

Tuesday – May 25, 2021 - 5:00 p.m.

## Regular Meeting

This formal meeting was conducted by use of simultaneous communication in which the following participated by simultaneous communication: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sheneika Smith; Councilwoman Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sage Turner; Councilwoman Gwen C. Wisler; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Mayor Manheimer said that the City Council wants the public to still have the opportunity to participate in the decisions of your government. She then explained the 3 options for providing public comment - voicemail; email; and advanced live sign-ins.

### **PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

### **I. PROCLAMATIONS:**

### **II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 11, 2021**
  
- B. RESOLUTION NO. 21-94 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND A CONTRACT WITH CURBSIDE MANAGEMENT INC. FOR THE RECYCLING COLLECTION PROGRAM**

**Action Requested:** Adoption of a resolution authorizing the City Manager to amend the recycling collection contract with Curbside Management.

#### **Background:**

- The City contracts with Curbside Management to provide recycling collection and processing services for City residents and City facilities.
- The current contract is set to expire June 30, 2021.
- Staff is recommending that the current contract be amended to extend the contract for an additional five years, to make minor modifications to the general contract language, and to adjust the base pricing.
- Starting in 2017, China, followed by other countries, stopped importing recyclable waste. With little recycling infrastructure present in the United States, processors had few to no options for recycling collected materials.
- Global recycling markets are still unstable, infrastructure development in the United States is slow, and the timing of overall market recovery is still unknown.
- For the past two years, Finance, Public Works, and Office of Sustainability staff have been closely monitoring the global recycling crisis and its impact on municipalities.
- Due to the crisis, resulting price spikes, and uncertainty around recovery, staff have observed municipalities cutting recycling programs and haulers/bidders proposing very high fees or declining to bid on recycling contracts.
- The Recycling Partnership's 2020 State of Curbside Recycling Report finds that, for communities who charge residents the full cost of recycling service, the average fee is \$4.39-\$4.56 per month.
- Subscription service examples ranged from \$5.30-\$8.25 per month per household.

- For communities who subsidize the cost of recycling for residents, the average fee to residents is \$6.05 per month.
- The COVID-19 pandemic has created additional unknowns about budgets and economic conditions, as well as placed additional burdens on staff capacity.
- Maintaining our current level of service at a known price allows for more accurate budget planning and continuity of service during this time.
- The current contractor, Curbside Management, will continue to provide the same recycling services at an affordable rate.
- Curbside Management's thoughtful planning and foresight has enabled them to continue to offer recycling to the community during a time when other municipalities have made deep cuts or completely shut down their recycling programs.
- As both hauler and processor of recyclables, Curbside Management has a vested interest in helping the City improve recycling rates and reduce contamination.
- However, Curbside Management will increase the cost of providing this service.
- Factors contributing to the rate increase include, but are not limited to:
  - low commodity value;
  - increased insurance costs for recycling processors due to fire risk;
  - increased labor costs;
  - investment in equipment to stay viable in restricted national markets;
  - bonding costs; and
  - a lack of sustainable rate increases over the course of the 10 year contract due to low CPI rates.

**Vendor Outreach Efforts:**

- Curbside Management is a local business that provides a unique and specialized service to the City for both curbside collection and recyclable processing.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Ensures continuity of recycling collection services to City residents during uncertain times.
- Allows time for clear budget planning during a time of unstable market and economic conditions.

**Con(s):** None

**Fiscal Impact:**

- The cost to the City for residential recycling increases from \$3.15/month to \$3.80/month. The solid waste fee to residents of \$14/month for trash, recycling, and yard waste is not increasing at this time.
- Estimated total impact of \$1.6 million annually, which is an annual increase of approximately \$296,000 from the FY21 contract.

**Motion:**

- Motion authorizing the City Manager to amend the recycling collection contract with Curbside Management.

**C. RESOLUTION NO. 21-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BROOKS NETWORK SERVICES, LLC, FOR THE REPLACEMENT AND INSTALLATION OF CAMERAS AT THE MUNICIPAL BUILDING**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter a contract with Brooks Network Services, LLC for the replacement and installation of cameras at the Asheville Police Department.

**Background:**

- The existing and traditional Network Video Recorder (NVR) equipment have reached the end of their useful lives and will be replaced with a cloud-based camera system.
- This project will replace fifty-five cameras with new cameras.
- This project will also add eight new cameras, one internal and the remaining seven to the exterior of the building, to expand coverage beyond the existing system.
- The bids for the three vendors were:
  - Brooks Network Services - Gibsonville, NC: \$99,975.27;
  - Brady Integrated Security - Greensboro, NC: \$155,984.00;
  - Appalachian Network Services - Fletcher, NC: \$103,774.90
- The lowest responsive responsible bidder was Brooks Network Services, LLC.

**Vendor Outreach Efforts:**

- A Request for Proposals (298-ITMUNICAM21-2) was posted on March 26, 2021.
- Once posted, the Asheville Business Inclusion Office notified vendors of this opportunity in their email newsletter.
- Staff also reviewed the State's IPS (Interactive Purchasing System) site for HUB (Historically Underutilized Businesses) vendors in our ten-county region and in North Carolina.
- Three bids were received, but no bids from MWBE businesses.

**Council Goal(s):**

- A Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- Replaces end-of-life security cameras and adds additional security for unserved areas.
- Provides tools for remote management and off-site storage of recordings for added resiliency and reduced ongoing recording infrastructure costs.

**Con(s):**

- None noted.

**Fiscal Impact:**

- The awarded quote was for \$99,975.27 which includes equipment, installation, and five-year term licenses for the cameras.
- Funding for this project is already included in the adopted General Capital Projects Fund and General Fund budgets.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter a contract with Brooks Network Services, LLC for the replacement and installation of cameras at the Asheville Police Department.

**RESOLUTION BOOK NO. 42 - PAGE 201**

**D. ORDINANCE NO. 4375 - BUDGET AMENDMENT FROM ROTARY CLUBS OF ASHEVILLE-BILTMORE AND ARDEN AND MONTFORD NEIGHBORHOOD ASSOCIATION FOR BUS STOP IMPROVEMENTS**

**Action:** Adopt a budget amendment to accept a \$16,000 donation from the Rotary Club of Asheville- Biltmore, the Rotary Club of Arden, and the Montford Neighborhood Association for bus stop improvements, and allocate the funds to the Transit Capital Fund.

**Background:**

- The Transportation Department has been working with community organizations in the City to provide donations to install the city standard bus shelters along Asheville Rides Transit bus routes.
- The Rotary Club of Asheville-Biltmore and Rotary Club of Arden will provide \$14,000 to purchase and install two bus shelters at bus stops on Hendersonville Road including the bus stop on Hendersonville Road at Gerber Road and on Hendersonville Road at Turtle Creek, serving the S3 and S6 bus lines.
- The Montford Neighborhood Association will provide \$2,000 to replace an existing bus shelter and add a trash can located on Montford Avenue at Bulldog Drive, serving the N4 bus line.
- The City will provide the bus shelter.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- Provides funding for improved comfort for transit users at the three bus stop locations.

**Con(s):**

- None

**Fiscal Impact:**

- Funds from the Rotary Clubs and Montford Neighborhood Association will be used as matching funds for the \$1 million federal grant for bus stop improvements.

**Motion:**

- Motion to adopt a budget amendment in the amount of \$16,000 from a donation from the Rotary Club of Asheville-Biltmore, the Rotary Club of Arden, and the Montford Neighborhood Association for bus stop improvements, and allocate the funds to the Transit Capital Fund budget.

Mayor Manheimer thanked the Rotary Clubs of Asheville-Biltmore and Arden and the Montford Neighborhood Association for their donations for the bus stop improvements.

**ORDINANCE BOOK NO. 33 - PAGE 302**

**E. RESOLUTION NO. 21-96 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RATIFY A SERIES OF CONTRACTS/CONTRACT AMENDMENTS TO SUPPORT EMERGENCY NON-CONGREGATE HOMELESS SHELTER AT LOCAL HOTELS FOR PEOPLE EXPERIENCING HOMELESSNESS**

**ORDINANCE NO. 4376 - BUDGET AMENDMENT FROM THE AMERICAN RESCUE PLAN TO SUPPORT EMERGENCY NON-CONGREGATE HOMELESS SHELTER AT LOCAL HOTELS FOR PEOPLE EXPERIENCING HOMELESSNESS**

**Action(s) Requested:** Ratify the execution of a series of contracts / contract amendments to support emergency non-congregate shelter at local hotels for people experiencing homelessness and associated budget amendment in the Special Revenue Fund in the amount of \$438,000 from American Rescue Plan (ARPA) funding to fund the contracts and allocate a contingency.

**Background:**

- The City has made arrangements with three local hotels (Five P Mountain, LLC; Bhuna Corporation; and ATL Hospitality, LLC) for rooms to serve people experiencing homelessness who were previously camping on public property.
- These contracts allow for the City to provide a shelter option for people who have been given notice to dismantle their camps.
- Sunrise Community for Recovery & Wellness has agreed to provide on-site supportive services to support homeless individuals at these locations.
- Axis Security has agreed to provide on-site security.
- This initiative has served 116 people experiencing homelessness.
- Based on the housing of individuals at the Red Roof Inn (not a part of this contract), 27% of the individuals placed in non-congregate housing have been permanently housed. We would hope to see the same percentage of people become permanently housed within the next year.

**Council Goal(s):**

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

**Committee(s):**

- None

**Pro(s):**

- Addresses public health and safety
- Provides a shelter option to address the needs of the homeless

**Con(s):**

- None

**Fiscal Impact:**

- Allocate funds from the American Rescue Plan in the Special Revenue Fund in the amount of \$438,000 for a series of contracts / contract amendments for homeless non-congregate housing interventions at local hotels.
- Along with previously authorized funds, this action brings the total budget for this initiative to \$906,407.

**Motion(s):**

- Motion to adopt a resolution ratifying the execution of a series of contracts / contract amendments to support an emergency non-congregate shelter at local hotels for people experiencing; and a budget amendment in the amount of \$438,000 from American Rescue Plan (ARPA) funding to fund the contracts and allocate additional contingency.

**RESOLUTION BOOK NO. 42 - PAGE 202  
ORDINANCE BOOK NO. 33 - PAGE 303**

**F. RESOLUTION NO. 21-97 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TRAFFIC REVIEW AND INSPECTION AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE CITY TO DESIGN AND INSTALL A FIRE PREEMPTION TRAFFIC SIGNAL AT THE NEW FIRE STATION ALONG BROADWAY STREET**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into and execute a traffic review and inspection agreement with the N.C. Department of Transportation (NCDOT) for the NCDOT to perform design review and inspection of the addition of fire preemption phasing for Fire Station #13 at the existing signalized intersection of SR 1781 (Broadway Street) and Chestnut Street / Mt. Clare Avenue and to submit payment to NCDOT in the amount of \$7,500 upon partial execution of the agreement by the City.

**Background:**

- The City has plans to construct a new fire station (#13) at 316 Broadway Street.
- The project includes fire preemption phasing at an existing signalized intersection.
- The City has prepared the appropriate design to add fire preemption phasing and will be furnishing and installing the appropriate equipment.
- The NCDOT will review the designs and inspect the work during the construction phase.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- The fire preemption phasing will enable fire trucks to leave the station in a safe and efficient manner during emergencies.
- The NCDOT will own and control the traffic signal (and associated equipment) and maintenance will be accomplished according to their current policies and procedures.

**Con(s):**

- None

**Fiscal Impact:**

- The fiscal impact is estimated to be \$7,500 and the City must submit payment upon partial execution of the agreement by the City.
- The funds are included in the project budget for Fire Station #13.

**Motion:**

- Motion to authorize the City Manager to enter into and execute a traffic review and inspection agreement with the N.C. Department of Transportation (NCDOT) for the NCDOT to perform design review and inspection of the addition of fire preemption phasing for Fire Station #13 at the existing signalized intersection of SR 1781 (Broadway

Street) and Chestnut Street / Mt. Clare Avenue and to submit payment to NCDOT in the amount of \$7,500 upon partial execution of the agreement by the City.

**RESOLUTION BOOK NO. 42 - PAGE 203**

**G. RESOLUTION NO. 21-98 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PBMARES, LLP, FOR AUDITING CITY ACCOUNTS FOR FISCAL YEAR ENDING JUNE 30, 2021**

**Action Requested:** Adoption of a resolution authorizing the Mayor to execute a contract with PBMares, LLP for auditing City accounts for fiscal year ending June 30, 2021.

**Background:**

- North Carolina General Statute §159-34 requires that local governments have its accounts audited each fiscal year and submit a copy of the audit report and financial statements to the Local Government Commission.
- Staff recommends retaining the services of PBMares, LLP to conduct an audit of the City's accounts for the fiscal year ending June 30, 2021.
- The estimated cost for fiscal year 2020-2021 audit includes a base fee of \$100,640, which covers 900 hours of audit work; and a \$125 per audit hourly fee for each hour over 900 hours up to a maximum total of 25% of the base fee (\$25,160), for a maximum total fee of \$125,800.
- The previous years' fees, which only included base fees, were as follows:
  - 2019-2020: \$98,200
  - 2018-2019: \$95,760
  - 2017-2018: \$93,340
- Execution of this contract complies with the Audit Policy portion of City Council's Financial Policies which states that the City "shall enter into multi-year agreements of not more than five years in duration through a series of single-year contracts as consistent with applicable legal requirements."
- This will be the fourth consecutive year of contracting with the same auditors.
- In the previous three years, the City contracted with RSM US LLP to perform the City's audit.
- This past year, RSM US LLP sold their North Carolina government practice to PBMares, LLP, and our multi-year agreement transferred to PBMares, LLP as part of that sale.

**Vendor Outreach Efforts:**

- No competitive bid process was conducted this year.

**Council Goal:**

- Financially Resilient City

**Committee:**

- No prior Committee approval.
- Final audit results are presented annually to the Audit Committee.

**Pro:**

- Contracting with PBMares, LLP aligns with City Council's financial policy and will help ensure the timely and successful completion of the annual audit.

**Con:**

- None

**Fiscal Impact:**

- The maximum total fee amount of \$125,800 for the annual audit is budgeted in the Internal Audit operating budget.

**Motion:**

- Move to adopt a resolution authorizing the Mayor to execute a contract with PBMares, LLP for auditing City accounts for the fiscal year ending June 30, 2021.

**RESOLUTION BOOK NO. 42 - PAGE 204**

**H. RESOLUTION NO. 21-99 - RESOLUTION APPROVING THE RESCISSION OF THE HOUSING TRUST FUND LOAN PREVIOUSLY AWARDED TO THE JUNA GROUP AND THE REALLOCATION OF THESE FUNDS TO THE HOUSING TRUST FUND BALANCE**

**Action Requested:** Request to rescind the Housing Trust Fund award of \$1,100,000 as requested by Juna Group Inc.

**Background:**

- City Council approved Juna Group Inc.'s Housing Trust Fund award for \$1,100,000 on September 22, 2020, [Resolution #20-169](#).
- The award was to develop eleven, for-sale, affordable homes at Alice Clement Lane.
- Since September, staff has worked closely with the developer to close on the loan.
- Conditions of the Housing Trust Fund policy were becoming difficult to meet and the loan was never closed on.
- The developer has since requested to return the Housing Trust Fund award citing the increased price for materials and labors which has made it no longer possible to build and sell to individuals and families at or below 100% Area Median Income (AMI) per the Housing Trust Fund guidelines and remain profitable.

**Council Goal(s):**

- Quality Affordable Housing

**Committee(s):**

- Housing and Community Development Committee (HCD) April 20, 2021 - Approval.

**Pro(s):**

- While this development is no longer feasible, funds will be returned to the Housing Trust Fund balance for future use.

**Con(s):**

- Increasing construction costs are making it difficult for all developers to add affordable housing units.

**Fiscal Impact:**

- The proposal and resolution will unallocate \$1,100,000 awarded to the Juna Group and reallocate these funds back to the City's Housing Trust Fund balance for future use and loans.

**Motion:**

- Motion to approve the request by Juna Group Inc. to rescind the \$1,100,000 Housing Trust Fund award and reallocate funds to the Housing Trust Fund available balance.

**RESOLUTION BOOK NO. 43 – PAGE 205**



Mayor Manheimer announced that there were no advanced live call-ins for items on the Consent Agenda.

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

Councilwoman Turner moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

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

#### **A. PRESENTATION OF THE FISCAL YEAR 2021-22 ANNUAL OPERATING BUDGET**

City Manager Campbell said that it was only a few months ago that Council approved the Fiscal Year (FY) 2020-21 budget. Our budgets are usually adopted by July 1. As you know, last year was a very unusual year. Tonight staff will be presenting the FY 2021-22 Manager's Budget. Although this was an extremely abbreviated budget cycle, in terms of the actual time that we had to develop the budget, we were able to include more Council worksessions, more opportunities for community input and for the first time, we even added input sessions for all our employees. This additional effort was made possible by our incredibly hard-working staff principally led by our Finance & Management Services Department, with help from the Office of Equity & Inclusion, Community & Public Engagement, our newly created Office of Data and Performance, and other internal departments. The Finance & Management Services Department deserves extra acknowledgement and praise because they managed all this in the midst of a change in leadership and did it seamlessly without missing a beat or any deadlines. And of course, she wanted to thank City Council for their patience, attention and input provided throughout this process. She also thanked the community and our consultants (Amplify Consulting and Dual Vida Enterprises) who helped with the Reimagining Public Safety Part 2 discussions.

She said this is the Manager's proposed budget and as usual staff from Finance & Management Services will be presenting most of the information. This will include information we have shared with you over the past several worksessions so we won't be spending a lot of time on those slides, but in case there were people in the community who are seeing this information for the first time, we wanted to provide context and rationale for the recommendations.

She explained the presentation overview being (1) budget process review; (2) overview of proposed Fiscal Year (FY) 2021-22 budget (a) budget summary and highlights; and (b) investment in Council priorities; and (3) next steps (a) public hearing and budget adoption; and (b) ongoing work on Rescue Plan and other initiatives.

She said key takeaways from this presentation will be (1) proposed budget is based on internal work, Council priorities, and community input including a continuation of the reimagining public safety process; and (2) proposal is a balanced and fiscally responsible budget (a) funds investments in Council priorities through a property tax rate above revenue neutral; (b) funds to support core community services in a time of rising costs; (c) strategically utilizes fund balance to advance goals; and (d) continues funding for capital improvements program.

Finance Director Tony McDowell then reviewed the FY 2021-22 proposed budget overview. He reviewed the internal budget development process drivers, challenges identified and response strategies; the community engagement update process drivers, challenges identified and response strategies; and City Council strategies and priorities' process drivers, challenges identified and response strategies. From the community engagement sessions, there was interest in understanding how budget affects individuals and how to make an impact on

budget decisions; increased access, convenience and transparency; clearer, plain language communication; being part of resource allocation and prioritization; empowered decision-making; and neighborhood level investments. From employee engagement sessions, there was interest in compensation as an important part of feeling valued; more staff resources to address both Council priorities and core service delivery; more strategically using existing resources; and more coordinated community engagement. He then reviewed the proposed budget fund summary, and the General Fund overview.

Finance Director McDowell provided highlights of draft investments in reparations; neighborhoods & housing; youth; reimaging public safety (safe communities); transportation; environment; economic development; and employees and workforce. From the new investments totaling \$9.9 Million against the available funding of \$4.3 Million, there is a gap of \$5.7 Million.

Finance Director McDowell used a chart to review the property tax rate history. In order to fund the new investments and close the gap, we propose we set the tax rate 3-cents above the neutral tax rate - 41.30.

After the budget presentation, next steps include (1) develop spending plan for American Rescue Plan (ARPA); (2) continue reimaging public safety work, including (a) planning with Buncombe County for 911 consolidation utilizing existing Asheville Police Department (APD) telecommunications budget; (b) assess APD's role in Asheville Housing Authority properties and Asheville City Schools; and (c) develop budget proposals for crisis response team for mental health and substance abuse and houselessness response team; (3) reparations process (a) information and truth telling speaker series; and (b) establish Community Reparations Commission; (4) partner with Buncombe County on homeowners' tax assistance program; (5) work with community partners to identify recreation programming needs; and (6) midyear assessment of stormwater and sanitation services.

Throughout discussion, City Manager Campbell, along with Finance Director McDowell, responded to various questions/comments from Council, some being, but are not limited to: what percentage will our fund balance be after taking money from it for the reparations investments; request to separate out one-time allocations from recurring expenses; request for reparations fund to be a recurring expense, and why it is not, noting that a funding source will be needed to fund reparations; confirmation that the reparations amount of \$1.2 Million is coming from fund balance and not through a tax increase; confirmation that racial healing grants are still included in the budget; consideration to pass the \$1.2 Million for reparations at the June 8 meeting before Juneteenth since it is coming from fund balance; suggestion to use the \$1.2 Million from White Labs sale to fund the reparations fund and use the \$1.2 Million in fund balance to fund other costs; request to have information on balances of Housing Trust Fund, land banking, etc.; suggestion to use land banking funds (from bond monies that must be used by November 2023) to fund the purchase of the Talbert lot at 50 Asheland Avenue; and request for list of current vacancies in all departments.

Mayor Manheimer said that the public hearing on the budget will be held on June 8 at Harrah's Cherokee Center - Asheville in the Banquet Hall, and the final adoption will be held on June 22, 2021.

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

##### **A. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE OPEN SPACE REQUIREMENTS**

Councilwoman Turner moved to continue this public hearing until September 14, 2021. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

**B. PUBLIC HEARING TO REZONE PROPERTY LOCATED AT 99999 GLENDALE AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CI COMMERCIAL INDUSTRIAL DISTRICT AND TO AMEND THE FUTURE LAND USE MAP FROM TRADITIONAL NEIGHBORHOOD TO URBAN CORRIDOR**

Principal Planner Shannon Tuch said that this is the consideration of rezoning property located at 99999 Glendale Avenue from RM-16 Residential Multi-Family High Density District to CI Commercial Industrial District and amend the Future Land Use Map from Traditional Neighborhood to Urban Corridor. This public hearing was advertised on May 14 and 21, 2021.

**Project Location and Contacts:**

- The rezoning petition consists of a single parcel approximately 1.59 acres located at 99999 Glendale Ave. (PIN 9658-21-4847) and are owned by Glendale Avenue Qualified Opportunity Zone Business LLC.
- Petitioner: Todd Fowler

**Summary of Petition:**

- The subject property is currently zoned RM-16.
- There are no overlays or other special zoning designations assigned to this property.
- The 1.59 acre parcel is surrounded entirely by CI zoned properties and is an “island” of RM-16 zoning.
- The property is undeveloped.
- The property has frontage on Glendale Ave., a City maintained street.
- Secondary access can be secured via Springvale Ave. which is a privately maintained street that does not currently meet the City’s standard for street/road infrastructure.
- Improvements to this right-of-way may, or may not be required, depending on the future development.
- Adjacent parcels to the west provide access to McArthur Ln., another City maintained street.
- While the subject property is 1.59 acres the property owner owns six additional parcels on either side of the subject property, all zoned CI.
- When combined all seven parcels total approximately 4.39 acres and will be better positioned for redevelopment.
- The subject property and surrounding parcels are located in a [Qualified Census Tract](#) (Opportunity Zone) and is also classified as a [Difficult Development Area \(DDA\)](#).
- Asheville’s Opportunity Zones are mapped [here](#).

**Comprehensive Plan Consistency:**

- This rezoning supports the opportunity for infill development that could include a mix of uses in a strategically located area, thus aligning with key goals in the *Livable Built Environment* Plan section.

**Compatibility Analysis:**

- The purpose of the RM-16 zoning district is, *“to permit a full range of high density multi-family housing types along with limited institutional, public and commercial uses appropriate within high density residential areas. It is intended that this district be located near employment centers, shopping facilities, roads and other urban infrastructure capable of handling the demand generated by high density residential development.”*
- There is little high density housing in the area with the nearest multi-family project approximately 1/3 of a mile from the subject property and somewhat isolated.
- Low-moderate density single-family housing is in closer proximity but separated by other CI zoned properties.

- The purpose of the CI zoning district is, *“to provide areas for a wide range of commercial and industrial uses including: light manufacturing, wholesale, warehousing, services, retail sales, offices, and residential uses. The district is established where environmental conditions and urban infrastructure are adequate to support commercial and industrial development.”*
- There is a moderate amount of infill, renovation and reinvestment in the commercial properties along Glendale Ave. and further into the adjacent River district area.
- The property is currently designated “Traditional Neighborhood” in the Future Land Use map of the Living Asheville Comprehensive Plan, which describes an area focused on walkable areas with a mix of housing. This is likely due to the undeveloped nature of this and surrounding properties and the goal for more residential infill. Currently, neighborhood amenities such as sidewalks, parks, schools, community centers etc. are limited or do not exist.
- The proposed CI zoning allows housing as well as other non-residential uses; therefore, a rezoning would not preclude the opportunity to include housing with future development should the property owner choose to pursue it.
- The property is on the edge of the “Traditional Neighborhood” area and adjacent to other properties designated “Town Center” and “Urban Corridor” both of which contemplate a mix of uses.
- Should this rezoning be supported, staff would recommend a change in the Future Land Use Designation from “Traditional Neighborhood” to “Urban Corridor”.

**Council Goal(s):**

- A well-planned & livable community

**Committee(s):**

- The Planning & Zoning Commission reviewed this proposed amendment at their April 7, 2021 (public hearing) and May 5, 2021 (vote) meetings and voted unanimously (6:0) to approve the amendment.

**Fiscal Impact:**

- There is no direct fiscal impact.

Mayor Manheimer opened the public hearing at 6:22 p.m.

Mayor Manheimer announced that there were no advanced live call-ins for this public hearing item.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing will be accepted for an additional 24 hours. Therefore, Councilwoman Kilgore moved to recess this item until June 8, 2021, at which time this public hearing will be voted. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

**C. PUBLIC HEARING TO AMEND UNIFIED DEVELOPMENT ORDINANCE ARTICLES III, V, VI AND VII RELATED TO DECISION MAKING, ADMINISTRATIVE AND ADVISORY BODIES AND RELATED FUNCTIONS, IN ORDER TO BRING THE CITY’S DEVELOPMENT CODE INTO ALIGNMENT WITH RECENT STATE LEGISLATION**

Principal Planner Shannon Tuch said that this is the consideration of amending Unified Development Ordinance Articles III, V, VI and VII related to decision making, administrative and advisory bodies and related functions, in order to bring the City’s development code into

alignment with recent state legislation. This public hearing was advertised on May 14 and 21, 2021.

**Action Requested:** Adopt a zoning text amendment to align the City's Unified Development Ordinance ("UDO") with North Carolina Session Law 2019-111, commonly referred to as "160D".

**Background:**

- 160D refers to a new chapter in the North Carolina General Statutes (NCGS) that reorganizes the land use regulatory laws of the State and came into effect through Session Law 2019-111 "AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE.", adopted July 11, 2019.
- The purpose of 160D is to clarify and reorganize the land use regulatory laws of the State and is the first major recodification and modernization of city and county development regulations since 1905.
- The new 160D also consolidates these laws into one chapter in order to provide a uniform set of statutes applicable to both cities and counties (formerly found in Chapter 160A for cities and Chapter 153 for counties).
- Per Session Law 2020-25, local governments are required to enact zoning text amendments that align with 160D by July 1, 2021.
- 160D is comprehensive; therefore, City staff are addressing these revisions in sections, expecting to complete all necessary revisions by the deadline.
- This zoning text amendment is the fourth in a series of amendments and seeks to align the City's UDO (Chapter 7) with 160D.
- **Summary of changes:**
  - Amendment to **Article III** to include 160D statutory references and clarify the requirements for PZC member appointments by the County as per NC Session Law 2013-30.
  - Amendment to **Article V** includes a revision to section 7-5-20 notice procedures for public hearings. The revisions include separating the notice procedures for legislative and quasi-judicial hearings. 160D- 601 provides that the for public hearings on development approvals notice only needs to be mailed to abutting properties;
  - Amendment to **Article VI** includes revisions to each section to provide clarity and bring the section into compliance with 160D terminology.
  - Amendment to **Article VII** includes
    - (a) the revision of language to 7-7-4 to bring in compliance with 160D-604 and include the current procedures being implemented with the Planning and Zoning Commission;
    - (b) the revision to language in 7-7-5 to clarify City Council procedures for development approvals;
    - (c) the removal to 7-7-6 as provided in a 2015 session law
- Additional, non-statutory related amendments to the Rules of Procedure have also been in order to clarify current procedures.

**Comprehensive Plan Consistency:** This proposal best aligns with the Living Asheville Comprehensive Plan theme of *Responsible Regionalism* that seeks to "improve Regional Collaboration, Coordination and Communication" by aligning the City's development code with state statutes.

**Council Goal(s):**

- A Well-Planned & Livable Community

**Committee(s):**

- The Planning & Zoning Commission reviewed this proposed amendment at their April 7, 2021 (public hearing) and May 5, 2021 (vote) meetings and voted unanimously (6:0) to approve the amendment.

Ms. Tuch said that 160D is a chapter in the N.C. Gen. Statutes adopted as part of Session Law 2019-11 and which became effective on June 20, 2020. It replaces the existing 160A (municipal) and 153A (county) chapters. It's purpose is to clarify, consolidate, and reorganize the land use laws of the state. This was done in collaboration between N.C. land use attorneys, the UNC-School of Government and the N.C. legislature. Local governments have until July 1, 2021, to make any necessary amendments to be in alignment with 160D. Staff will bring forward a series of amendments to modify the City of Asheville's Unified Development Ordinance to be consistent with 160D. This is the fourth in a series of amendments and addresses the duties and responsibilities of various decision-making, administrative and advisory bodies.

When Councilwoman Roney questioned the change in notice requirements, Ms. Tuch said that for quasi-judicial hearings, we will now only send notices to those property owners directly adjacent to the property. For legislative hearings, we will continue to go above and beyond the statutory requirement, and notify everyone within 200 feet of the subject property. For quasi-judicial hearings, we will default to the state law standard because it introduces a potential legal issue regarding standing. In these types of hearings, the ability to participate is limited to those who have standing and can mount an objection. Staff is working with the Department of Development Services on different ways people can sign up for notifications for their neighborhood which could include these type hearings.

Mayor Manheimer opened the public hearing at 6:32 p.m.

Mayor Manheimer announced that there were no advanced live call-ins for this public hearing item.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing will be accepted for an additional 24 hours. Therefore, Vice-Mayor Smith moved to recess this item until June 8, 2021, at which time this public hearing will be voted. This motion was seconded by Councilwoman Mosley and carried on a 6-1 vote, with Councilwoman Roney voting "no."

**D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO ARTICLES II AND XVI OF THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE DEFINITIONS AND REGULATIONS RELATED TO HOMESTAYS**

When Councilwoman Roney asked if it were possible to move the public hearing up earlier than September 28 if the motion passes, City Attorney Branham said that due to the summer schedule of Council meetings, it may be possible; however, the meetings will be very heavy.

Councilwoman Kilgore moved to continue this public hearing until September 28, 2021. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

When Councilwoman Turner asked if there was a way to notify existing permit holders with updates, Assistant City Manager Cathy Ball said she will have to check with our Development Services Department.

**V. UNFINISHED BUSINESS:**

## **VI. NEW BUSINESS:**

### **A. RESOLUTION NO. 21-100 - RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY AT 50 ASHELAND AVENUE TO RATIFY A GRANT AGREEMENT WITH DOGWOOD HEALTH TRUST WHICH PROVIDES FUNDING IN THE AMOUNT OF \$1.25 MILLION**

### **ORDINANCE NO. 4377 - BUDGET AMENDMENT TO ESTABLISH A BUDGET IN THE CITY'S GENERAL CAPITAL PROJECTS FUND TO ESTABLISH A BUDGET FOR THE PURCHASE OF 50 ASHELAND AVENUE**

Due to a conflict of interest, Councilwoman Turner moved to recuse Mayor Manheimer from this discussion. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

At this time, Mayor Manheimer handed the gavel over to Vice-Mayor Smith to conduct this portion of the meeting.

Interim Community & Economic Development Director Nikki Reid said this is the consideration of a resolution to authorize the purchase of real property at 50 Asheland Ave. for the purposes of advancing racial and socioeconomic equity within our community through expanding housing and transit options by allowing for an expanded transit center and affordable housing in order (1) to ratify the grant agreement with the Dogwood Health Trust; and (2) to approve a budget amendment in the amount of \$2,575,000 in the City's General Capital Projects Fund to establish a budget for the purchase of the property at 50 Asheland Avenue.

#### **Background:**

- The City of Asheville has been leasing real property at 50 Asheland since July of 2018 to provide reasonably priced monthly parking for workers in the downtown area.
- The City has had a long term interest in purchase of this property that directly adjoins city-owned property currently used as the City Transit Center.
- In 2020, the City went under contract to purchase the property.
- The purchase price is \$2.5 million, based on a fair market appraisal, and was approved by the City Council on July 30, 2020 in closed session.
- The intended purpose of the property acquisition is to:
  - plan, design, and construct a new and/or expanded downtown transit center for the City's Asheville Rides Transit (ART) system in conjunction with,
  - a larger mixed-use development to include affordable housing, commercial uses, and other public institutional spaces, and
  - advance racial equity through being intentional and inclusive in the development, construction and defined uses of the property (e.g. through proposed partnerships with community land trusts, community space, and a "Purpose Built" type structure around the goals and intentions of the property, etc.)
- The City has performed due diligence on the property, including Environmental and Geotechnical review.
- The environmental results were in line with a typical downtown urban site, however the Geotechnical results indicate some substantial fill located in the South Western portion of the property.
- Further analysis concluded that a soil conditioning program would be recommended in order to construct a multi-story building on the site at an additional cost of approximately \$500,000.

- Despite this premium, this property is the least expensive option the city will have to expand transit services while remaining downtown, when considering alternative sites and proximity to property the City already owns.
- The Dogwood Health Trust has agreed to fund one half of the total purchase price in the amount of \$1.25M, based on the commitment to provide:
  - Equitable access to social services, medical centers, grocery stores and job centers through improved public transit service
  - Quality affordable housing to lower income individuals and families
  - Equitable and intentional re-purposing of a property that was historically identified as “red-lined” by the Home Owners’ Loan Corporation (HOLC), wherein access to capital was denied on the basis of race, thereby limiting the housing and economic opportunity afforded to people of color
- The City’s portion of the costs, including \$1.25M funds for the sales price, plus \$75,000 for due diligence costs, will come from the general fund.

**Council Goal(s):**

- Equitable and Diverse Community
- A well-planned and livable community
- Transportation and accessibility
- Quality affordable housing

**Committee(s):**

- Housing and Community Development Committee, May 18
- Transit Committee, May 18

**Pro(s):**

- Location is ideal for downtown transit station and affordable housing close to job centers and services
- Leverages key partnership with Dogwood Trust to support housing, equitable economic development and transportation

**Con(s):**

- The Geotechnical results indicate some substantial fill located in the South Western portion of the property.
- Further analysis concluded that a soil conditioning program would be recommended in order to construct a multi-story building on the site at an additional cost of approximately \$500,000.

**Fiscal Impact:**

- As noted earlier in the staff report, funding for the purchase will come from the general fund in the amount of \$1,325,000 (however, in the alternative we can use land banking funds from the bond funds), and \$1,250,000 from the Dogwood Health Trust.
- There is no funding currently programmed in the City’s Five-Year Capital Improvement Program (CIP) for future development of the site.

Ms. Reid provided Council with the location and vicinity information, along with background information on the site. She said a new transit center would be a part of a larger mixed-use, transit-oriented development project, to include new affordable housing. The Dogwood Health Trust has donated half of the purchase price to support affordable housing in this location. The preliminary environmental work has been completed - Geotechnical investigation; and environmental conditions investigation. We have received Federal Transit Administration approval of NEPA categorical exclusion - project expected to have no significant impact on environmental resources. The initiation of Section 106 (historic resources analysis)



with the Federal Transit Administration is continuing. The purchase price is \$2.5 Million, with a due diligence cost of \$75,000. Dogwood Health Trust grant is \$1.25 Million, and the City of Asheville's funding of \$1.325 Million of the City's general fund.

She said short term, if approved, we would close on the property in June of 2021. We will continue to provide paid public parking and explore new possibilities for current use of the lot (revenue goes to parking). We will develop the framework of Racial Equity Goals for the development, through potential partnerships with community land trust, Black-owned business space, a "Purpose Built Community" the structure around intention, etc. Long-term, we will begin preparing for a planning process for a new transit-oriented development, emphasizing community engagement and equity in the process. We will also seek additional partnership opportunities for planning, such as Federal Transit Administration funding. We will deliver on Racial Equity Goals, through potential partnerships with community land trust, Black-owned business space, a "Purpose Built Community" type structure around intention, etc.

The purchase of the "Talbert Lot," located at 50 Asheland Avenue next to the Transit Station will be an opportunity to achieve Council goals: (1) Quality Affordable Housing & Transportation & Accessibility: Co-locating affordable housing and transit in the downtown supports overall affordability, convenience and access; (2) Connected & Engaged Community: Partner funding from the Dogwood Health Trust allows the City to secure this key site for transit and affordable housing; and (3) Advancing Racial Equity: In developing the property, constructing the improvements and defining uses, to be intentional about advancing racial equity.

Councilmembers thanked Dogwood Health Trust for partnering with the City on this initiative.

Ms. Reid responded to various questions/comments from Council, some being, but are not limited to: how can this expand our regional transit options; is there a potential to look at a Request for Proposals (RFP) for Greyhound or Megabus to share in partnership to expand our local transit; does the RFP process differ at all when seeking to build a "Purpose Built Community"; if we use land banking funds for the purchase of 50 Asheland Avenue, will we be interfering with other projects earmarked for these funds; does staff anticipate a problem in spending the \$3 Million in land banking funds;

After discussion it was the consensus of Council to use land banking funds (currently \$3 Million in the City's General Capital Projects Fund) to purchase 50 Asheland Avenue instead of general fund balance.

Mayor Manheimer announced that there were no advanced live call-ins for this public hearing item.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilwoman Roney moved to approve the purchase of real property at 50 Asheland Avenue for the purposes of advancing racial and socioeconomic equity within our community through expanding housing and transit options by allowing for an expanded transit center and affordable housing in order to ratify the grant agreement with the Dogwood Health Trust. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote (Mayor Manheimer was recused.)

Councilwoman Roney moved to approve a budget amendment in the amount of \$1.25 Million in the City's General Capital Projects Fund to establish a budget for the purchase of 50 Asheland Avenue. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote (Mayor Manheimer was recused.)

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At this time, Vice-Mayor Smith handed the gavel back to Mayor Manheimer to continue presiding over the meeting.

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

From advanced live call-ins, 6 individuals spoke to Council for several reasons, some being, but are not limited to: as we move away from virtual meetings, find a way for public comment to be easier; press forward with speed on reparation initiatives; need for urban forester; concern about property tax rate increase especially for black and brown communities; thankful for the removal of the Vance Monument; and defund the Asheville Police Department and reinvest back into the community.

Mayor Manheimer announced the next City Council meeting will be held in-person at Harrah's Cherokee Center - Asheville in the Banquet Hall. She said more information will be forthcoming about the particulars of that first in-person meeting.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:24 p.m.

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CITY CLERK

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MAYOR