

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.

ANNOUNCEMENT

Mayor Manheimer expressed City Council's sincerest condolences to the family of Woodfin Town Manager Jason Young who passed away on March 9, 2020.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 10, 2020, AS "ZELDA FITZGERALD DAY"

Councilman Kapoor read the proclamation proclaiming March 10, 2020, as "Zelda Fitzgerald Day " in the City of Asheville. He presented the proclamation to Mr. Jim MacKenzie, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 25, 2020

B. RESOLUTION NO. 20-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BROWN AND CALDWELL FOR THE EMERGENCY REPAIRS TO THE NORTH FORK WATER TREATMENT PLANT WATER STORAGE TANK BAFFLE CURTAINS

Action Requested: Adoption of a resolution authorizing the City Manager to execute a professional services contract with Brown and Caldwell for the emergency repairs to the North Fork WTP water storage tank baffle curtains and geotechnical testing for an amount not to exceed \$423,000 with a contingency of \$50,000 for a total project cost of \$473,000.

Background:

- The North Fork Water Treatment Plant is the largest of the three water treatment plants for the City of Asheville water system. The North Fork WTP produces approximately 67% of the water that supplies the City of Asheville's water distribution system.
- In 2008, the North Fork water storage tank was retrofitted with five baffle curtains to increase the contact time (CT) of the treated water--The CT times are important to the treatment process at North Fork because they aid the disinfection process and are regulated by state and federal agencies.
- Four of the five baffle curtains have fallen to the bottom of the tank and are no longer serving the purpose that they were intended. As a result, the North Fork clearwell must remain above 20' at all times and be dosed at a higher residual level to meet minimum mandated requirements.

- Geotechnical testing of the North Fork Water Treatment Plant sodium hypochlorite feed area is required to determine the degree of settlement and remediation options. This area supports the weight of two chemical bulk storage tanks that store up to 12,000 gallons each of sodium hypochlorite for use in the plant's water treatment and disinfection.
- The storage area has exhibited signs of significant settling resulting in cracking of the floor, tank support pads, and the building foundation. Testing of the area will be required to determine what steps are necessary to stabilize and protect the facility for the future.

Vendor Outreach Efforts:

- Through a qualifications-based selection process beginning in August 2014, the City of Asheville selected nine consulting firms to provide on-call professional services for an array of different types of water system projects. Brown and Caldwell was one of the firms selected based on their expertise in areas of water treatment plant construction and upgrades.
- The City of Asheville entered into a master agreement with Brown and Caldwell on June 8, 2015 for on-call professional services valid for three years with the option to renew for two additional years.
- On April 19, 2018, the City of Asheville executed a renewal master agreement with Brown and Caldwell for the additional two years of on-call professional services.
- If approved, the proposed engineering services will be developed into a subcontract under the conditions of the master agreement.
- City of Asheville Water Resources staff determined that utilizing the on-call professional services for General Projects was the best method to deliver this project and Brown and Caldwell was the most qualified of the on-call firms.

Council Goal(s):

- A Financially Resilient City; A Clean and Healthy Environment

Committee(s):

- None

Pro(s):

- Return the North Fork WTP water storage tank to design parameters and return operational flexibility.
- Decrease the requirement for higher disinfection dosages and costs.
- Reduce the risk of compliance violations.
- Protect and stabilize the North Fork Water Treatment Plant Sodium Hypochlorite Bulk Storage area.

Con(s):

- None

Fiscal Impact:

- Funding for this repair will come from Water Resources capital improvement funding that was previously allocated to NCDOT projects which are delayed and will not require payment in the current fiscal year.

Motion:

- Move to adopt a resolution authorizing the City Manager to execute a professional services contract with Brown and Caldwell for the emergency repairs to the North Fork WTP water storage tank baffle curtains for an amount not to exceed \$423,000 with a contingency of \$50,000 for a total project cost of \$473,000.

C. RESOLUTION NO. 20-47 - RESOLUTION TO SET A PUBLIC HEARING ON MARCH 24, 2020, FOR TRIBUTE DEVELOPMENT COLLEGE AVENUE APARTMENTS LAND USE INCENTIVE GRANT

Action Requested: Adoption of a resolution setting a public hearing on March 24, 2020, to consider a Land Use Incentive Grant application for Collier, Tribute Companies.

Review:

- Tribute Companies have applied for a Land Use Incentive Grant (LUIG) for their development at 11 Collier Avenue per the LUIG policy adopted by City Council and amended on October 22, 2019.
- The development consists of 54 rental apartments with 100% (54) of the homes proposed serving individuals and families earning between 60.1% and 80% Area Median Income (AMI) for 20 years.
- This project is located in the Asheville Central Business District -
 - 11 Collier Avenue (PIN# 9648-38-5770)
- The developer estimates a total development cost of \$6.5M.
- Tax Value of the property, to be based on Buncombe County Tax Assessment estimate, is \$4,776,599 post completion.
- The project, as presented to staff, meets the following Eligibility Requirements:
 - The proposed development consists of two or more dwelling units for rent;
 - At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income (AMI).
 - The affordable units will be affordable to and leased to income-eligible households for at least 20 years.
 - The proposed development must be located inside the city limits.
 - The proposed development must be located to provide residents convenient access to jobs, schools and services.
 - The proposed development must be 70% residential in use based on square footage not to include a parking structure if applicable.
- Per the LUIG Scoring Matrix and based upon the policy, the project will receive 110 total points for affordability and an additional 50 points for location for a total score of 160 points. Per the policy, this will equal 21 years of grants in the amount of the City Property Taxes payable on the Ashland / Coxe Development.

Proposal:

- Affordable Rental Housing
 - The proposed project will provide fifty-four (54) units affordable to individuals and families earning between 60.1% to 80% of the area median income for an affordability period of twenty (20) years. Under this category, the project qualifies for 100 points.
- Rental Assistance
 - The proposed project will accept 5 Housing Choice Vouchers / Rental Assistance in the community, and possibly consider more. Under this category, the project qualifies for 10 points.
- Superior locational efficiency
 - The proposed project is located within .25 mile of a 1/2 hour transit stop served by an existing sidewalk , within the Central Business District, within 1 mile from job or urban center, and within a .5 mile from a Transportation Amenity. Under this category, the project qualifies for 50 points.
- Staff have scored the project with 160 points, which qualifies the project for twenty one years (21) of Land Use Incentive Grant.

Council Goal(s):

- Quality Affordable Housing
- An Equitable and Diverse Community

Committee(s):

- Housing & Community Development Committee - February 11, 2020 - approved
- Finance & HR Committee - February 25, 2020 - approved

Pro(s):

- The proposed project will provide 54 affordable rental housing units to households earning 80% or less of area median income;
- The proposed project will have an affordability period of twenty (20) years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments (54);
- The proposed project should have a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy;
- 54 affordable units located in the central business district (walkability score of 87 - very walkable, bike score of 70 - very bikeable) provides options for our downtown community workers who fall within the 80% AMI incomes.
- Tribute Companies will communicate with the Asheville Housing Authority as the development prepares to come online that they are accepting Housing Choice Vouchers.

Con(s):

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.
- The Collier Development, while not required, offers no parking for its residents and can add to the individual or family transportation costs.

Fiscal Impact:

- The parcel has a combined current tax value of \$521,000 and pays city property taxes of approximately \$2,235 annually.
- Under the estimated Tax Value of \$4,776,599 post completion, the annual city property tax will be approximately \$20,487.
- The difference is \$18,251 which would be granted to the property owner annually after payment for 21 years.
- For 21 years and 54 affordable units at or below 80% AMI, the city will grant back a total of \$383,292 over the 21 years of the LUIG which equals \$7,098 per unit of subsidy which is lower than the estimate of up to \$80,000 in subsidy for 80% AMI homes as suggested by our Lord Aeck Sargeant consultants and a subsidy cap that has been noted in other LUIG Staff Reports.
- After year 21, the City will receive the approximate \$20,487 annually in city tax revenue (depending on future property tax increases, etc.). Please note the City will still receive property taxes of approximately \$2,235 in years 1 - 21.

Motion:

- Motion to adopt a resolution to set a public hearing for City Council to consider a Land Use Incentive Grant application on March 24, 2020.

RESOLUTION BOOK NO. 41 - PAGE 247

D. RESOLUTION NO. 20-48 - RESOLUTION REVOKING RESOLUTION NO. 93-145 AND ESTABLISHING POLICY REGARDING SETTLEMENT OF LIABILITY CLAIMS ON BEHALF OF THE CITY OF ASHEVILLE

Action Requested: Revoke Resolution 93-145 and adopt new claim settlement authority resolution

Background:

- In 1993, Asheville City Council adopted Resolution 93-145; granting the City of Asheville Risk Management Division (Risk Management) authority to settle liability claims and lawsuits up to \$25,000 on matters including but not limited to property damage, bodily injury, and employment claims while settlements exceeding \$25,000 still required Asheville City Council approval.
- Resolution 93-145 only provided administrative settlement authority for those matters under the purview of the City's Risk Manager. However, other liability claims are handled primarily by the City Attorney, including but not limited to land use, zoning, and code enforcement matters.
- Risk Management and the City Attorney's Office seek updated settlement authority not to exceed \$50,000 per claimant to increase efficiency by expediting claim resolutions.
- The proposed administrative settlement authority limit accounts for inflation since Resolution 93-145 was adopted in 1993, and expands the authority to include those claims managed by the City Attorney.
- Settlements exceeding \$50,000 shall continue to require City Council approval.

Council Goal(s):

- A Financially Resilient City

Committee(s):

- Finance and Human Resources Committee - February 25, 2020 - unanimously adopted to move forward to full Council.

Pro(s):

- Increased settlement authority expedites liability claims and lawsuit resolution to support claimants' return to pre-loss condition and values the amount to keep up with inflation.
- Increased efficiency for Council Meetings as fewer small claims will require the body's consideration.
- Creates consistency for claimants.

Con(s):

- None.

Fiscal Impact:

- There is no fiscal impact to this action. Annually, the Property & Liability Fund is allocated by City Council to utilize for liability claims and lawsuit-related settlements. Other settlements would be funded by specific project budgets or department funds.

Motion:

- Motion to adopt a resolution to revoke Asheville Resolution 93-145 authorizing the City Risk Manager to settle liability claims up to \$25,000 and establish policy granting the City Risk Management Division and City Attorney's Office authority to settle liability claims and lawsuits up to \$50,000 per claimant.

RESOLUTION BOOK NO. 41 - PAGE 248

E. ORDINANCE NO. 4793 - TECHNICAL BUDGET AMENDMENT TO BUDGET \$5.0 MILLION IN 2016 GENERAL OBLIGATION BOND FUNDING IN THE CITY'S HOUSING TRUST FUND

Action Requested: Adoption of a technical budget amendment to budget \$5.0 million in 2016 General Obligation (G.O.) Bond funding in the City's Housing Trust Fund.

Background:

- The \$74 million General Obligation Bond Referendum that City of Asheville residents approved in November 2016 included \$5.0 million for affordable housing loans.
- Staff initially budgeted all of the G.O. Bond funding in the City's General Capital Projects Fund, including the \$5.0 million for affordable housing loans .
- After discussions with the City's Controller, staff are recommending that the affordable housing loans be budgeted and accounted for in the City's Housing Trust Fund in order to better track all of the loan receivables that are part of the City's affordable housing loan program.
- In order to make this accounting change, a technical budget amendment is required to set up authorization for the loans in the Housing Trust Fund.

Council Goal(s):

- A Financially Resilient City

Pro(s):

- Improves accounting and reporting by consolidating all affordable housing loans in one single fund.

Con(s):

- None.

Fiscal Impact:

- There is no overall fiscal impact with this technical budget amendment.

Motion:

- Motion to adopt a budget amendment to budget \$5.0 million in 2016 General Obligation (G.O.) Bond funding in the City's Housing Trust Fund.

ORDINANCE BOOK NO. 33 - PAGE 45

F. RESOLUTION NO. 20-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD METROPOLITAN PLANNING ORGANIZATION FOR THE ANNUAL FISCAL YEAR 2019 SECTION 5307 AND FISCAL YEAR 2019 SECTION 5310 GRANT FUNDING TO FUND TRANSIT OPERATIONS FOR ROUTE 170 (FIXED-ROUTE), AND THE CITY OF ASHEVILLE'S PARATRANSIT SERVICE, AND IF SUCCESSFUL, TO ACCEPT THE FUND, SIGN ALL OF THE APPROPRIATE AGREEMENTS, AND INCLUDE IN THE FISCAL YEAR 2021 BUDGET

Action Requested: Adoption of a resolution authorizing the City Manager to submit grant applications in response to the annual Call for Projects issued by the French Broad River Metropolitan Planning Organization (FBRMPO) for the FY 2019 Section 5310 and JARC (Section 5307) Funds, and if successful, to accept the grant funds and sign all the appropriate agreements with the FBRMPO, Federal and State agencies, and to include the revenue in the FY20-21 Budget.

Background:

- On January 31, 2020, FBRMPO issued a call for projects for the Federal Transit Administration FY 2019 Section 5310 and JARC Funds soliciting proposals, and upon

evaluating proposals received, FBRMPO will award grant funds through a competitive process to successful applicants.

- The Section 5310 Funding program is used for improving mobility for seniors and individuals with disabilities by removing barriers to transportation services provided in the City of Asheville, and to provide enhanced mobility options to seniors and individuals with disabilities. The City uses 5310 funds to pay for a portion of the City's existing paratransit service. The total amount of funding available from FY 2019 5310 funds is \$303,332 and the City expects to apply for \$166,832, which is the maximum allowed under the program. The match for these funds is 20%.
- The 5307 JARC funding source is used to fund a portion of the operating costs of Route 170, which operates fixed-route service from downtown Asheville to the Town of Black Mountain. Route 170 frequency was increased from 5 to 8 trips per day recently with the January 5 launch of increased transit service per the Transit Master Plan.
- The total amount of funding available from FY 2019 5307 JARC funds is \$296,270 and the City expects to apply for \$231,558, which is 50% of the total cost to operate the route 170 (the match for JARC funds is 50%).
- The City is the designated recipient for the region and oversees and administers the grants after they are awarded to subrecipients by the FBRMPO. The City receives a 10% administrative fee for this effort. The grant application deadline for both grants is March 27, 2020.
- These funds are annual recurring funds that are used to fund existing paratransit services and the Route 170 to Black Mountain.

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- Project funding will enable the City of Asheville to use federal funds to help offset the annual operating cost of paratransit and Route 170 fixed-route services. Grant recipients and subrecipients are responsible for their local match.
- The City will also receive \$62,700 for oversight and administrative cost which does not require a local match. Of this amount, \$33,703 will be used for the administrative cost for the Section 5310 program, with the remaining amount of \$29,627 to be used for administering the JARC grant program.

Con(s):

- The City is responsible for the 20% and 50% local match for the Section 5310 and JARC Funding programs respectively.

Fiscal Impact:

- The local match will be included in the proposed FY 2020-21 operating budget.

Motion:

- Motion to approve a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for:
 - a. FY 2019 Section 5310 Funds in the amount of \$166,832, and if successful, to accept the grant funds and sign all the appropriate agreements with the FBRMPO, Federal, and/or State agencies, and to include the revenue in the FY20-21 Budget.

- b. FY 2019 Section 5307 JARC Funds in the amount of \$231,558, and if successful, to accept the grant funds and sign all the appropriate agreements with the FBRMPO, Federal, and/or State agencies, and to include the revenue in the FY20-21 Budget.

RESOLUTION BOOK NO. 41 - PAGE 250

H. RESOLUTION NO. 20-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT RENEWAL WITH LEXISNEXIS FOR A CRIME ANALYSIS TOOL

Action Requested: Adoption of 2020 renewal of the November 21, 2016, contract with LexisNexis ACCURINT Virtual Crime Center (AVCC) - crime analysis platform (formerly ATACRAIDS), now at \$124,872 with an Addendum and a Schedule A.

Background:

- The Asheville Police Department (APD) entered into a contractual agreement with LexisNexis ACCURINT (formerly ATACRAIDS) for a local and nationwide crime analysis platform on November 21, 2016. The total annual cost to APD at the onset was \$29,600.00 with a 3% annual increase.
- The ACCURINT platform has been extensively used internally by APD officers and crime analysts, used by the Citizen Police Advisory Committee (CPAC), as well as made available to the both the citizens of Asheville and Media via the web based Community Crime Mapper. The platform disseminates crime data in a geospatial map and on a link analysis chart.
- On October 31, 2019, LexisNexis announced its new robust platform known as ACCURINT Virtual Crime Center (AVCC) at an annual cost of \$35,000.
- The new AVCC platform and with total contract costs (Nov. 2016 to current date) is now at \$124,872.

Vendor Outreach Efforts:

- LexisNexis is the creator, a sole source vendor of (AVCC), which the City of Asheville's Police Department and its citizens are familiar with and have access to since November 2016. The access is through the web based Community Crime Mapper that disseminates crime data in a geospatial map and on a link analysis chart. The Crime Mapper allows its customers to access real-time nationwide public records databases. Accordingly, there is no other vendor or application available for purchase today that has the capabilities included in AVCC.
- Due to sole source justification, no outreach to minority and women owned business conducted.

Council Goal(s):

- Smart City

Committee(s):

- None

Pro(s):

- Use of a nationwide crime analysis platform, now more robust, extensively used internally by APD and its crime analysts since 2016, as well as, made available to the citizens of Asheville.

Con(s):

- None

Fiscal Impact:

- A \$5,000 increase from the 2019 annual cost, i.e., \$35,000 per year with a 3% increase annually. The funding for the contract is already included in the adopted Police Department budget.

Motion:

- Motion to approve the resolution authorizing the Asheville Police Department to renew the November 21, 2016, contract with LexisNexis by going to ACCURINT Virtual Crime Center (AVCC) - crime analysis PLATFORM with the new Addendum and Schedule A.

RESOLUTION BOOK NO. 41 - PAGE 251

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

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

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

III. PRESENTATIONS & REPORTS:

A. CITY MANAGER'S REPORT - COVID-19 UPDATE

City Manager Campbell said we will not be able to answer all the questions about this unfortunate situation; however, we hope to provide resources to help you make good decisions about your health, your family's health and your neighbor's health.

Asheville Assistant Fire Chief Barry Hendren said that there has been excellent cooperation between Buncombe County Public Health, Emergency Management Services, and others. The current situation is that (1) Buncombe County Public Health is the lead agency for preparation and response to COVID-19 outbreak and they will lead the response to the outbreak if it does occur; (2) seven confirmed cases in North Carolina - no confirmed cases in Western North Carolina; (3) one confirmed case in Spartanburg, South Carolina; (4) prevention and preparation is the primary focus within our community; (5) risk in community remains low; and (6) accurate information to community is the priority. In addition, the Governor today declared North Carolina a State of Emergency to assist with the response and preparation efforts for local governments.

Dr. Jennifer Mullendorf, Medical Director for Buncombe County Health & Human Services, said they have been communicating with a wide variety of partners, including health

care providers, health care long-term care facilities, schools systems, private and charter schools, employers, etc. pushing out resources to help them prevent infection in our community and also to be prepared to respond. We do not have any confirmed cases in Buncombe County at this time. If anyone is worried that they have COVID-19, do not show up at the Emergency Department or your doctor's office. Call your medical provider. If you don't have a medical provider, call the Buncombe County Health & Human Services Communicable Disease and we will determine if you meet the criteria for testing and work that out. The statewide recommendation is that people at high risk - people over 65 and who have underlying health conditions or a weak immune system should avoid large gatherings.

Mr. Fletcher Tove, Buncombe County Public Health Emergency Preparedness Coordinator, said this is a constantly evolving situation. There is a weekly team to keep up with the pace of events and information coming from the Centers for Disease Control & Prevention (CDC) and the State Department of Health & Human Services. They have established a Joint Information Center. They will also have a weekly press conference on Thursdays.

Mr. Taylor Jones, Buncombe County Emergency Services Director, was pleased with the cooperation and coordination and critical thinking skills across all Buncombe County.

Assistant Fire Chief Hendren said that the City of Asheville efforts are focused on supporting community and staff (a) reviewing Continuity of Operations Plan for all departments; (b) accurate and timely information to staff; (c) proactively planning utilizing past experiences of Novel Infections (H1-N1, SARS); and (d) collaboration with Buncombe County Emergency Management & Public Health.

Websites for accurate information regarding COVID-19 resources include Buncombe County Public Health, N.C. Dept. of Health & Human Services, and CDC.

There is a high level of collaboration between Buncombe County and the City of Asheville to coordinate prevention and response and minimize the effects of outbreak.

In response to Councilwoman Mayfield, Mr. Tove said that there is a regional team for Western North Carolina and there is conversation throughout our region on public health.

In response to Councilman Kapoor, Mr. Tove said to make sure you scrub your hands for 20 seconds with warm, soapy water; stop touching your face; cough and sneeze into your elbow and if you use a kleenex, through the kleenex away; increase frequency of disinfecting high contact surfaces; practice social distancing - try to keep 3 feet away from someone's face; limit your travelling or avoid large gatherings. He said that we are also monitoring our economic impact.

City Manager Campbell said that the City is continuing to look at opportunities for the public to be engaged with our elected officials.

IV. PUBLIC HEARINGS:

- A. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4602) FOR THE RAD LOFTS PROJECT LOCATED AT 146 AND 179 ROBERTS STREET TO REVISE CONDITIONS RELATED TO AFFORDABILITY**

ORDINANCE NO. 4794 - ORDINANCE TO AMEND THE PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4602) FOR THE RAD LOFTS PROJECT LOCATED AT 146 AND 179 ROBERTS STREET TO REVISE CONDITIONS RELATED TO AFFORDABILITY

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning approval (Ordinance No. 4602) for the RAD Lofts Project (Urban Place/Conditional Zone) located at 146 and 179 Roberts Street, to revise conditions related to affordability. This public hearing was advertised on January 3 and 10, 2020. This public hearing was opened on January 14, 2020, and continued at the applicant's request to February 25, 2020, in order to continue working with staff. On February 25, 2020, at the applicant's request, the public hearing was continued to this date.

Action Requested: Amendment to the conditions for the previously approved RAD Lofts project (Urban Place Conditional Zone)

Project Location and Contacts:

- The project site consists of two separate parcels with a combined area of approximately 3.26 acres located at 146 and 179 Roberts Street (PINs 9648-06-1956 and 9648-07-2183) that are owned by 146 Roberts LLC.
- Petitioner: Harry Pilos.

Summary of Petition:

- The project has gone through a number of approvals by City Council:
 - First approved on October 22, 2013 (Ordinance No. 4241) for a mixed-use development and conditional zoning from River and Commercial Industrial to Urban Place Conditional Zone
 - Amended on May 26, 2015 (Ordinance No. 4414) to revise conditions related to the mix of uses, increase parking and alter the number and massing of the buildings
 - Amended on January 10, 2017 (Ordinance No. 4548) to revise conditions related to the mix of uses, building size and amount of parking
 - Amended on July 25, 2017 (Ordinance No. 4602) to revise conditions related to building size, parking and mix of uses and to provide a wider range for these conditions to allow for some flexibility
- The mix of uses, site plan and building designs are not proposed to be changed with this amendment. They remain as shown and described in the conditions from the most recent approval (in the B.1 conditions) and includes between 200-245 residential units, between 14,000 - 20,000 square feet of commercial space, streetscape improvements and up to 358 structured parking spaces.
- The applicant is only proposing a change to the condition governing the designation of affordable residential units as described in condition no.8. The project was approved for a LUIG in 2015 based on this affordability condition which has not been utilized since the project has not been built.
 - **Current condition:** Five percent of the units will be designated as affordable by the City's standards. The remaining 95% of the units will be leased at or below the City's published 2015 rates for workforce housing as a baseline, assuming and including an annual increase of 3% calculated as of the date of completion of the project as indicated on schedule B1-a. This condition is in effect for a period of ten years from initial Certificate of Occupancy (CO). The applicant will enter into an affordable housing deed restriction with the City to memorialize the aforementioned rent limits and period of affordability. The deed restriction shall be recorded by the applicant in the Buncombe County Register of Deeds prior to obtaining final CO.

- **Proposed condition:** At least ten percent of the units shall meet the City's standards for affordability at 80% Area Median Income or AMI (60.1 - 80% AMI) for a period of ten years from the issuance of the Certificate of Occupancy (CO). The rent and income shall follow the Affordable and Workforce Housing Standards determined annually by the City of Asheville Community Development Department. An Affordable Housing Deed Restriction will be provided by the City and filed and recorded by the applicant/property owner in the Buncombe County Register of Deeds prior to obtaining final CO.
- The project location is within Census Tract 9, an Opportunity Zone area, a designation that was not in place during the original approval nor subsequent amendments. Resolution No. 18-269 states that Council commits to work with investors and offer guidance on projects within these areas that promote equitable growth, do not displace low income or residents of color and do not result in the loss of community assets or land. The subject property was formerly a steel factory (Dave Steel Co.) that operated between 1929 and 2007, after which the plant closed its facility on Roberts Street and moved its operation to South Carolina.

Subsidy Analysis

- The current proposal for 10/80/10 does not include any subsidy from the City to gain the affordable units. Staff undertook an analysis to determine the subsidy if Council were to make a special exception to allow a ten-year affordability period, versus the LUIG policy which requires a 20-year affordability period. Per the analysis, the City would lose \$2,169,670 in property tax dollars if the LUIG was specially approved for this proposal to gain approximately 25 units at 80% AMI for 10 years.

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that the Traditional Corridor Land Use category encourages mixed-use developments prioritizing pedestrian infrastructure and multimodal access, buildings close to the street and higher residential densities.
- While there is a reduction in units between 80-120% AMI, the proposal doubles the number of units dedicated at 80% AMI or below. Since the amendment still contains a commitment to affordability, it is aligned with key goals in the *Resilient Economy* Plan section.

Compatibility Analysis:

- The mixed-use development proposal has been evaluated in previous reviews and determined to be compatible with the surrounding area and an ideal location for the uses proposed. This amendment does not impact the compatibility.
- The nearest residential neighborhoods in Census Block 9 (Southside, South French Broad) have been identified as an area that is vulnerable to displacement and are approximately a half mile away.
- The project site is located in an area that has already been involved in ongoing significant redevelopment and investment. The City and community partners have invested well over 30 million dollars in improving the immediate area around the project site through the River Arts District Transportation Improvement Project (RADTIP) and via design and planning efforts through the River Arts District Form Based Code with a goal of attracting reinvestment and mixed-use development to this area. Due to the location of the Southside neighborhood - at approximately a half mile away from the project site - and affordability component of the project, staff believes this proposed project amendment is in alignment with City goals and is compatible with the surrounding area.

Council Goal(s):

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

Committee(s):

- Technical Review Committee (TRC) - n/a
- Planning & Zoning Commission - December 4, 2019 - recommended approval (7-0)

Staff Recommendation:

- Staff consistently recommends that applicants include as many affordable units as they are willing and able to provide
- Staff supports the requested amendment to the number of affordable units.
- The amendment doubles the number of residential units that will be dedicated as affordable at 80% AMI for the ten year period from 5% to 10%, resulting in a net gain in dedicated affordable units.
- The previous Land Use Incentive Grant agreement between the City and the applicant would be abandoned. Without the agreement, the applicant will not be receiving any subsidies from the City and will fund the affordable component entirely independently.
- While City staff consistently encourages applicants to make use of development incentives available, current policy does not require that an applicant commit to those incentives.
- Since the applicant is willing to provide an increase in the number of units dedicated at 80% AMI without encumbering any City funds, staff is supportive of that change.
- Further, City affordable housing funds would be available for other projects looking to incorporate affordability.
- Although not proposing to partner with the City on affordability, the applicant is in a cost-sharing agreement with the City on improvement of a major stormwater project on the site that has widespread impact and benefit. Additionally, the applicant will undergo brownfield remediation on the site, which is another beneficial partnership.
- Regarding alignment with the Opportunity Zone policy, the site is a vacant former industrial site and does not directly displace any residential or commercial uses nor any City or community land/assets. The City does not currently have a process or policy to evaluate the potential for displacement within a geographical range related to increases in property value from development in the area.
- As stated in the subsidy analysis section above, there would be a greater cost to the City in pursuing a special approval for the LUIG and therefore staff recommends supporting the change as proposed by the applicant.

Ms. Bernstein said that the applicant and the City have agreed to an additional condition - Housing choice vouchers shall be accepted for the designated affordable units.

Mr. Harry Pilos, applicant, said that he is prepared to make two donations of \$100,000 each to help with the affordable housing crisis. One hundred thousand dollars is to the Asheville-Buncombe Community Land Trust and \$100,000 is to Thrive, a subsidiary of UNC. Accepting the housing choice vouchers as it applies to the 10% is very easy for them to do.

Councilwoman Mayfield understood that the \$100,000 donation to the Asheville-Buncombe Community Land Trust will be for operations; and the \$100,000 donation to Thrive is in support of the housing voucher pilot program which is an effort to try to convince more landlords to come into the housing voucher program and help close the gap between market rate and what the vouchers provide.

Mayor Manheimer opened the public hearing at 5:39 p.m.

Four individuals spoke against the amendment, noting that there needs to be more than 10% affordable housing, the project will displace the population, and the need for community benefit agreements that include the people in the community.

Mayor Manheimer closed the public hearing at 5:48 p.m.

In response to Councilwoman Smith, Mr. Pilos said that he has been committed since the start to put in a small New York style organic grocery store.

Councilman Kapoor moved to recommend approval of the conditional zoning amendment to ordinance 4602 for RAD Lofts - Urban Place Conditional Zone (UP CZ) for the revised condition related to affordability and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: 1) the amendment does not substantially deviate from the project details previously approved other than the change to affordability; 2) the project increases the number of dedicated affordable residential units for low moderate income households; and, 3) the project is compatible with the surrounding area and future land use map. This motion was seconded by Councilwoman Mayfield.

Councilman Kapoor moved to amend his motion to include into the B.1 conditions the condition that housing choice vouchers shall be accepted for the designated affordable units. This amendment to the motion was seconded by Councilwoman Mayfield and carried unanimously.

Mayor Manheimer said that this is a mixed use project with housing and commercial components. When we began the River Arts District Transportation Improvement Program, there was a lot of discussion about how the area would serve several purposes - convert industrial to commercial/residential with greenways, sidewalks, etc., and they hoped it would spur investment from the private sector. The developer is proposing 10% affordability and the consultant stated from the City Council Affordable Housing Workshop that 10% is a reasonable compromise from a private developer. Concerning gentrification, she noted the different projects on Depot Street and Clingman Avenue that have or will have affordable housing structures. She felt this neighborhood is being developed in a blended way.

Councilwoman Smith appreciated the remediation of the brownfields site, but a lot of post industrial properties are in low income areas. This area needs to have a sense of belonging and ownership.

The amended motion was then voted on and carried on a 4-3 vote, with Councilman Haynes, Councilwoman Smith and Councilman Young voting "no". Due to the 4-3 vote, Mayor Manheimer stated that this ordinance will need to have a second reading, which will be on the March 24, 2020, agenda.

ORDINANCE BOOK NO. 33 – PAGE 46

**B. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNOPENED
RIGHT-OF-WAY KNOWN AS MERRITT PARK LANE**

**RESOLUTION NO. 20-51 - RESOLUTION TO PERMANENTLY CLOSE AN
UNOPENED RIGHT-OF-WAY KNOWN AS MERRITT PARK LANE**

Streets Division Manager Chad Bandy said that this is the consideration of a resolution to permanently close an unopened right-of-way known as Merritt Park Lane. This public hearing was advertised on February 14, 21, 28 and March 6, 2020.

Action Requested: Adoption of a resolution for the closure of a portion of an unopened right-of-way off Merritt Park Lane.

Background:

- N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.
- City of Asheville has petitioned for this closure which is associated with the sale of City-owned property at 360 Hilliard Ave. (PIN # 9648-18-3942) and 9999 Merritt Park Ln (PIN # 9648-18-3669) to Hilliard Park Apartments, LLC for an affordable housing development.
- An unopened portion of Merritt Park Lane crosses the Merritt Place Lane property and runs along its eastern border.
- Upon closure, all of the portion of the unopened right-of-way that crosses Merritt Park property will become the property of Hilliard Park Apartments, LLC and all of the unopened right-of-way along the eastern border of the Merritt Park property will become the property of the City as agreed to by Hilliard Park.
- As part of the purchase agreement, Hilliard Park Apartments has agreed to construct a public greenway which will run along the western border of the 360 Hilliard property as well as the northern portion of the Merritt Park property where the unopened right-of-way currently exists. Upon completion, the greenway area will be deeded back to the City.
- This closure allows maximum land use potential for further development complying with Living Asheville - A Comprehensive Plan for our Future. This is part of the construction of the affordable housing project at 360 Hillard and the ultimate construction of the greenway.
- An easement for MSD is being reserved within the closure, no other known utilities exist

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Multimodal Transportation Committee -January 22, 2020; Recommended closing the right of way by unanimous vote

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- A portion of the closed right of way on the Merritt Park property will be constructed as a public greenway.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources, by allowing the construction of the affordable housing at 360 Hillard and allowing for the construction of the new greenway.

Con(s):

- None noted.

Fiscal Impact:

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

Mayor Manheimer opened the public hearing at 6:03 p.m., and when no one spoke, she closed the public hearing at 6:03 p.m.

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

Vice-Mayor Wisler moved to permanently close an unopened portion of right-of-way off Merritt Park Lane. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 41 – PAGE 252

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Citizens-Police Advisory Committee, the following individual applied for the vacancy: Cathy Banks. At the request of the Citizens-Police Advisory Committee and the consensus of the Boards & Commissions Committee, it was the consensus of City Council to re-advertise for the vacancy.

RESOLUTION NO. 20-52 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

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

David Martin (utility representative) has resigned as a member of the Board of Electrical Examiners, thus leaving an unexpired term until July 1, 2020.

The following individual applied for the vacancy: Drew Pike

The Boards & Commissions Committee recommended appointing Drew Pike.

Vice-Mayor Wisler moved to appoint Drew Pike (utility representative) as a member of the Board of Electrical Examiners to serve the unexpired term of Mr. Martin, term to expire July 1, 2020, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 41 – PAGE 258

RESOLUTION NO. 20-53 - RESOLUTION APPOINTING A MEMBER TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Multimodal Transportation Commission.

Kim Roney (transit representative) has resigned as a member of the Multimodal Transportation Commission, thus leaving an unexpired term until July 1, 2021. David Nutter (greenway representative) has resigned, thus leaving an unexpired term until July 1, 2022. In addition, John Rideout (at-large representative) has resigned, thus leaving an unexpired term until July 1, 2020.

The following individuals applied for the vacancy: Dennis Wencel, Shannon Watkins, Amy Jones and Sandy Aldridge.

At the recommendation of the Multimodal Transportation Commission, and the Boards & Commissions Committee recommended appointing Dennis Wencel as the at-large representative and to re-advertise for the two remaining seats..

Vice-Mayor Wisler moved to appoint Dennis Wencel (at-large representative) to serve the unexpired term of Mr. Rideout, term to expire July 1, 2020, and then a full three-year term, term to expire July 1, 2023, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Judy Mattox, organizer for Youth for Environmental Stewardship, along with 7 individuals (combination of Buncombe County and Asheville City Schools), presented City Council with petitions (containing 2,084 signatures) in support of providing renewable energy sources. Also, as Chair of the local Sierra Club, she strongly advocated City Council to fund climate change priorities, including renewable energy, energy efficiency, weatherization, public transit, urban forestry, and affordable housing. We support the 3-cent property tax that would raise \$4.5 Million which would fund all of these climate change priorities.

Mr. Robert Louis Hardy urged Council to support funding for the Walton Street pool.

Six individuals spoke in support of the 3-cent property tax increase with a tax relief plan for low income individuals.

Ms. Sarah Benoit said we need to have hotels take a bigger responsibility in their impact.

Ms. Dee Williams spoke about discussions of low income energy efficiency need to have the inclusivity of low income people.

Ms. Vicky Meath urged Council to add in the budget the evening service hours as well as year 2 of the Transit Master Plan. She also encouraged Council to raise the living wage especially for City workers.

Councilman Kapoor said that Council has been taking a lot of hands on approach in our development projects whether it's negotiating development projects or allocating funds to non-profit organizations. It's important for us to make sure that our ethics rules reflect this new reality. He said that he and Councilwoman Mayfield are working on some proposals that he will bring forward to Council for their consideration regarding transparency.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:50 p.m.

CITY CLERK

MAYOR