer announced that Consent Agenda Item E has been removed from consideration.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 24, 2019**

**B. RESOLUTION NO. 19-231 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT IF AWARDED, THE 2019 EDWARD BYRNE JUSTICE OF ASSISTANCE GRANT**

**ORDINANCE NO. 4767 - 2019 EDWARD BYRNE JUSTICE OF ASSISTANCE GRANT**

**Action Requested:** Adoption of a resolution to apply for and accept the 2019 JAG Grant and adopt a budget amendment in the City's Special Revenue Fund in the amount of \$60,531.

**Background:**

- The City of Asheville receives an annual opportunity to apply for a Department of Justice (DOJ), Edward Byrne Justice Assistance Grant.
- The DOJ has preliminarily determined that the Asheville Police Department (APD) is eligible to receive a 2019 award of \$60,531.00 which is allocated to the APD and the Buncombe County Sheriff's Office in the amounts of \$47,573.00 and \$12,958.00 respectively.
- The APD will use the funds to pay for officer overtime related to the interdiction of the National Incident-Based Reporting System (NIBRS) Group "A" offenses. NIBRS is used by law enforcement agencies for collecting and reporting data on crimes.
- The Buncombe County Sheriff's Office will use the funds to purchase Ballistic Helmets and Armor Systems.

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s):**

- Finance & Human Resources Committee, September 24, 2019 - Directed to move forward to the full City Council
- Public Safety Committee, September 26, 2019 - Directed to move forward to the full City Council.

**Pro(s):**

- Ensures the ability to better protect the safety of the residents of Asheville and Buncombe County.

**Con(s):**

- None

**Fiscal Impact:**

- There is no local match required.

**Motion:**

- Motion to adopt a resolution approving the application and acceptance of the grant and a budget ordinance amendment to appropriate the funding.

**RESOLUTION BOOK NO. 41 - PAGE 112  
ORDINANCE BOOK NO. 32 - PAGE 430**

**C. RESOLUTION NO. 19-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AUTOMATIC AID SERVICE RENEWAL AGREEMENT WITH REEM'S CREEK FIRE DEPARTMENT**

**Action Requested:** Adoption of the renewal of the automatic aid agreement between the City of Asheville and Reems Creek Fire Department

**Background:**

- In August 2013, City Council approved a resolution authorizing a multi-year agreement with Reem's Creek Fire Department for automatic aid service.
- The City of Asheville has a need to strengthen its standard of response and cover in the Beaverdam Valley. The Reem's Creek Fire Department is the most appropriate organization to provide the service.
- The initial agreement costs were \$82,656 and as stipulated in the agreement, the costs are to be adjusted every year based on the consumer price index.
- After six years of positive consumer price index increases, the renewal for the FY19-20 services cost and are budgeted at \$91,458.98.
- The term of the renewal agreement will end June 30, 2020.

**Vendor Outreach Efforts:**

- No other vendors are able to provide this service
- There are no Minority & Women-Owned Business Enterprise (MWBE) firms able to provide this service

**Council Goal(s):**

- Connected and Engaged Community
- A Well-Planned and Livable Community

**Committee(s):**

- Finance and Human Resources Committee - September 24, 2019 - Approved
- Public Safety Committee - September 26, 2019 - Approved

**Pro(s):**

- Allows standard of cover to be met greater than 90% of the time.

**Con(s):**

- Fiscal impact.

**Fiscal Impact:**

- Execution of the agreement renewal is budgeted at and costs \$91,458.98.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a renewal agreement for automatic aid service between the City of Asheville and Reems Creek Fire Department

**RESOLUTION BOOK NO. 41 - PAGE 113**

**D. RESOLUTION NO. 19-233 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AGREEMENT AND ASSOCIATED EQUIPMENT MEMORANDUM OF UNDERSTANDING WITH DEWINE SEEDS - SILVER DOLLAR BASEBALL LLC FOR THE CONTINUED USE OF MCCORMICK FIELD BY THE ASHEVILLE TOURISTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign a lease with DeWine Seeds-Silver Dollar LLC that will continue operation of the Asheville Tourists minor league baseball at McCormick Field.

**Background:**

- The City of Asheville has owned the property located at 30 Buchanan Place, known as McCormick Field, since 1984 and leases the property for operation as a minor league baseball stadium.
- In January 2010, the current owner of the team, DeWine Seeds-Silver Dollar Baseball LLC, was assigned the lease by the previous team owner. That lease is set to expire on December 31, 2019.
- Starting January 2020, a short term lease is proposed for two years. A longer term lease is being negotiated that will include capital improvements.
- The DeWine organization will continue to provide day-to-day operations, maintenance of the field, and payment of all utilities. The rental rate will be \$1.00/year,
- The City will continue to be responsible for all structural repairs, landscaping outside of the stadium, trash removal and pest control..
- Lessee is prohibited from using the Mountainside Park for operations and/or parking on game days. Exceptions include the staging of fireworks

**Council Goal(s):**

- Financially Resilient City.
- A Well-Planned and Livable Community

**Committee(s):**

- Recreation Advisory Board has been updated on this item.

**Pro(s):**

- DeWine Seeds-Silver Dollar Baseball, LLC is committed to keeping minor league baseball in Asheville.
- Both parties are continuing to negotiate terms of the agreement in order to get a longer term lease that is mutually beneficial.

**Con(s):**

- None

**Fiscal Impact:**

- The City is responsible for infrastructure repairs to the stadium. Any proposed major repairs are processed through the City's CIP budgeting process. General maintenance is performed by the Facility Management Division and accounted for in that operational budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a lease agreement with DeWine Seeds-Silver Dollar Baseball LLC with a term of two years.

**RESOLUTION BOOK NO. 41 - PAGE 114**

**E. BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM. 2020 DWI TASK FORCE GRANT**

This item has been removed from consideration.

**F. ORDINANCE NO. 4768 - BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR THE 2020 BIKE/SAFE NORTH CAROLINA GRANT**

**Action Requested:** Approval of a budget amendment, in the amount of \$5,000, for the North Carolina Governor's Highway Safety Program, Bike/Safe NC 2020, Year 1 Grant.

**Background:**

- The Council previously authorized the application for and acceptance of grant funds at its March 12, 2019, meeting.
- The Bike/Safe NC program is a partnership with the Governor's Highway Safety Program and the North Carolina State Highway Patrol that is aimed at reducing motorcycle fatalities.
- Grant funds will be used to promote awareness by contacting motorcycle dealers, clubs and associations to discuss current highway safety activities, training opportunities and to provide legal updates. The Asheville Police Department will act as fiduciary for the program.
- The total of the grant is \$5,000 and does not require local matching funds.

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s):**

- Finance & Human Resources Committee – September 24, 2019 meeting - Directed to move forward to the full City Council.
- Public Safety Committee - September 26, 2019 meeting - Directed to move forward to the full City Council.

**Pro(s):**

- Grant funds are used to pay for travel and training.
- Potential reduction of statewide and regional motorcycle fatalities.

**Con(s):**

- Funding is evaluated annually and is only available for a one year period.

**Fiscal Impact:**

- There is no impact to the City of Asheville's General Fund budget.

**Motion:**

- Motion to authorize a budget amendment for the North Carolina Governor's Highway Safety Program, Bike/Safe NC 2020, Year 1 Grant.

**ORDINANCE BOOK NO. 32 - PAGE 431**

**G. RESOLUTION NO. 19-234 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT IF AWARDED, THE 2019 HIGH IMPACT DRUG TRAFFICKING AREAS GRANT**

**ORDINANCE NO. 4769 - BUDGET AMENDMENT FOR THE 2019 HIGH IMPACT DRUG TRAFFICKING AREAS GRANT**

**Action Requested:** Adoption of a resolution to apply for and accept the 2019 High Intensity Drug Trafficking Areas (HIDTA) Grant and adopt a budget amendment in the City's Special Revenue Fund in the amount of \$285,416.

**Background:**

- The City of Asheville receives an annual opportunity to receive a HIDTA Program Grant.
- The Office of National Drug Control Policy has preliminarily determined that the City of Asheville is eligible to receive a grant of \$285,416.
- The purpose of the HIDTA program is to reduce drug trafficking and production in the United States, specifically in areas where drug related activities are having a significant harmful impact.
- The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration, Asheville Police Department, and the Sheriff Offices' of several Western North Carolina Counties.
- Grant funds are used for overtime, travel, services and supplies. All expenses are tracked and audited by local and Federal authorities.
- The Asheville HIDTA is the direct beneficiary of the grant funds. A United States Drug Enforcement Administration supervisor, who is the Asheville HIDTA manager, determines how grant funds will be expended. All members of the Asheville HIDTA receive reimbursement when they incur qualified expenses conducting Asheville HIDTA business.
- The Asheville Police Department acts as the fiduciary for the grant. When expenses are incurred, the fiduciary settles the claims using appropriated City of Asheville funds and then requests a 100% reimbursement from the Federal Government.

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s):**

- Finance & Human Resources Committee, September 24, 2019 - Directed to move forward to the full City Council.
- Public Safety Committee, September 26, 2019 - Directed to move forward to the full City Council.

**Pro(s):**

- Fosters partnerships with Federal and local law enforcement agencies.

**Con(s):**

- None

**Fiscal Impact:**

- There is no local match required.

**Motion:**

- Motion to adopt a resolution approving the application and acceptance of the grant and a budget ordinance amendment to appropriate the funding.

**RESOLUTION BOOK NO. 41 - PAGE 115  
ORDINANCE BOOK NO. 32 - PAGE 432**

**H. RESOLUTION NO. 19-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO SUPPORT THE AFRICAN AMERICAN NEIGHBORHOOD HISTORIC MARKERS PROJECT**

**Action Requested:** Adoption of an Interlocal Agreement with Buncombe County to support the African American Neighborhood Historic Marker Project

**Background:**

- The City partnered with Buncombe County and the neighborhoods of Burton Street, East End/Valley Street, Shiloh, and Southside to create a series of historic markers that focus on the African American Heritage of each neighborhood.
- The County is administering the Mobilizing Action for Resilient Communities (MARC) funding via the Isaac Colman grant, which is funding the costs of the markers.
- The neighborhoods created the content and design of the signs. The County administered the grant, organized the public engagement and worked with the neighborhood representatives on the location and content of the signs. The City provided technical assistance and will provide maintenance of the signs.
- These signs will be located in a variety of locations: in the rights-of way of neighborhood streets, on private properties, on community centers and in parks.
- Three of the sign locations require easements from property owners. All of the property owners have indicated a willingness to provide the easements. The value of our technical assistance is approximately \$10,000. The value of the signs is approximately \$16,800.
- Combined with other projects in Asheville, these markers will become part of the Asheville African American Heritage Trail.

**Council Goal(s):**

- This project aligns with Council's Strategic Goal of An Equitable and Diverse Community.

**Committee(s):**

- African American Heritage Commission - 9-12-19 - Unanimously approved the project.
- Finance and HR Committee - 2-26-19 - Unanimously approved the project.

**Pro(s):**

- The City of Asheville will be a supporting partner of a project that identifies and celebrates historically African American neighborhoods.

**Con(s):**

- This agreement will make the City responsible for the maintenance and replacement of the markers in the event of catastrophic damage. The Transportation Department will be responsible for the maintenance costs.

**Fiscal Impact:**

- Recurring maintenance or replacement costs for the markers and poles will take place if the signs or their poles are damaged to the point of needing repair or replacement. Each sign averages \$1,400. There are currently 11 signs. At no time will all the signs be replaced at the same time.

**Motion:**

- Motion to authorize the City Manager to enter into an Interlocal Agreement with Buncombe County to support the African American Neighborhoods Historical Marker Project with a commitment to provide long-term maintenance of the markers and also authorizing the City Manager to execute easements and other documents necessary to give effect to this resolution.

**RESOLUTION BOOK NO. 41 - PAGE 116**

**I. ORDINANCE NO. 4770 - ORDINANCE TO ADDRESS A GAP IN THE CITY'S DANGEROUS WEAPONS ORDINANCE TO PROHIBIT DANGEROUS WEAPONS ON CITY BUSES, AND UPDATE THE EXISTING DANGEROUS WEAPONS ORDINANCE**

**Action Requested:** Motion to adopt an ordinance updating and amending the City's dangerous weapons ordinance.

**Background:**

- City staff, its transit management contractor, and the City's Transit Subcommittee have all recently identified the need for an ordinance prohibiting the possession of dangerous weapons on City Buses.
- In the course of preparing a proposed, transit-specific ordinance, it was further determined that the City's current dangerous weapons ordinance- Sec. 12.42 of the City Code- should additionally be updated to conform with guidance from the North Carolina Attorney General's Office, and to clarify its scope.
- A dangerous weapon is any object, substance, or device, other than a firearm, designed or intended to be used to incapacitate or inflict serious injury upon persons or property, including certain deadly weapons defined by statute, and other specific items enumerated in the ordinance.
- The proposed Ordinance would prohibit, with limited exceptions, the bringing of firearms or dangerous weapons into City buildings or the grounds of City buildings, as well as certain designated recreational facilities.
- The proposed Ordinance would further prohibit the bringing of dangerous weapons onto City Owned buses.
- Firearms cannot be prohibited from City buses pursuant to N.C.G.S. 14-409.40.

**Council Goal(s):**

A well-planned and livable community

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**Committee(s):**

- The Multimodal Transportation Commission unanimously recommended approval on 9/25/19
- The Public Safety Committee voted unanimously to move this item on to Council on 9/26/19

**Pro(s):**

- The proposed ordinance will address a gap in the City's dangerous weapons ordinance in that it will prohibit dangerous weapons on City buses, and will further update the existing dangerous weapons ordinance, which was adopted in 2011.

**Con(s):**

- Is not as expansive as the City may prefer given state-level preemption.

**Fiscal Impact:**

- None.

**Motion:**

- Move to approve the City's proposed new and expanded dangerous weapons ordinance.

**ORDINANCE BOOK NO. 32 - PAGE 433**

**J. RESOLUTION NO. 19-236 - RESOLUTION AUTHORIZING THE PROCUREMENT OF VIDEO DISPLAY EQUIPMENT FOR THE U.S. CELLULAR CENTER FROM VENDOR DAKTRONICS INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO ACCEPT FUNDS FOR THIS EQUIPMENT WITH THE EASTERN BAND OF CHEROKEE INDIANS AS PART OF THE APPROVED NAMING RIGHTS AGREEMENT**

**Action Requested:** Adoption of a resolution supporting the sole source standardization procurement of video display equipment for the U.S. Cellular Center and authorizing the City Manager to execute an Agreement with the Eastern Band of Cherokee Indians (EBCI) to accept funds for this equipment as part of the approved new Naming Rights Agreement for the Civic Center.

**Background:**

- On May 28, 2019, the City Council approved the selection of Harrah's Cherokee as a new naming rights partner for the Civic Center..
- A portion of the proposal for the change in naming rights included funds directed from the Eastern Band of Cherokee Indians (EBCI) to the City for purchase and installation of Daktronics brand video display equipment.
- Daktronics brand equipment is also specifically requested by the Southern Conference (SoCon) in current contract negotiations for extension of their basketball tournament, hosted annually in March at the U.S. Cellular Center. The current contract expires after the 2021 tournament.
- Daktronics brand equipment is used by eight of the ten SoCon institutions in their basketball operations, as well as by UNC Asheville. These institutions are currently the only users of the equipment. Efficiencies will be created by standardization of equipment at their tournament site.

**Vendor Outreach Efforts:**

- This vendor is not a minority owned business.
- Since this is a sole source agreement, staff did not do the outreach to minority & women owned businesses.

**Council Goal(s):**

- A Financially Resilient City
- Connected and Engaged Community
- Thriving Local Economy

**Committee(s):**

- Civic Center Commission - October 1, 2019 - Voted in support of sole source purchase



**Pro(s):**

- No City of Asheville funds are to be utilized for this project.
- Creates ability to continue long term partnership with the Southern Conference
- Allows the facility the opportunity to bid on numerous sporting events that previously were unobtainable as a video display is typically required.
- Project budget includes first 10 years parts and labor warranty.

**Con(s):**

- Staff will be required to close the arena portion of the facility for approximately three weeks during the summer of 2020 for installation.

**Fiscal Impact:**

- The total project budget is \$1,143,000. Of the total project budget \$500,000 is allocated from contract with the EBCI, and the remaining \$643,000 is allocated from a signing bonus received via contract extension with Ticketmaster in July 2019.

**Motion:**

- Motion to approve the adoption of a resolution for the sole source standardization procurement of Daktronics brand video display equipment for the U.S. Cellular Center and authorizing the City Manager to execute and agreement with the EBCI to accept funds for this equipment .

**RESOLUTION BOOK NO. 41 - PAGE 117**

**K. RESOLUTION NO. 19-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH VHB INC. TO CONDUCT A CORRIDOR STUDY FOR BILTMORE AVENUE AND MCDOWELL STREET**

**Action Requested:** Motion to adopt a resolution authorizing the City Manager to execute a contract with VHB Inc., a transportation engineering and planning firm, not to exceed \$200,000 to conduct a corridor study of Biltmore Avenue and McDowell Street.

**Background:**

- The City received a transportation planning grant from the French Broad River Metropolitan Planning Organization (MPO) to conduct a corridor study for Biltmore Avenue and McDowell Street which will study and recommend multimodal improvements to the corridors and connecting streets.
- The grant amount is \$160,000 with a \$40,000 City match, for a total of \$200,000.
- The funds for the project are programmed in the current Fiscal Year 2019-2020 Budget.
- A selection committee comprised of staff from the City and the MPO selected the consulting firm of VHB and their team of subconsultants from a competitive procurement process initiated by a request for qualifications.
- The purpose of the study is to analyze multimodal transportation mobility on Biltmore Avenue and McDowell Street, along with consideration of parallel and connecting streets. This study will consider a range of solutions and make recommendations for improvements to accommodate all transportation users including motorists, bicyclists, pedestrians, and transit riders.

**Vendor Outreach Efforts:**

- The request for proposals was subject to the City's Minority and Women-Owned Business Enterprise (MWBE) plan.
- Several firms submitted bids that included subcontractors that are MWBEs and/or Disadvantaged Business Enterprises.

- VHB Inc. has partnered with a firm, Rose and Associates, which is a currently registered Small Professional Services firm with the NCDOT and a Historically Underutilized Business with the state.

**Council Goal(s):**

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

**Pro(s):**

- Biltmore Avenue and McDowell Street form the primary north-south transportation routes between downtown Asheville and Biltmore Village. In current conditions, narrow travel lanes and limited right of way are a barrier to improved bicycle and pedestrian connectivity in these corridors.
- This study will produce a range of possible solutions for changes to these streets to better serve all modes of transportation.

**Con(s):**

- None

**Fiscal Impact:**

- The cost of the project is \$200,000. The project funding, which includes the federal grant of \$160,000 and the City contribution of 40,000, is already budgeted in the City's Special Revenue Fund.

**Motion:**

- Motion authorizing the City Manager to execute a contract with VHB Inc. to conduct a corridor study for Biltmore Avenue and McDowell Street.

**RESOLUTION BOOK NO. 41 - PAGE 118**

**L. RESOLUTION NO. 19-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE EXISTING CONTRACT WITH CAROLINA TRACTOR & EQUIPMENT FOR SERVICES RELATED TO THE REPAIR AND MAINTENANCE OF CITY VEHICLES AND EQUIPMENT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to amend the existing maintenance agreement with Carolina Tractor & Equipment to increase the annual contract value from \$300,000 to \$500,000.

**Background:**

- The Public Works Department Fleet Management Division maintains over 1,000 City-owned vehicles and pieces of equipment.
- Subcontracted work is used to supplement existing staff resources at times of high demand or to provide services where Fleet does not have suitable facilities or resources (e.g., paint shop, etc.).
- Under an earlier procurement process, Carolina Tractor & Equipment was selected to provide supplemental fleet maintenance services. On October 25, 2016, City Council adopted Resolution 16-228 authorizing the City Manager to enter into a contract with this firm for an initial one-year term with up to four one-year renewals. The annual contract value was initially approved for \$200,000.
- Resolution 18-120 authorized the City Manager to amend the original agreement to increase the annual contract value from \$200,000 to \$300,000 due to an increased workload caused by vehicle accidents and repairs.

- During the 2019 calendar year, a number of significant repairs to Fire apparatus was necessary due to aging equipment.
- Fleet Management is requesting that the annual value of the contract be increased from \$300,000 to \$500,000 to account for these expected overruns.
- The agreement is currently in the second year of four optional renewal periods.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women-owned businesses through the original contract solicitation process which included posting on the City’s bid page, Twitter, and the State’s Interactive Purchasing System. No Minority & Women-Owned Business Enterprise service providers submitted bids with this prime contractor.

**Council Goal(s):**

- Thriving Local Economy
- Connected and Engaged Community
- Smart City

**Pro(s):**

- Allows third-party service work to continue as a supplement to in-house staff;
- Provides flexibility in service delivery without significant capital investment in equipment or facilities (e.g., paint shop, etc.) that are not used on a daily basis; and
- Supports returning vehicles to service after needed repairs sooner.

**Con(s):**

- Increases expenditures under the contract.

**Fiscal Impact:**

- Costs for these services are included in the General Fund fleet allocations for departments requiring vehicle repair and maintenance activities.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to amend the existing maintenance agreement with Carolina Tractor & Equipment to increase the annual contract value from \$300,000 to \$500,000.

**RESOLUTION BOOK NO. 41 - PAGE 119**

**M. RESOLUTION NO. 19-239 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNOPENED ALLEY KNOWN AS LENNOX COURT AND SETTING A PUBLIC HEARING ON NOVEMBER 26, 2019**

**Action Requested:** Adoption of a Resolution of Intent to schedule a public hearing for November 26, 2019, to close an unopened right of way known as Lennox Court

**Background:**

- N. C. General Statute Sec. 160A-299 grants cities the authority to permanently close streets and alleys.
- The Jewish Community Center has petitioned the closure and owns one adjacent property, 236 Charlotte Street (PIN # 9649-54-9870).
- This closure allows maximum land use potential for further development in accordance with Living Asheville - A Comprehensive Plan for our Future.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Multimodal Transportation Committee -August 28, 2019 - Recommended closing the right of way as long as pedestrian access is intact. This condition has been met.

**Pro(s):**

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

**Con(s):**

- None

**Fiscal Impact:**

- There will be no fiscal impact related to this closure.

**Motion:**

- Motion to adopt resolution of intent to schedule a public hearing November 26, 2019; to close an unopened right of way known as Lennox Court

**RESOLUTION BOOK NO. 41 - PAGE 120**

- N. RESOLUTION NO. 19-240 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE TWO UNOPENED RIGHTS-OF-WAY KNOWN AS POND ROAD AND LANCE LANE LOCATED OFF LONG SHOALS ROAD AND SETTING A PUBLIC HEARING ON NOVEMBER 26, 2019**

**Action Requested:** Adoption of a resolution of intent to schedule a public hearing for November 26, 2019, to close an unopened right of way known as Lance Lane/Pond Street.

**Background:**

- N.C. General Statute Sec. 160A-299 grants cities the authority to permanently close streets and alleys.
- James Wilson with Long Shoals Development ( PIN # 9644-99-5794) has petitioned for the closure. Adjoining property owners Cane Creek - Vistas LLC (PIN #9644-99-5598), Karen Fraser and Gordon B Fraser Trust ( PIN #s 9644-99-3427, 9644-99-3772) have joined this petition.
- This closure allows maximum land use potential for further development in accordance with Living Asheville - A Comprehensive Plan for our Future.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Multimodal Transportation Committee - 8/28/19 - Recommended closing the right of way by unanimous vote

**Pro(s):**

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goal to promote sustainable high density infill growth that makes efficient use of existing resources

**Con(s):**

- None

**Fiscal Impact:**

- There will be no fiscal impact related to this closure.

**Motion:**

- Motion to adopt resolution of intent to schedule a public hearing on November 26, 2019 to close an unopened right-of-way known as Lance Lane/Pond Street.

**RESOLUTION BOOK NO. 41 - PAGE 121**

**O. ORDINANCE NO. 4771 - BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION PROGRAM SECTION 5307 FUNDS FOR TRANSIT OPERATIONS**

**Action Requested:** Adoption of budget amendment in the amount of \$517,767 from Federal Transit Administration Section 5307 Funds (NC-2019-047).

**Background:**

- Section 5307 is an urbanized area formula funding program that makes Federal resources available to urbanized areas for transit capital and operating assistance in urbanized areas.
- Eligible activities include capital investments for new buses, replacement of buses, rebuilding buses, preventive maintenance activities, paratransit service costs, and specific route assistance.
- These are Federal Transit Administration (FTA) funds under Award # NC-2019-047 for the 5307 formula funds for Job Access Reverse Commute (JARC) program that the City is the designated recipient for the region. The City is responsible for overseeing the funds. The chart below outlines the amount funded for each recipient.
- The budget amendment will provide expenditure authorization for the \$517,767 in grant funds. These grant funds are not for new projects but will be used for existing capital and operating assistance projects.

<b>Subrecipient</b>	<b>Project</b>	<b>FTA Amount</b>	<b>Local Match (Operating Assistance - 50% Match Capital - 20% Match)</b>
Mountain Projects/Haywood	Bus for Expansion (80/20)	\$68,236	\$17,059
Mountain Projects/Haywood	New Deviated Fixed Route (50/50)	\$80,450	\$80,450
City of Asheville	JARC Admin Mtn Projects (80/20)	\$14,869	\$3,717
Buncombe County	Black Mountain Trailblazer (50/50)	\$190,515	\$190,515
City of Asheville	Black Mountain Rt 170 (50/50)	\$128,276	\$128,276
City of Asheville	Program Administration (80/20)	\$35,421	\$8,855

**Council Goal(s):**

- Transportation and Accessibility
- A Well-Planned and Livable Community
- An Equitable and Diverse Community

**Committee(s):**

- None

**Pro(s):**

- Project funding is provided by the FTA.
- These grants require a match of 50% for operating projects and 80% for capital projects. Each sub-recipient is responsible for their local match.
- As the designated recipient, the City of Asheville receives 10% of the funding total in order to cover administration of the grant for the region's subrecipients.

**Con(s):**

- None

**Fiscal Impact:**

- The total grant award for the projects are \$517,767 and will be funded with FTA funds. As noted in the table above, \$50,290 will be reimbursed to the city for administrative costs associated with managing the grant. Asheville's local match for the provision of Black Mountain Route 170 totals \$128,276.

**Motion:**

- Motion to adopt a budget amendment in the amount of \$517,767 from Federal Transit Administration Section 5307 Funds (NC-2019-047).

**ORDINANCE BOOK NO. 32 - PAGE 437**

**P. RESOLUTION NO. 19-241 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE ARCHER COMPANY TO CONDUCT A CLASSIFICATION AND COMPENSATION STUDY FOR THE CITY OF ASHEVILLE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with The Archer Company in the amount of \$145,000 and authorize the City Manager to approve change orders in the amount of \$5,000 for a maximum total of \$150,000 to complete the classification and compensation study.

**Background:**

- The City's goal is to attract and retain qualified employees. The objective of the study is to develop and implement a total compensation package which includes a credible compensation plan that ensures positions performing similar work with essentially the same level of complexity, responsibility and knowledge, skills and abilities are classified accurately; provides salaries commensurate with assigned duties; provides promotional opportunities and recognizable compensation growth; and continues to be competitive with relevant markets.
- Consultant will:
  - Analyze impact of moving City's minimum pay rate to \$31,200/year (\$15.00/hour based on a 40 hour workweek); and provide results of such analysis and fiscal impact to City Manager by December 31, 2019.
  - Review the City's existing Compensation and Classification system to include the review of existing organizational charts, budget information related to staffing, current compensation and benefits.

- Review and prepare updated ADA compliant job descriptions for approximately 312 positions, which includes exempt and non-exempt civilian and public safety positions.
- Recommend implementation strategies including calculating the cost of implementing study results.
- Completed study expected in Spring 2020.
- City staff issued a Request for Proposals (RFP) to solicit firms to conduct a classification and compensation study on July 1, 2019.
- Eight responses were received.
- An evaluation committee reviewed all responses and narrowed the field to three firms.
- The final three firms were interviewed by the evaluation committee.
- The Archer Company was determined to be the most qualified firm to perform the compensation and class study.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women-owned businesses by 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.
- No MWBE firms submitted bids with this prime contractor.

**Council Goal(s):**

A Financially Resilient City  
An Equitable and Diverse Community

**Committee(s):**

None.

**Pro(s):**

Study will determine whether the current compensation structure is aligned with business needs and the labor market.

**Con(s):**

None

**Fiscal Impact:**

- \$150,000 was approved in the FY 2020 Budget. The amount of this contract is \$145,000.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with The Archer Company in the amount of \$145,000 and authorize the City Manager to approve change orders in the amount of \$5,000 for a maximum total of \$150,000 to complete the classification and compensation study.

**RESOLUTION BOOK NO. 41 - PAGE 123**

**Q. RESOLUTION NO. 19-242 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT EXTENSION WITH WNC LANDSCAPING LLC FOR THE FISCAL YEAR 2019 DOWNTOWN CLEANING PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract renewal with WNC Landscaping, LLC., in the amount of \$226,202 plus a 15 % contingency of \$33,930 (\$260,132 total) for the contract known as Downtown Cleaning.

**Background:**

- This contract includes provisions for the pressure washing of City-owned sidewalks in the Central Business District (CBD); weed control on City-owned sidewalks and curb lines; general cleanup services to remove loose litter and debris from City-owned sidewalks; and the cleaning of City-owned garbage and recycle cans.
- The original contract was advertised on August 29, 2018. Bids were opened on September 20, 2018. Three bids were received:

WNC Landscaping, LLC of Cedar Mountain, NC	\$226,202
Harper Professional Janitorial Services of Black Mountain, NC	\$288,434
Rivertop Contracting of Swannanoa, NC	\$406,266

- WNC has been working since December 2018 and this is for the first one-year renewal built into the contract. The contract allows for two one-year extensions if the contractor performs satisfactorily and agrees to the extensions.

**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.
- One minority business enterprise (Harper Professional Janitorial Services) submitted a bid to be the prime contractor on the project.
- Based upon being the lowest, responsive bidder, WNC Landscaping, LLC was awarded the contract.

**Council Goal(s):**

- This action aligns with the 2036 City Council Vision of Well-Planned and Livable Community, Transportation and Accessibility.

**Pro(s):**

- Will continue the increased cleaning frequency of the most heavily used areas of the CBD.
- Will continue to provide for the cleaning of City-owned garbage and recycle cans.

**Con(s):**

- None.

**Fiscal Impact:**

- Funding for this contract is included in the adopted Fiscal Year 2019-2020 Public Works Department budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract renewal with WNC Landscaping, LLC in the amount of \$226,202 plus a 15 % contingency of \$33,930 (\$260,132.00 total) for the contract known as FY19 Downtown Cleaning.

**RESOLUTION BOOK NO. 41 - PAGE 124**



**R. RESOLUTION NO. 19-243 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A CONTRACT WITH B.H. GRANING LANDSCAPES INC. FOR THE OLD TOLL ROAD SLIDE STABILIZATION PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with B.H. Graning Landscapes, Inc. in the amount of \$485,453.48 plus a 15 % contingency of \$72,818 (\$558,271.48 total) for work to stabilize Old Toll Road.

**Background:**

- A section of the southern end of Old Toll Road slid due to excessive rainfall on July 5, 2019. This resulted in the closure of Old Toll Road. Bunnell Lammons Engineering evaluated the site and provided design drawings to repair the damage. The design contract was a not-to-exceed contract in the amount of \$41,400 and was executed on June 4, 2019. The total amount budgeted for this project is \$684,271.48 which includes potential utility relocation, contract inspection, additional design work, and in-house project administration.
- The construction contract was advertised on August 26, 2019. The following three bids were opened on September 19, 2019:

B.H. Graning Landscapes, Inc., Sylva, NC	\$485,453.48
Patton Construction Group, Inc. Arden, NC	\$540,500.00
Bryant Land and Development Industries, Inc., Burnsville, NC	\$784,042.00
- Construction is anticipated to start early November and last for approximately 60 days.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women-owned businesses 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.
- No minority or women-owned business enterprises submitted a bid to be the prime contractor on the project.
- B.H. Graning Landscapes, Inc. was the lowest, responsive bidder.
- The contractor intends to self perform the construction of the slope stabilization. Self performance is work that will be conducted by the prime contractor, instead of the subcontractors. However, they are using MWBE firms for resurfacing and materials transport. These two items are 12% of the dollar value of the contract.

**Council Goal(s):**

- This action complies with Council's 2036 vision for transportation and accessibility.

**Pro(s):**

- Will reopen Old Toll Road to vehicular, pedestrian, and bicycle traffic
- Will help prevent further slides in the immediate vicinity of the current slide.

**Con(s):**

- None.

**Fiscal Impact:**

- Funding for this contract and the 15% contingency will come from the FY20 Capital Improvement Program (CIP) contingency budget. After funding this contract, there will be approximately \$320,000 remaining in the current contingency budget.

**Motion:**

- Motion to adopt a resolution awarding the contract to B.H. Graning Landscapes, Inc. and authorizing the City Manager to execute a contract in the amount of \$485,453.48 plus a 15 % contingency of \$72,818 (\$558,271.48 total) for work to stabilize Old Toll Road.

**RESOLUTION BOOK NO. 41 - PAGE 125**

**S. ORDINANCE NO. 4772 - BUDGET AMENDMENT FROM DEERFIELD EPISCOPAL RETIREMENT COMMUNITY, INC. FOR AN AFFORDABLE HOUSING TRUST FUND DONATION**

**Action Requested:** Adoption of budget amendment in the Housing Trust Fund in the amount of \$250,000 from Deerfield Episcopal Retirement Community, Inc. Donation

**Background:**

- Over several months Deerfield community enjoyed visits from city leaders who shared the important issues and real challenges affecting Asheville.
- As part of this discussion, the lack of Affordable Housing combined with a lack of local resources to adequately address the issue was identified as a major challenge for the City of Asheville.
- In an effort to assist in the City's efforts to increase the supply of affordable housing, the Deerfield Retirement Community has donated \$250,000 to the City of Asheville Affordable Housing Trust Fund.
- The City of Asheville is authorized to receive property by gift pursuant to N.C.G.S. § 160A - 240.1.
- The budget amendment will provide expenditure authorization for the \$250,000 in donated funds.
- These funds will be transmitted to the City of Asheville Affordable Housing Trust Fund for the sole use and purpose of providing affordable housing within the corporate limits of the City of Asheville and for no other purpose.

**Council Goal(s):**

- Quality Affordable Housing

**Committee(s):**

- None

**Pro(s):**

- Funding for the Affordable Housing Trust Fund

**Con(s):**

- None

**Fiscal Impact:**

- The total donation of \$250,000 will be added to the City of Asheville Affordable Housing Trust fund.

**Motion:**

- Motion to adopt a budget amendment in the amount of \$250,000 for the City of Asheville Affordable Housing Trust Fund.

**ORDINANCE BOOK NO. 32 - PAGE 438**

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, with the deletion of Consent Agenda E. This motion was seconded by Councilman Kapoor and carried unanimously.

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

#### **A. MANAGER'S REPORT - TRANSIT UPDATE**

City Manager Campbell said that City staff would love to extend bus hours; however, we do not have the funding. As part of the budget process, Council asked for route configurations and for staff to look at, over the coming months, to determine if there were any cost savings in addition to determining what it would take from a resource and capital perspective to extend the bus hours. Until we have budget projections, as it relates to any savings, we cannot commit to bus hour extensions. She said we hope to have numbers on whether we will have budget savings in January or February of 2020.

Assistant Transportation Director Jessica Morriss outlined the transit investments for Fiscal Year 2020 (1) Adopted \$1.2 million in additional operational funds for FY 2020; (2) Implements approximately half of the 1st Yr. Transit Master Plan recommendations for 6 months (January - June 2020) (a) 20,000 service hours to increase frequency and realign existing routes; (b) Staffing to improve quality, OTP, and customer experience; (c) Bus maintenance to improve reliability; and (d) Maintenance facility study; and (3) Council also recommended staff continue to monitor the budget to determine if there were savings to more quickly implement extended service hours.

Regarding the Transit Master Plan Year 1 - Extended Hours, staff will be monitoring the budget to determine if there are any savings. In the process of assessing capital, staff and costs needed to extend hours. Cost estimates will consider (1) implementation timeline (July, October, January?); (2) paratransit increase; (3) maintenance impacts (3rd shift?) (4) ART staff increases (operators/dispatchers, mechanics, customer service, etc.); (5) vehicle availability; (6) additional security needs at transit station; (6) fuel increase and increased fuel cost; and (7) City staff resources.

Regarding the Transit Master Plan Year 1 Next Steps, (1) staff will continue working to implement approved and funded enhancements intended to improve on time performance and launch early January 2020; (2) finalize operating budget estimates to implement the next phase of Year 1 of the Transit Master Plan (extended service hours) by December 2019; (3) continue monitoring budget to determine if there are any savings; and (4) frequently update Council on costs and funding opportunities to implement extended service hours sooner.

Councilman Kapoor said that currently under state law, the Buncombe County Board of Commissioners can decide to put a ¼ cent sales tax on the ballot for transit expansion county-wide. That money could be used to expand transit. With the level of transit expansion that we need to have, we need a dedicated source of funding. He urged transit advocates to contact the Buncombe County Commissioners and ask for their support for this ¼ cent sales tax on the ballot.

Councilwoman Mayfield agreed with Councilman Kapoor that we need a dedicated funding source for transit. Even though it does require legislative approval, we need to try to get the City the authorization to do it's own ¼ cent sales tax that would support transit. She hoped that when the numbers come in that the City will be prepared to implement the extended bus hours as soon as possible.

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

#### **A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 1 SOUTH TUNNEL ROAD FROM REGIONAL BUSINESS DISTRICT TO MIXED USE EXPANSION/CONDITIONAL ZONE TO ALLOW A MIXED-USE DEVELOPMENT THAT INCLUDES RESIDENTIAL, RETAIL, SERVICE AND ENTERTAINMENT USES**

At the request of the applicant's attorney, Vice-Mayor Wisler moved to continued this public hearing until December 10, 2019. This motion was seconded by Councilman Kapoor and carried unanimously.

**B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING MULTIPLE PARCELS FROM COMMUNITY BUSINESS II DISTRICT TO RESIDENTIAL EXPANSION DISTRICT/CONDITIONAL ZONING FOR A 130-UNIT RETIREMENT COMMUNITY LOCATED AT 213 LONG SHOALS ROAD; (A PORTION OF) 403, 420, 440, 439, 99999, AND 433 OVERLOOK ROAD EXTENSION**

**ORDINANCE NO. 4773 - ORDINANCE TO CONDITIONALLY ZONE MULTIPLE PARCELS FROM COMMUNITY BUSINESS II DISTRICT TO RESIDENTIAL EXPANSION DISTRICT/CONDITIONAL ZONING FOR A 130-UNIT RETIREMENT COMMUNITY LOCATED AT 213 LONG SHOALS ROAD; (A PORTION OF) 403, 420, 440, 439, 99999, AND 433 OVERLOOK ROAD EXTENSION**

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone multiple parcels from Community Business II District to Residential Expansion District/Conditional Zone for the development of a 130-unit retirement community located at 213 Long Shoals Road; (a portion of) 403, 420, 440, 439, 99999, and 433 Overlook Road Extension. This public hearing was advertised on October 12 and 18, 2019.

**Project Location and Contacts:**

- The project site consists of seven parcels with a combined area of 6.32 acres located at 213 Long Shoals Road; 420, 440, 439, 99999, 433 and a portion of 403 Overlook Road Ext (PINs 9644-69-4238, 9644-68-7922, 9644-68-5885, 9644-68-4985, 9644-69-4071, 9644-69-5091 and a portion of 9644-69-6391).
- The property owners are Asheville Pentecostal Holiness Church, C&B Toothland of Overlook Ext LLC, C&B Toothland of Lake Julian, LLC, Kenneth R and Toni O Mahaffey, and Linda Gipson.
- Petitioner/contact: Brett Hammonds.

**Summary of Petition:**

- The proposal is for an age-restricted residential development with associated uses within the building including, but not limited to, a fitness center, salon and chapel; and office space for management staff.
- There are 130 residential units proposed, which necessitates a rezoning via conditional zoning to Residential Expansion District due to the number of units.
- There are a number of small buildings on the project site that would be demolished and removed as a result of this approval.
- The site is located at the edge of the City of Asheville limits; parcels to the south are within Buncombe County zoning jurisdiction and are occupied by Lake Julian Park.
- The 130 individual units are proposed to be included within one building, approximately 179,400 square feet in size, and three-stories in height (approximately 44 feet).
- The density proposed is 20.56 units per acre which is just above the maximum permitted and requires a condition as noted later in this report.
- The site is accessed via two driveways; the primary vehicular access is from Overlook Road Extension with a second driveway from Long Shoals Road used to access dumpsters, loading and a small number of parking spaces.
- Throughout the site a total of 133 parking spaces are provided; 103 surface spaces and 30 spaces housed in separate single-story, freestanding garage structures.
- Sidewalks are required to be ten feet in width; the plans provide a ten foot wide sidewalk behind a five foot grass strip along Long Shoals Road to help meet the needs for the proposed Lake Julian Greenway corridor. The small portion of sidewalk along Overlook Road Extension is ten feet

wide. Internal walkways are proposed to be five feet in width.

- Landscaping as required by code is provided throughout the site. A number of retaining walls are included and will be screened according to City standards.
- The project includes common open space in a number of locations on the site and will include walking paths and community amenities. The proposal makes use of an open space reduction allowance when a site is immediately accessible to public park land; the applicant will provide a sidewalk connection to Lake Julian Park.
- Design and operational standards in the requested zoning district recommend the layout and building type to be compatible with adjacent residential areas; there are a variety of similar larger structures serving various uses in the vicinity. The closest residential buildings are smaller in scale but they are across Long Shoals Road.
- The project includes a number of conditions, some of which are due to lack of compliance with City standards and some additional conditions meant to mitigate impacts or provide a public benefit and include the following:
  - The density proposed is just over the maximum allowed without including dedicated affordable units.
  - Multi-family developments are limited to a single-driveway connection; plans show two driveways with one on each frontage.
  - The project makes use of an open space reduction based on proximity to a public park.
  - Internal sidewalks that connect buildings are required to be 10 feet wide; five foot walkways are provided through the development.
- The required neighborhood meeting was held on April 29, 2019. Staff has not received any public comment as of the writing of this report.

**Comprehensive Plan Consistency:**

- The Living Asheville Comprehensive Plan identifies this location as an Urban Corridor on the Future Land Use Map. This designation anticipates mixed-use development including higher density residential and emphasizes multi-modal access and sidewalks to enhance connectivity and the pedestrian experience. This project aligns with these goals.
- The Livable Built Environment section of the plan emphasizes making streets more walkable and connected and building out the greenway network.

**Compatibility Analysis:**

- Uses in the vicinity include schools and other institutional uses such as churches, single and multi-family residential, a variety of commercial and office uses and recreational uses.
- There are a variety of building sizes and types along the corridor as well. This development is compatible both in proposed use and form.
- The inclusion of widened sidewalks, transit shelter in the vicinity, and a pedestrian connection to Lake Julian Park provide connectivity and access.

**Council Goal(s):**

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

**Committee(s):**

- Technical Review Committee - August 19, 2019 - approved with conditions
- Planning & Zoning Commission - October 2, 2019 - recommended approval (7-0)

**Staff Recommendation:**

- Staff finds that the proposed development is consistent with the comprehensive plan and requested zoning district. The applicant is providing elements that enhance the development and contextual location with wide sidewalks and the other conditions requested by the applicant are supportable.

In response to Vice-Mayor Wisler, Ms. Bernstein said that this is a for-profit development.

Mr. Richard Tranter, attorney for Cameron General Contractors, explained the independent living project and said they are fully taxable, is about a \$35 Million construction project, has no drain on the school system, no impact on the roads, and is a benefit to the community.

Mr. Bob Lewis, Director of development for Cameron General Contractors, gave a sense of the operations and said they have identified a need for this type of housing in Asheville.

Mr. Trantner responded to Councilman Kapoor regarding the landscape plan.

Mayor Manheimer opened the public hearing at 5:46 p.m. and when no one spoke, she closed the public hearing at 5:46 p.m.

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 the conditional zoning request for the project known as Julian Woods Retirement Community from Community Business I to Residential Expansion District Conditional zone and find that the request is consistent with the city's adopted comprehensive plan, is reasonable and is in the public interest in that: (1) the existing Future Land Use category, Urban Corridor, is appropriate and supportive of this higher density residential use; (2) the project provides pedestrian connections along Long Shoals Road and Overlook Road Extension; and (3) the proposal is aligned with strategies found in the city's comprehensive plan regarding activating the pedestrian experience, supporting the greenway network, siting uses along corridors that are supported by transit and locating residential density proximate to other commercial uses, contributing to a mixed-use corridor. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

#### **ORDINANCE BOOK NO. 32 - PAGE 439**

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

##### **A. ORDINANCE NO. 4774 - ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR AT-LARGE ELECTIONS FOR MEMBERS OF THE CITY OF ASHEVILLE CITY COUNCIL**

City Attorney Brad Branham said that this the consideration of an ordinance amending the City of Asheville Charter to provide for at-large elections for members of the City of Asheville City Council.

Mayor Manheimer announced that this public hearing was held on September 24, 2019, and no additional public comment would be taken.

**Action Requested:** Adoption of an ordinance amending the City of Asheville Charter to provide for at-large elections for the members of the City of Asheville City Council.

#### **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.
- On September 10, 2019, City Council adopted two resolutions of intent to amend the Charter and to set the public hearings on the City of Asheville Charter amendments on September 24, 2019.
- On September 24, 2019, City Council held two separate public hearings on the City of Asheville Charter amendments.

**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.

Councilman Kapoor said at one positive about this vote is that at least we'll have this decision over with and folks will have some clarity about next year's elections. While the General Assembly does have the ability to change things back, he hoped they don't as all that will do is result in costly litigation that will be a waste of taxpayer money and a serious distraction. If you support a system with some districts, as he does, he thinks the best way of going about it is through a voter referendum that our charter allows as long as you get a petition signed by 15% of registered voters in the city. It's a high bar for sure, but it's not impossible. Going back to an all at-large system is probably the worst route we could have taken. While it may be better for certain council members individually, for the city as a whole, for the average resident, for minority communities seeking better access to their representatives, it's the worst system out there. And that's not just his view, it's shared by many other civil rights and voter rights organizations. During this process, however, we didn't take the time to investigate the facts. He thanked Jonathan Wainscott for the time he took looking at the data and the facts. He was one of the few who did and he had to endure people criticizing his motives, but never once did they contract a statement that he made. Asheville can be a place that cares more about who says something than the truth of what they are saying. With this return to an all at-large system, Council elections will be like nothing we've seen before. The primary turnout will probably be twice the turnout when he was elected and the general about three times. People who have never voted in a Council election will probably out-number those who have. To those who support this action tonight, all he can say is be careful what you wish for, you just may get it.

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

Vice-Mayor Wisler moved to adopt an ordinance amending the City of Asheville Charter to provide for at-large elections for members of the City of Asheville City Council. This motion was seconded by Councilman Haynes and carried on a 6-1 vote, with Councilman Kapoor voting "no".

**ORDINANCE BOOK NO. 32 - PAGE 446**

**B. ORDINANCE NO. 4775 - ORDINANCE TO CONSIDER AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE THAT ASHEVILLE CITY COUNCIL ELECTIONS BE CONDUCTED BY THE NONPARTISAN PRIMARY AND ELECTION METHOD**

City Attorney Brad Branham said that this is the consideration of an ordinance amending the City of Asheville Charter to provide that Asheville City Council elections be conducted by the nonpartisan primary and election method.

Mayor Manheimer announced that this public hearing was held on September 24, 2019, and no additional public comment would be taken.

**Action Requested:** Adoption of an ordinance amending the City of Asheville Charter 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.
- On September 10, 2019, City Council adopted two resolutions of intent to amend the Charter and to set the public hearings on the City of Asheville Charter amendments on September 24, 2019.
- On September 24, 2019, City Council held two separate public hearings on the City of Asheville Charter amendments.

**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.

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



Vice-Mayor Wisler moved to adopt an ordinance amending the City of Asheville Charter to provide that Asheville City Council election be conducted by the nonpartisan primary and election method. This motion was seconded by Councilman Haynes and carried unanimously.

**ORDINANCE BOOK NO. 32 - PAGE 448**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 19-244 - RESOLUTION REPEALING THE FEE GRANT PROGRAM FOR AFFORDABLE HOUSING DEVELOPMENT ADOPTED BY RESOLUTION NO. 17-226, WITH A NEW, STAND ALONE AFFORDABLE HOUSING FEE REBATE PROGRAM**

Community Development Program Director Paul D'Angelo said that this is consideration of approval of a "new" stand alone Fee Rebate Policy.

**Background:**

- In March of 2011, City Council adopted a Fee Rebate Policy as part of a broader Land Use Incentive Grant (LUIG) Policy to incentivize development of affordable housing in accordance with Council strategic goals.
- A fee rebate is a refund of certain development and planning related fees that may be granted in accordance with this policy upon completion of an affordable housing project.
- A review of the policy was done in June, 2017, with the recommendation of the Community Development (CD) staff to discontinue fee rebates as it wasn't being utilized beyond \$1,000 to \$2,000 per year.
- In September, 2017, suggestions were made to update the Fee Rebate Policy to include homeownership targeting individuals and families making under 80% Area Median Income (AMI). The most recent fee rebate policy was adopted on October 3, 2017, per City Council Resolution No. 17-226. This policy provided fee rebates both for sale and rental and was flat rate per unit (i.e. \$1,000/unit for rental at 80% AMI and below; \$2000/unit for rental at 60% AMI and below; 25 year period of affordability).
- As with other policies, Council requested that the LUIG, which included Fee Rebates at the time, be reviewed yearly after its adoption in partnership with other departments, stakeholders and the community. After review with the partners, CD staff felt a stand alone LUIG policy and a stand alone Fee Rebate policy would better assist in the production of affordable housing by not tying one rebate to another and that the policies would be more clear on their own.

**Highlights of the Proposed New Fee Rebate Policy**

**Program Eligibility Requirements:**

**Affordable Housing Minimum Requirements to Qualify for 50% grant rebate on the affordable unit**

- The proposed development must be within Asheville City limits.
- A rental project must serve individuals and households under 80% AMI for a minimum of 20 years.
- An Ownership project must serve individuals and households making under 80% AMI.
- A project can be either new construction or rehabilitation. The rehabilitation or redevelopment of a unit must be rented or sold serving the same or lower AMI individual or family as the original unit.
- At least 20% of the units (minimum of at least two affordable units) in the development must be affordable to qualify for the grant rebate, either rental or for sale.

***In addition to the above, a grant rebate may be up to 75% on the affordable unit if -***

- A rental project serves individuals and households under 60% AMI for a minimum of 20 years, or

- An ownership project sells to individuals and households making under 60% AMI, or
- 20% of the units are Universally Designed to make them accessible to all people, regardless of age, disability or other factors. Link [here](#) for more information as recommended by the North Carolina Housing Finance Agency (NCHFA).

***In addition to the above, a grant rebate may be up to 100% on the affordable unit if -***

- Developers offer permanent affordability in rental homes, or
- Developers offer permanent affordability on a for sale product, such as a Community Land Trust, or
- Affordability where at least 20% of the units target individuals & families under 30% AMI or those homeless or in danger of being homeless, i.e. taking an individual or family off the Homeless By-name List.

***Eligible Development Fees for Rebate for Affordable Housing:***

- Planning and Zoning
- Site Development
- Building Safety (plan review and permit fees)
- Fire
- Water Service Connection

***Ineligible Development Fees for Rebate:***

- Homeowner Recovery
- Reinspection or Resubmittal
- Technology
- Temporary Certificate of Occupancy
- Western North Carolina Air Quality Agency

<b>Sustainability Rebate</b>	<b>Sustainable Action - Single Family Home</b>
\$500.00	Sustainability - Green Built Home Certified*
\$250	Sustainability -Verified Home Energy Rating Index Score (HERS) of 49 or Below
\$100	Sustainability - Energy Star Certified
\$175.00	Solar Photovoltaic Systems
\$100.00	Tree Protection (save)**
	Energy Savings Tree Plantings (new)***

**Fee Waivers**-Certain Fees eligible for rebates as described above, may be waived up front on a case by case basis based on a developer’s affordable housing experience and demonstrated financial need of the project only upon approval by City Council. Utility related fees funded by Enterprise Funds cannot be waived. Additionally, in order to be eligible for a fee waiver, the developer must have a contractual obligation with the City to provide affordable housing (i.e. affordable housing loan agreement with City).

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**

- Affordable Housing Advisory Committee August 1, 2019 - recommended to move forward to HCD Committee unanimously

- Housing & Community Development Committee August 20, 2019 - asked for additional time for review
- Finance & HR Committee September 24, 2019 - recommended to move to HCD Committee unanimously
- Housing & Community Development Committee October 15, 2019 - recommended to move to City Council unanimously

**Pro(s):**

- The proposed policy comes from staff, community stakeholders, developers and committee members over the past year that address issues of affordability from 80% AMI to 30% AMI and our homeless population.
- The policy follows Community Development efforts of creating policies that are easy to comprehend, usable and equated to a dollar amount to be used as a source in a pro forma.
- Based on analysis and in agreement with the consultants for 319 Biltmore, an operational fee grant has the potential to incentivize developers to add affordable units.

**Con(s):**

- None

**Fiscal Impact:**

- All water service connection fee revenues are realized in the Water Resources Enterprise Fund and cannot be used to incentivize affordable housing development. Rebates for these fees will be paid from the General Fund.
- Although the city receives revenue when these fees are paid by a developer, the rebate typically occurs in a subsequent fiscal year after the project is complete and occupied. This lag in timing means that any fee rebates paid to affordable housing developers will not necessarily be offset by development fee revenues in the same year that the rebate is paid.
- The current budget includes \$85,000 in the Community and Economic Development Department to pay affordable housing rebates that were negotiated under the existing policy. Most of that funding has already been used to pay a single rebate (\$66,630) for one project. The Office of Sustainability budget includes \$15,000 to pay the energy efficiency and tree protection rebates. If this policy change achieves its intended purpose (i.e., greater utilization of the rebate programs), more funding will be required in future fiscal years as more developers make use of these programs

Mr. David Nutter spoke in support of this revision to the Land Use Incentive Grant Policy.

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

Councilwoman Mayfield moved to repeal the Fee Grant Program for Affordable Housing Development with a new, stand-alone Affordable Housing Fee Rebate Program. This motion was seconded by Councilman Young and carried unanimously.

**RESOLUTION BOOK NO. 41 – PAGE 126**

**B. RESOLUTION NO. 19-145 - RESOLUTION AMENDING THE CITY OF ASHEVILLE'S LAND USE INCENTIVE GRANT POLICY**

Community Development Program Director Paul D'Angelo said that this is the consideration to adopt an amended Land Use Incentive Grant Policy

**Background:**

- In November of 2010, City Council first adopted a Land Use Incentive Policy that provided incentives to encourage development projects that fulfill important public purposes directly addressing annual strategic goals set by Council like affordable housing.
- Council directed that the Policy be reviewed yearly after its adoption. Since that time, the Policy has been revised five times in March of 2011, January of 2013, August of 2014, September of 2015, and September of 2018.
- In addition, Fee Rebates were removed and recommended as a separate policy.
- The Policy was reorganized to be easier to read and more linear; i.e. the scoring matrix is all on one page with the following page offering the descriptions.
- A goal of Community Development staff, per community discussions with stakeholders and developers, is to make policies easy to comprehend, usable & equated to an investment dollar amount to be used as a source in a pro forma / balance sheet.
- Please note that the top changes were approved in June, 2019, by committees, with the bottom changes approved in August, 2019, by committees.
- Changes of note -
  - Every 5 points, versus 10 points, equal one year of property tax grant
  - Maximum length of a property tax grant - 20 years plus 1
  - Minimum 20 years of affordability versus 15 years
  - Addition of a Walkability Score
  - Addition of points for serving Low Income Individuals & Families under 60% AMI
  - Additional length of tenant affordability and update in points
  - Addition of points for accepting Tenant Based Rental Assistance
  - Addition of points for removing an individual from the Homeless by-name list
  - Addition of points for locating in the Central Business District
  - Points if part of a Brownfield Redevelopment
  - Points for energy efficiency
  - Points for Rehab / Redevelopment with added language that at a minimum, a 1 to 1 ratio of the redeveloped / rehabbed units must be targeted at the same Area Median Income (AMI) as the original units.
  - A criteria to access the Land Use Incentive Grant is that the building must be at least 70% residential in use based on square footage not to include a parking structure if applicable.
  - A scoring of 10 points for developers who add the elements of Universal Design for aging in place for at least 20% of the total units.
  - A scoring of 10 points for developers who build outside of a Qualified Census Tract (QCT). QCTs are census tracts in which at least 50% of the households have an income less than 60% of the Area Median Gross Income (AMGI). Link [here](#) to a QCT Map - Census Tracts 1,2,3,9,13,20,25.06 are all QCTs.
  - Added language to clarify that the City cannot accept a new or updated LUIG application after building permits have been issued.

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**

- Affordable Housing Advisory Committee March 7, 2019 - recommended to move forward to HCD Committee unanimously
- Housing & Community Development Committee June 18, 2019 - passed unanimously, accepting all initial changes to the LUIG Policy
- Finance & Human Resources Committee - June 25, 2019 - passed unanimously, accepting all initial changes to the LUIG Policy
- Housing & Community Development Committee August 20, 2019 - passed unanimously, accepting additional updates to the LUIG Policy

- Finance & Human Resources Committee August 27, 2019 - passed unanimously, accepting additional updates to the LUIG Policy with added language noted in Redevelopment / Rehab

**Pro(s):**

- The proposed amendments come from staff, community stakeholders, developers and committee members over the past year that address issues of concern, such as accepting Housing Choice Vouchers, Energy Efficiency, and assisting our Homeless population
- The policy follows Community Development efforts of creating policies that are easy to comprehend, usable & equated to an investment dollar amount to be used as a source in a pro forma / balance sheet.
- Based on analysis, additional years of a property tax grant has the potential to incentivize developers to add affordable units

**Con(s):**

- The proposed increase in the term of the grant could defer the net increase of City of Asheville property taxes for affordable housing developments for as much as 21 years.

**Fiscal Impact:**

- The proposed increase in the term of the grant could defer the net increase of City of Asheville property taxes for affordable housing developments for as much as 21 years.

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 amend the City's Land Use Incentive Policy. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**RESOLUTION BOOK NO. 41 – PAGE 133**

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

Four individuals spoke in support of Council adopting a climate emergency resolution.

Mr. Quinn Powers, spoke about the problem of heroin use especially at the corner of Montana and Hanover.

Four individuals spoke about the need to extend evening service hours in this fiscal year.

Mr. Jonathan Wainscott spoke in support of districts.

Councilman Kapoor said the Finance & Human Resources Commission looked at an updated General Fund model. He said that the Mission dollars are already included in the base budget for next fiscal year. He reiterated that we can't fund transit using the General Fund and parking fees. The only way we can do it is to get some type of additional revenue source.

Councilwoman Mayfield said the 5-year projection is located on the City's website under the Finance & Human Resources Committee's October 22, 2019, meeting. She felt that since we want to do more transit, urban forester position, urban forestry plan, recycling position, put money in the capital budget for solar, add more money for affordable housing, compensation, etc., we need to be talking about a property tax increase next year until we get authorized to do something else, that is our only option.

Councilwoman Mayfield also said that we are in a climate crisis but Asheville is not doing nothing. We are doing more than any city in North Carolina. We are farther down the road in figuring out how to

implement our 100% renewal resolution and we have avoided the construction of a 190 megawatt natural gas fired peaker plant. Our resolution commits us to do more than just meet our own energy goals with renewable energy, we are also committed in supporting the County in their goal of 100% renewable for the community.

Mayor Manheimer agreed that the City has been working on this for a very long time. It's very clear that the biggest things that will make a difference is car driving and getting the state to mandate a renewable mix for generation in our state.

**Closed Session**

At 6:51 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 statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1). The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(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, specifically the handling or settlement of claims, including but not limited to the following matter: City of Asheville v. Parkway Court, LLC, Case File Number 17 CVS 1380. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries or other businesses in the City of Asheville, including on a list of potential economic development incentives. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:19 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 7:19 p.m.

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CITY CLERK

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MAYOR