

Tuesday – January 11, 2022 - 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:**

**PASSING OF CITY EMPLOYEE - DEWAYNE FENDER**

City Manager Debra Campbell said that fire investigator Dewayne Fender passed away on January 8, 2022. Dewayne became a member of the Asheville Fire Department on January 31, 1994, and took pride in being an Asheville firefighter. Dewayne served as a Fire Investigator from October 8, 2010, until his death. Dewayne was diagnosed with pancreatic cancer in November of 2020. Dewayne leaves behind his wife Kelly, his two daughters, and seven grandchildren. She then announced Dewayne’s services.

She expressed our sincerest sympathies to Dewayne’s family.

**II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 14, 2021**
  
- B. RESOLUTION NO. 22-1 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE FRENCH BROAD METROPOLITAN PLANNING ORGANIZATION TO PREPARE A TRANSPORTATION CONNECTIVITY AND LAND USE STUDY FOR EAST PATTON AVENUE IN RELATION TO THE I-26 INTERSTATE CONNECTOR PROJECT, AND IF AWARDED, TO ACCEPT THE FUNDS AND EXECUTE THE NECESSARY AGREEMENTS**

**Action Requested:** Consideration to authorize the City Manager to submit a grant application to the French Broad River Metropolitan Planning Organization (FBRMPO) in the amount of \$350,000; and if awarded, accept the fund and execute the necessary agreements.

**Background:**

- The Planning Work Program (PWP) Grant of the FBRMPO funds planning and feasibility studies that can begin work in FY 2023; previously funded projects include the Transit Master Plan and the Biltmore/McDowell Corridor Study.
- The Metropolitan Planning Organization issued a call for PWP applications from November 18 until December 23, 2021.

- Transportation and Planning staff propose to request funds for a comprehensive land use and transportation network plan for an approximately ½ mile wide corridor of Patton Avenue; starting from the eastern end of the Captain Bowen Bridge and ending at Pritchard Park.
- This project would use anticipated changes in land use and transportation as part of the upcoming I-26 Connector Project as the starting context for the plan; it would build on a significant number of plans and investments recognizing the significance of future development of this area, such as the 2018 Sam Schwartz Final EIS Technical Memorandum.
- City staff was unable to get the action on the agenda for the December 14, 2021 meeting due to the short time-frame between learning of the grant opportunity, identifying an eligible priority project, and the application deadline.
- Therefore, the requested action constitutes a request for retroactive approval.
- The FBRMPO has not set a budget amount for the program; the City's requested amount of \$350,000 reflects a scope of work that can be scaled down if that amount is not available.
- A 20% local match is required; the Planning and Urban Design and Transportation staff can work with Budget staff to consider the match as part of the FY22-23 budget process.

**Council Goal(s):**

- An Equitable and Diverse Community; Transportation and Accessibility, Well Planned and Livable Community, Clean and Healthy Environment; Thriving Local Economy; Quality Affordable Housing

**Committee(s):**

- Staff did not present this item for Planning and Economic Development Committee (PED) review due to the short time staff had to learn about and consider the call for projects.

**Pro(s):**

- Provides authorization for the City to receive grant funding to implement a strategy outlined in the city's adopted Comprehensive Plan, Living Asheville; and implement Goal 20 of Council's 2018 Strategic Priorities list.
- Will help provide planning guidance for future capital improvements that may impact adjacent communities, including neighborhoods in lower income census tracts.

**Con(s):**

- None.

**Fiscal Impact:**

- If the grant is awarded, the City is required to provide 20% of the grant amount in matching funds (up to \$70,000) in order to sign an agreement and accept the funds.
- Matching funds are not currently part of the adopted budget, but as noted above would be included for consideration as part of the FY 22-23 budget process if the grant is awarded.

**Motion:**

- Motion to adopt a resolution approving the grant application and the City's acceptance of the grant and adopt its associated funds via budget amendment if the grant is successful.

**RESOLUTION BOOK NO. 42 - PAGE 459**

**C. RESOLUTION NO. 22-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HARPER CORP. GENERAL**

## CONTRACTORS FOR THE DR. WESLEY GRANT SR. CENTER EXPANSION PROJECT

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Harper Corp. General Contractors, in the amount of \$6,734,000.00, for the Dr. Wesley Grant Sr. Center Expansion project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 15% (\$1,017,803.00).

**Background:**

- Design of the project began in August 2018, following approval of the GO Bond Referendum to provide additional indoor & outdoor recreation/community space and necessary support facilities for the Dr. Wesley Grant Sr. Center.
- In September 2019, city council authorized an amendment to the Dr. Wesley Grant Sr. Center design contract to include a new outdoor pool facility to replace the failing Walton Street Pool.
- Due to the unique nature of the recreation and outdoor pool facility, city staff prequalified nine general contractors based on their experience with similar projects according to NCGS 143-135.8.
- Six bidders provided construction bids for this project on April 29, 2021. The lowest responsive and responsible bid was provided by Elford, Inc. with a bid of \$5,863,360.
- City council was presented with an update on the project and bid status at their June 8th, 2021 council meeting.
- City staff planned to take to the following June 22, 2021 council meeting the recommendation for award to the low bidder, but due to an expressed concern from council regarding certain project elements and community engagement, the recommendation was not presented and the bids expired.
- Additional community and council engagement followed in the fall of 2021, which resulted in confirmation that the previous project scope was appropriate and had sufficient community buy-in.
- The project was re-bid on 12/09/2021 to the same pre-qualified general contractors.
- Five bids were received and formally opened.
- The resulting bids, including owner approved bid alternates, are listed below:

<u>Contractor</u>	<u>Location</u>	<u>Amount</u>
Harper General Contractors	Asheville, NC Branch	\$ 6,785,356.00
H&M Constructors	Asheville, NC	\$ 6,831,200.00
Elford, Inc.	Charlotte, NC	\$ 6,835,400.00
Brantley Construction	Weaverville, NC	\$ 7,929,509.00
Randolph & Sons	Charlotte, NC	non-responsive

- Construction start is expected in Spring 2022, but due to the uncertainty in delivery and procurement for steel products on this project, the contractor will be provided an initial notice to proceed with steel shop drawing production.
- Once dates are established for delivery of steel, the contractor will be provided with a notice to proceed for the remaining construction, which will include a 420 calendar day construction duration.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through multiple solicitation processes which include direct outreach to all ABI listed subcontractors, posting on the State’s Interactive Purchasing System and requiring prime contractors to reach out to HUB certified service providers for subcontracted services.
- ABI subcontractors were targeted and invited to the pre-bid meeting to meet the prequalified General Contractors.

- Harper General Contractors supplied as a part of their bid all of the ABI outreach documentation as required.
- Although not a part of the award process, Harper General Contractors provided detailed documentation after bids were received of their outreach efforts and were able to inform us that an increase of their HUB subcontractor participation to 14%, or \$958,990.
- This will include five HUB businesses and two black owned businesses (Hemon BIM for Building Information Modeling, and MS Lean for site demolition, hauling, and construction access roads).
- There are many smaller general services that will be needed throughout the project, and Harper intends to bid and contract those with local black owned businesses whenever possible.

**Council Goal(s):**

- A Clean and Healthy Environment & A Financially Resilient City

**Committee(s):**

- N/A

**Pro(s):**

- Allows construction to proceed on the GO Bond funded project to provide an expanded gymnasium and community pool to serve the Southside community.
- Construction includes installation of a 110.7 KW photovoltaic system to be mounted on the roof of the new gym building which will generate upwards of 60 percent of the total buildings energy use.
- 42% of the project costs will be spent locally in Western North Carolina.

**Con(s):**

- Construction schedule may be impacted by material and labor slowdowns due to the pandemic.
- Costs have increased significantly since this project was first bid. Any additional delays will likely cause additional increases to the cost of the project.

**Fiscal Impact:**

- Funding for this contract already exists within the currently approved Capital Improvement Program as part of the 2016 GO Bond. Total amount of contract including alternates is \$6,734,000.00 plus a contingency for possible change orders of \$1,017,803.00

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Harper Corp. General Contractors, in the amount of \$6,734,000.00, for the Dr. Wesley Grant Sr. Center Expansion project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 15% (\$1,017,803.00).

**RESOLUTION BOOK NO. 42 - PAGE 460**

- D. RESOLUTION NO. 21-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN EASEMENT AGREEMENT WITH ANN LOWELL TO ALLOW A SEWER CONNECTION ON CITY-OWNED PROPERTY AT 29 OAK HILL DRIVE**

**Action Requested:** Adoption of a resolution to authorize the City Manager to execute an easement allowing the construction of a sewer connection across city property on Oak Hill Drive.

**Background:**

- Owner of the property approached the Real Estate office requesting a sewer easement for a rental property.
- The property is currently served by a septic system that is failing.
- The property owner provided a map that showed that the connection is at the rear property line and the easement would consist of 150 square feet.
- The only reasonably feasible way for the property owner to connect to the Metropolitan Sewer District's line is across city property.
- The owner has few feasible options for a sewer connection at this location.
- The property is being land banked for affordable housing, but the development timetable is uncertain at this point.
- The owner was asked to move the sewer connection line close to the adjacent property to impact the buildability of the City's lot as little as possible.
- Language will be added to the easement document to allow the city to move the connection in the future and the property owner will be required to share in the cost.
- The owner of the property will compensate the City fair market value for the easement.
- The Real Estate Office reviewed active listings in the area and the fair market value of this easement is \$345.00.

**Council Goal(s):**

- Well Planned and Livable Community

**Committee(s):**

- None.

**Pro(s):**

- Easement will allow the property owner to replace a failing septic system that is within City limits, thereby eliminating a potential public health hazard.
- Property Owner will be paying market value for the easement.

**Con(s):**

- The sewer connection may have to be relocated at a later date and the owner will be required to participate in the expense.

**Fiscal Impact:**

- The fair market value of the easement in the amount of \$345 will benefit the General Fund.

**Motion:**

- Motion to adopt a resolution to authorize the City Manager to execute an easement agreement and to execute any other related documents needed to complete the transaction.

**RESOLUTION BOOK NO. 42 - PAGE 461**

**E. ORDINANCE NO. 4922 - BUDGET AMENDMENT FROM RESTRICTED AND ASSIGNED FUND BALANCE FOR PRIOR YEAR CONTRACTS, PURCHASE ORDERS, AND OTHER CARRY-OVER APPROPRIATIONS THAT ROLLED FORWARD TO FISCAL YEAR 2021-22**

**Action Requested:** Technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year (FY) 2021-22.

**Background:**

- As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year.
  - Budget funds are encumbered for the full amount of the expected purchase.
  - These contracts and purchase orders are often not fully completed and paid in one fiscal year.
  - North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.
- As a part of the FY 2020-21 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2021-22.
  - These dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Annual Comprehensive Financial Report.
  - The technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2021-22 budget for each of the City's annual operating funds.
  - It is standard practice for staff to bring forward this technical budget amendment each year at the same City Council meeting in which the external auditors present the annual audit results.

**Council Goal(s):**

- A Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2021-22.

**Con(s):**

- None.

**Fiscal Impact:**

- There is no impact on unassigned/available fund balance in the City's operating funds.

**Motion:**

- Motion to adopt a technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2021-22.

**ORDINANCE BOOK NO. 34 - PAGE 34**

- F. **RESOLUTION NO. 21-4 - RESOLUTION AUTHORIZING A SOLE SOURCE JUSTIFICATION PURCHASE OF EQUIPMENT AND SERVICES FROM CAROLINA RECORDING SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THEM FOR EVENTIDE 9-1-1 AUDIO LOGGING INTEGRATION**

**Action Requested:** Adoption of a resolution authorizing a sole source justification purchase of equipment and services from Carolina Recording Systems, LLC and authorizing the City Manager to enter into a contract, with the same for Eventide 9-1-1 Audio Logging integration.

**Background:**

- On November 9, 2021, City Council approved Resolution No. 21-241, which authorizes the City and the County to enter into an agreement to consolidate 9-1-1 Services.
- This requires the City of Asheville to interface the City's radio system to the County's audio logging system.
- Carolina Recording Systems is the dealer Buncombe County uses for their 9-1-1 audio logging system who is responsible for maintenance and warranty on their system.
- This contract will provide the needed software license and components for them to interface our radio system to the County's logger.
- This was generated in consultation with the City's radio system manufacturer, Motorola Solutions.

**Vendor Outreach Efforts:**

- Sole source/standardization procurement allows for products to be purchased exclusively from one vendor in order to ensure the expansion of an existing system using proprietary components.
- In using sole source/standardization procurement, there is no further outreach conducted because the items are purchased from a specific vendor.
- Because the City is interfacing with the Buncombe County 9-1-1 system, items are being purchased from their existing audio logging supplier.

**Council Goal(s):**

- Reimagining Public Safety, A Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- This action supports the City's goal to reimagine public safety by integrating the City's radio system with the consolidated 9-1-1 system.

**Con(s):**

- Sole source procurements may reduce competitive pricing.

**Fiscal Impact:**

- The one-time cost of integration of \$92,140, is already included in the adopted Police Department budget.

**Motion:**

- Motion to adopt a resolution authorizing a sole source justification purchase of Eventide equipment and services from Carolina Recording Systems, LLC and authorizing the City Manager to enter into a contract, with the same for 911 Audio Logging integration.

**RESOLUTION BOOK NO. 34 - PAGE 462**

**G. RESOLUTION NO. 22-5 - RESOLUTION AMENDING DONATION AGREEMENTS WITH ASHEVILLE CITY SCHOOLS FOUNDATION**

**Action Requested:** Approval of amendments to two Donation Agreements with the Asheville City Schools Foundation, and direction to enter into a settlement agreement to resolve a lawsuit

**Background:**

- In October 2020, and April 2021, the City Council approved two Donation Agreements providing funds to the Asheville City Schools Foundation for the establishment of two scholarships.
- In October 2021, a lawsuit was filed against the City and others by WNC Citizens for Equality, Inc. challenging the legality of the donations.
- While the City disputes the allegations of the lawsuit, the plaintiff has now agreed to resolve this matter if the donation agreements are amended with updated language.
- These amendments will alter the eligibility requirements for the scholarships and add language prohibiting discrimination.
- The amended language will be as follows:

Paragraph 1 shall be amended to replace the second and third sentences of Paragraph 1 with the following sentences: “The first is for a scholarship to be awarded in perpetuity to high school students within Asheville City Schools, based on the following criteria: In addition to the criteria set forth for all ACSF scholarships, the scholarship will give preference to applicants whose household members, including parents and/or guardians have a high school education or less, these applicants representing “first generation” college students. Additionally preference will be given to applicants who are committed to pursuing a career in education. The second is for a scholarship fund for educators and staff of Asheville City Schools who are pursuing their next level of education and/or certification, with a preference for applicants who are or were “first generation” college students.”

Paragraph 10 in each agreement shall be amended to add the following text: “ACSF shall be prohibited from discriminating based on any of the following characteristics of any applicant for award of the scholarships that are the subject of this Donation Agreement, whether the scholarship be for students of Asheville High School or employees of Asheville City Schools: race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familiar status, pregnancy, veteran status, religious belief or non-belief, age or disability.”

**Council Goal(s):**

- A Financially Resilient City, An Equitable & Diverse Community

**Committee(s):**

- None

**Pro(s):**

- Resolves a pending lawsuit with no financial liability for the City, and preserves the Asheville City Schools Foundation scholarships.

**Con(s):**

- None.

**Fiscal Impact:**

- None.

**Motion:**



- Motion to approve a resolution to amend two Donation Agreements between the City of Asheville and the Asheville City Schools Foundation consistent with the language specifically provided in the Resolution, and to direct the City Attorney to execute any and all documentation to effectuate the settlement and final resolution of the lawsuit filed against the City by WNC Citizens for Equality, Inc.

### **RESOLUTION BOOK NO. 42 - PAGE 463**

Patrick Conant felt that the application for the French Broad River Metropolitan Planning Organization should be removed from the Consent Agenda and discussed, as he felt the public needs more information and felt the application is being rushed through. He also asked that City Council direct the City Manager to publish the Manager's Report along with the rest of the City Council agenda.

Greenleaf Clarke spoke about the camp sweep in December and felt that the displacement of the camps are only cutting the homeless off from their community, their network and their friends and relationships. He was disappointed that at the December 14, 2021, Council meeting, no member of Council seconded Councilwoman Roney's motion to stop camp sweeps. He demanded sanctuary camping now.

Councilwoman Roney acknowledged the receipt of questions around input on a transportation connectivity and land use study for the I-26 Connector Project, and noted that there is still community engagement that needs to happen regarding how impacted communities will be affected with the I-26 Connector Project.

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 Wisler and carried unanimously by roll call vote

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

#### **A. AUDIT PRESENTATION**

Finance Director Tony McDowell introduced Mr. Robert Bittner, Partner of PMMares, who presented City Council the financial results for the year ended June 30, 2021, outlining the performances of revenues and expenses, compliance issues they must review, and the components of the Comprehensive Annual Financial Report. He noted that the City of Asheville has received an unmodified - "clean" (highest level of assurance. He noted one material weakness in internal control identified - year end closeout, due to turnover in the Finance Department in positions responsible for the financial reporting process. In performing their audit, while significant improvements have been made from the prior year, it was noted that certain accrual schedules and reconciliations initially provided by the City contained inaccuracies. They recommend that the City continue implementation and improvement of a documented year end review process. Regarding performance indicators of concern, there was one indicator requiring response by the City Council, directly related to the material weakness identified - "the unit must address the material and/or significant findings or any other findings that the auditor reported to them."

Finance Director Tony McDowell reiterated that the audit finding was a material weakness related to year-end closeout. The effect was one individually material adjustment related to timing of recording Shuttered Venue Operators Grant in the Harrah's Cherokee Civic Center Fund. The condition is that significant improvements have been made from the prior year. And, the

cause was turnover in the Finance Department in positions responsible for the financial reporting process. He said that the City agrees with the auditor's recommendations and has taken the following steps (1) created Assistant Finance Director for Accounting Services and filled that position in August, 2021; and (2) developed training, checklists, and guidelines for year-end closeout and will continue to fine tune those in preparation for the Fiscal Year 2022 audit.

Councilwoman Roney was concerned about the high amount we are spending on public safety. She said that we are earmarking funds and making a commitment to spend public tax dollars, and yet we have a list of things that we aren't able to do whether it's because of the staff capacity or priority shifts. But, we are getting a lot of calls for public safety with real concerns, so as we move into this next budget cycle, she was concerned that we are still spending so much on this. We haven't grown economic development or investment in affordable housing in the budget, in the way we have grown public safety. But we are not getting the outcomes that we need and she is concerned we may not be addressing our root issues and might have to find a different way to do our budget priorities, especially because at the end of the day we still have public safety concerns that we are responding to, not getting in front of. But, at this level of spending she hoped that we would be decreasing the need for those calls in the first place. She wondered if we could shift our investment in long term safety strategies. She hoped Council will consider the percentage of our expenditures and growth in our budget.

## **B. MANAGER'S REPORT**

### **American Rescue Act Plan Process Update**

Assistant to the City Manager Jaime Matthews updated City Council on the American Rescue Act Plan process. She said applicants have been invited by City Council to provide 2-minute presentations at virtual Council worksessions on Tuesday, February 1, 2022, at 10:00 a.m.; and on Wednesday, February 2, 2022, at 11:00 a.m. The worksessions will be streamed live. The next steps will be Council review and decision making.

### **Community Reparations Commission Process**

Director of Equity & Inclusion Brenda Mills introduced Project Manager Debra Jones updated City Council on the reparations process. Key updates include (1) Public Comment Period: October 18 – November 1; (2) Revised Composition of Commission: (a) Impacted Neighborhood appointments increased from 13 to 15; and (b) Council and Commissioner appointments changed from 12 to 10; (3) Current Distribution of Commission Appointments: (a) Impacted Neighborhoods (15 seats): (i) Six neighborhoods historically impacted by urban renewal: Burton Street (2), East End/Valley St. (2), Shiloh (2), Southside (2), Stumptown (2), Heart of Chestnut (2); and (ii) Public housing communities (3); and (b) Impact Focus Areas (10 seats): Criminal justice, economic development, education, health and wellness, and housing (i) Five City Council appointments; and (ii) Five County Commissioner appointments; (4) Commission member estimated time commitment: 5-10 hours per month; (5) Commission member stipends: \$75 to \$150 per month (paid from project management services budget); (6) Applications released on November 19; (7) Twelve information sessions conducted since November 19<sup>th</sup> (over 200 registered participants in total); and (8) In addition to appointment applications, soliciting support interest forms. Next steps include (1) Deadline for applications: January 15, 2022; (2) Neighborhood organizations complete their selection process; (3) City Council and County Commissioners review applications, conduct interviews, and make final appointment selections; and (4) Appointment announcements at the end of February 2022.

In response to Vice-Mayor Smith, Ms. Jones explained the support interest forms and how we are collecting that information for the Commission's use.

## Homelessness Initiatives

City Manager Campbell outlined the key takeaways from this presentation being (1) Homelessness is a community-wide issue that requires a community-wide response; (2) The City is responding daily while also working with partners on longer term solutions to address homelessness. Community opinions differ on best approaches; (3) City continues to address criminal behavior as well as increased monitoring and clean-up of parks and other public property; (4) City has procedures it implements when homeless camps occur on publicly or privately owned property with safety of the campers, the general public and staff always being the highest priority; (5) Encampments are unsafe and not solutions to homelessness; and (6) City's goal is to move beyond managing homelessness to ending homelessness. The presentation overview will consist of (1) Homeless Population; (2) City Homeless Goals and Initiatives; (3) Homelessness Focus: Safety and Solutions; (4) City's Procedures on Homeless Camps; and (5) Moving Forward.

Homeless Services System Performance Lead Emily Ball outlined for Council the homeless population definitions and data. The federal definitions of homelessness include (1) Literal Homelessness - Lacking a fixed, regular, and adequate nighttime residence (emergency shelter, transitional housing, or places not meant for human habitation); and (2) Subsets of literal homeless population - (a) Chronic Homelessness: 12 months of literal homelessness, either consecutively or during at least 4 episodes in the past 3 years and having a disability (chronic physical illness or disability, developmental disability, serious mental illness, diagnosable substance use disorder); and (b) Unsheltered: people camping or sleeping outside, in cars, or in places not meant for human habitation. The 2021 Point-in-Time count identified 527 people experiencing homelessness. Population characteristics are 411 sheltered or in transitional housing; 116 unsheltered; 154 chronically homeless; 188 Veterans; and 469 single adults. She then reviewed a chart of the demographics of the homelessness. Ending homelessness in Asheville goals include (1) Move beyond managing homelessness to ending homelessness; (2) Develop and support a homeless service system that can quickly respond to resolve housing crises; and (3) Make homelessness rare, brief, and non-recurring. Values include (1) Homeless people are not the problem. Homelessness is the problem; (2) Homelessness is a public health issue, an equity issue, and a housing issue; (3) Strategies and decisions should be data driven; and (4) Homelessness is a solvable problem. The City's role in ending homelessness includes (1) developing and supporting the community's homeless service system - Not a direct service provider; HUD Continuum of Care lead; Collaborative Applicant for CoC and Regional Applicant for ESG funding: \$1.9M; Data (HMIS, Point-in-Time count); and Strategy and solutions: moving beyond crisis response to ending homelessness; and (2) City Investment - Critical services: coordinated entry, outreach; CDBG and HOME funding for homeless programs; and Permanent housing developments targeting homelessness. Homeless initiatives safety and solutions include (1) Focus has always been on community safety and solutions; (2) Created and funded non-congregate shelter in response to COVID: (a) Red Roof Inn: 158 people who were unsheltered and had underlying conditions - 48 people moved into permanent housing; and (b) Ramada and other hotels: 116 people from 3 encampments (i) 100% of people camping accepted shelter; (ii) Much safer than encampments; (iii) \$3.5M ARPA funding; and (iv) 38 people employed; 42 people connected to substance use services; 23 people slated for housing programs; (3) Coordinating with Buncombe County on COVID testing and vaccinations for people who are homeless; (4) Funding outreach positions at Homeward Bound to engage with people who may not otherwise be connected with any services; (5) Code Purple (a) Last winter: coordinated and funded shelter with Western Carolina Rescue Ministries; (b) This winter: coordinating with partners based on data from last winter; \$100,000 funding for ABCCM; and (c) Posting notification on the Harrah's Cherokee Center marquee each night Code Purple is operating and on posting on City of Asheville's website; (6) Pursuing high-access shelter development to fill a gap; (7) Facilitated \$2.3M of federal COVID response funding for rental assistance; (8) Funded 185 units of Permanent Supportive Housing (a) Homeward Bound - Days

Inn: \$2M (85 units); and (b) Step Up - Ramada: \$1.5M (100 units); and (9) Working with partners to support and develop the Continuum of Care - Successfully ending homelessness requires a whole-community response and a systems-wide approach.

Police Captain Mike Lamb explained the safety and solutions in (1) Parks (a) Every City park visited daily to ensure cleanliness and address safety issues, such as needle litter; (b) Park Warden presence established in downtown parks; (c) More frequent trash pickup in Pritchard Park; and (d) Adding signage to address acceptable behavior in parks; (2) Law Enforcement - Proactive enforcement of laws against illegal behavior(s); (3) Ordinance Changes - Looking at necessary changes to current ordinances related to certain activities, such as leaving food in parks; and (4) Coordinating with Partners - Working with Homeward Bound to improve neighborhood safety (adding lighting and benches, proactive outreach on N. Ann St., recruiting volunteers for trash pickup).

Police Captain Lamb then explained the City's procedures on homeless camps. Those include (1) No camping on City Property CO:12-51; (2) Public Urination CO: 11-15; (3) Parks Closing Time (10pm to 6am) CO: 12-41; (4) Trespassing NCGS: 14-159.13; (5) No Tents or Shelters on City Property CO: 12-52; and (6) Obstruction of Sidewalks CO: 16-2. The Asheville Police Department (APD) is responsible for enforcement of these ordinances. The City's procedure for illegal camping include (1) Approach (a) Proactive outreach (APD Community Engagement, Homeward Bound); (b) Connection to community resources; and (c) Dignity and respect; (2) Camp removal on City-owned land (a) Advance notice (7 days) unless immediate risk; and (b) *This worked when people were camping in small groups*; and (3) Camp removal on private property (a) Discretion of the property owner; and (b) APD responsible for enforcing trespassing laws at the request of the property owner. Regarding evolution of campsites, when safety is our highest priority, we must continuously adapt and evolve to a changing environment. COVID shelter-in-place presented unintended consequences. Increase in illegal camping/trespassing throughout the City. Large encampments formed at various locations in the city. These encampments create health and safety issues for people in the camps as well as the surrounding areas/neighborhoods. Captain Lamb then reviewed the crimes occurring in and around encampments - 2 homicides, 1 suspicious death (foul play suspected), 105 overdoses, 54 robberies, 151 aggravated assaults, 25 rampes and 105 motor vehicle thefts. He said within 500 foot of a large encampment, 10% of the crime that has occurred in the City of Asheville over the past 2 years (2,321 of 22,611) - 14% of all violent crime (167 of 1,216); and 8.5% of all property crime (873 of 10,221). He said within 1,000 feet of a large encampment, 22% of the crime that has occurred in the City of Asheville over the past to years \$4,887 of 22,611) - 25% of all violent crime (301 of 1,216); and 20% of all property crime (2,032 of 10,221). Adjusted procedure for addressing illegal camping includes (1) City of Asheville receives a complaint or discovers illegal camping; (2) Determine if the camp is on private property or City of Asheville (COA) property; (3) Determine if a safety issue is present - Examples: violent crime, blocking access, fire, etc.; (4) Contact City-funded Street Outreach Team Members (Homeward Bound) to provide outreach related to service opportunities; (5) Once a site visit has been completed by Street Outreach Team, City staff (to include APD) communicates to person that they will need to leave within 24-48 hours (unless there is immediate risk); and (6) Once person(s) have left the property, COA or property owner cleans the site.

Engagement with campers/activists include (1) City staff/police work to offer a variety of resources to people within the camps; (2) Officers routinely provide supply/food boxes to unsheltered people; (3) During Code Purple, officers routinely give unsheltered people rides to Code Purple sites; (4) Most people staff and APD encounter at camps are unsheltered people who are cooperative and cooperate with staff to move within the requested time frame; and (5) In most cases citations are not issued to campers but occasionally to activists who refuse to leave or obstruct camp clean-up or tent removal.

City Manager Campbell, along with other City staff, responded to various questions/ comments from Council, some being, but are not limited to: are the majority of homeless people from our area or do they come from outside our region due to our services; what are other service hub communities doing regarding the homelessness issue; do we have the ability to track down referral sources; since the Veterans Administration Hospital is ranked 2nd in the Country, it may be possible that many veterans travel to Asheville to take advantage of their services; since we are not in compliance with the CDC guidelines for encampments which state the need for 24-hour bathrooms, hygiene materials and sanitation, we are causing a public health problem; what is the procedure for people to retrieve their personal items when we remove camps; need for sharp containers throughout the camps; need to get into compliance with the CDC guidelines and find a place where we can have tents until we get to some of our other long-term goals; is there anything in our vulnerability index discussion that takes racism as a social determinant of health into account; how is residency tracked; by allowing large camps, we are not protecting our staff, residents, visitors or the homeless in the camps; and crime will not go away by displacing people.

City Manager Campbell noted this is a tough and challenging conversation. Communities all over the country are dealing with these same kinds of issues and they are trying the same things we are doing in our community. Ultimately getting people housed and getting them help with their mental health issues is how we are going to truly resolve this issue. We are doing our best to engage as many partners as we can. Moving forward in the immediate, we will (1) Continue to prioritize safety for people experiencing homelessness; and (2) With partners, continue to mitigate the effects of homelessness on our community. Long-term, we will (1) Partner with all stakeholders to develop and implement solutions; and (2) Invest in opportunities for people to exit homelessness into permanent housing.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO REZONE APPROXIMATELY 128 ACRES OF PROPERTY ALONG SOUTH TUNNEL ROAD FROM REGIONAL BUSINESS DISTRICT, RIVER DISTRICT, RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT, AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO URBAN PLACE FORM DISTRICT**

**ORDINANCE NO. 4923 - ORDINANCE TO REZONE APPROXIMATELY 128 ACRES ALONG SOUTH TUNNEL ROAD OF PROPERTY FROM REGIONAL BUSINESS DISTRICT, RIVER DISTRICT, RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT, AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO URBAN PLACE FORM DISTRICT**

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to rezone approximately 128 acres of property from Regional Business District, River District, RM-16 Residential Multi-Family High Density District, and RS-4 Residential Single-Family Medium Density District to Urban Place Form District. This public hearing was advertised on October 15 and 22, 2021. On October 26, 2021, this public hearing was continued to this date.

**Project Location and Contacts:**

- The project sites are located along South Tunnel Road and summarized by the current zoning district on the right.
- Owners: various

**Background:**

- This city-initiated petition aims to implement the [Urban Centers initiative](#), which is a recommended growth strategy of *Living*

Zoning District	Acres	Percent
RB	99.5	78%
RIV	20	16%
RM16	7.5	6%
RS4	1	1%
	128	100%

- *Asheville*, the city's long-range comprehensive plan.
- The request totals approximately 128 acres of property to be rezoned to Urban Place Form District.
- This petition is phase two of a two phase rezoning process that prioritizes the rezoning of those urban centers identified in the city's Future Land Use Map (FLUM), which are located closest to the Central Business District and also on the high-frequency transit network.
  - City Council adopted the Urban Place Form District on September 28, 2021 along with the rezoning of phase I, which totalled approximately 122 acres of rezoned land.
  - The rezoning will allow for the built environment of these properties to transition over time so that they become more urban and walkable, and better aligned with the city's long-term goals.
- The rezoning will lead to a more efficient use of land that encourages housing and incentivizes affordable housing along transit routes.
- Staff have prepared an equity analysis of the proposed rezoning using the Racial Equity Toolkit: An Opportunity to Operationalize Equity, as prepared by the Local and Regional Government Alliance on Race and Equity.
- Staff met with the Legacy Neighborhoods Coalition (LNC) six times between January and August 2021 to discuss neighborhood concerns around displacement, ongoing development and neighborhood involvement in the development process.
- This community work led staff to recommend removal of the Patton Avenue node from Phase II to allow more time to develop neighborhood stabilization strategies identified through application of the Equity Toolkit and balance the goals of addressing equity and community concerns with other city goals related to the built environment.
- Staff met with the management staff of the Asheville Mall to review the proposed rezoning and answer questions.
- The mall management is generally in support of the goals of the rezoning.
- It was made clear that the mall is for sale, however, so there is complete uncertainty in that regard.

**Comprehensive Plan Consistency:**

- This proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'A Livable Built Environment' and 'A Resilient Economy'. The following goals are applicable to this zoning amendment:
  - Encourage Responsible Growth; prioritize growth and development within designated growth areas
  - Increase Mixed-Use Development Along Transit Corridors
  - Promote Great Architecture & Urban Design to Enhance Placemaking
  - Make Streets More Walkable, Comfortable and Connected
  - Increase and Diversify Housing Supply; incentivize development that maximizes public benefit
  - Promote the Development and Availability of Affordable Housing and Workforce Housing; promote affordable housing policies via incentives such as bonus densities and building heights
- The proposed rezoning aligns with the Future Land Use Map (FLUM) that is designated as Town Center in this area, which can be thought of as a more intensely developed Urban Center.

**Compatibility Analysis:**

- The proposed boundaries of the Urban Place Form District were derived from the Town Centers Land Use category of the Future Land Use Map adopted in the Living Asheville Comprehensive Plan.

- The Urban Place zoning district is deemed to be in alignment with the Town Center land use category.
- Compatibility is achieved by targeting existing commercial nodes with the ability to absorb additional density and mixed use development due to their location in areas with adequate infrastructure and along high frequency transit corridors.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committees:**

- On January 14, 2019, the Planning and Zoning Commission unanimously supported staff's revised process for the Urban Center initiative, which includes consideration of a new zoning district for the subject areas and additional community engagement.
- On February 11, 2019, staff provided an update to the Planning and Economic Development Committee (PED) that clarified redevelopment within Urban Center locations is not permitted while the rezoning application is under consideration.
- On September 5, 2019, an update was provided to the Affordable Housing Advisory Committee (AHAC) with input received regarding the incentive for affordable housing.
- On January 13, 2020, an update was provided to PED that included proposed incentives for housing. Staff also shared neighborhood concerns relating to gentrification.
- At the October 27, 2020 City Council work session on the hotel development regulations Council suggested that staff postpone the consideration of the Patton Avenue node from the project and allow the other areas to move forward and recommended that staff add the Asheville Mall node to the initiative as part of a Phase II rezoning effort that would include the Patton Avenue node.
- On September 1, 2021, the Planning & Zoning Commission voted to approve Phase I of the initiative with a 6:1 vote.
- On September 23, 2021, staff recommended to the City Council to remove the Patton Avenue node completely from Phase II of the Urban Centers Initiative.
- On September 28, 2021, City Council adopted the Urban Place Form district and rezoned Phase I properties.
- On October 6, 2021, the Planning & Zoning Commission voted to approve the rezoning of Phase II properties with a 6:1 vote.

**Pros:**

- Implements zoning regulations recommended in the comprehensive plan, *Living Asheville*
- Incentivizes the integration of market rate and affordable housing on large commercial parcels
- Form-based zoning regulations will create a more urban-style pattern of development.
- Transitions single-use commercial strips to walkable, mixed-use nodes along higher frequency transit corridors.
- Improves the efficiency of land that in time will help to improve the city's tax base.

**Cons:**

- Increases development cost due to added requirements for large projects (formalizing internal streets with sidewalks and, on larger projects, housing, etc).
- Zoning changes that encourage redevelopment will increase property values over time that can increase neighboring property values.

**Staff Recommendation:**

- Staff recommends approval of this rezoning request based on the reasons stated above.

Mr. Satvika said the key takeaways from this are (1) The Urban Place Form District is a zoning “tool” to help implement a growth strategy in the Living Asheville Comprehensive Plan; (2) With a population of almost 95,000, Asheville continues to grow and we need to better align new development with our transit system and other city infrastructure; (3) This alignment will further increase transit access and reduce carbon emissions; (4) Housing, including affordable housing, is an important element of this proposal; and (5) This is the second phase of the Urban Place Form District initiative (Council approved Phase 1 in September 2021). The Urban Centers goals from the Living Asheville recommends strengthening urban transit corridors and centers to (1) Accommodate a growing population and support job growth; (2) Integrate affordable housing closer to jobs; (3) Improve connectivity with walkability that supports transit; and (4) Support a healthy environment with quality urban design that improves tree canopy and urban open spaces. Benefits of the comprehensive plan growth strategy, which includes urban centers are (1) citywide transit usage increase; and (2) greenhouse gas emissions reduction. There are 11 proposed Urban Centers on the City’s Preferred Growth Scenario map and five Town Centers. The current rezoning focuses on one area that is composed of 128 acres of property around the Asheville Mall. Using maps, he showed the future land use map; current zoning and parcels affected; and existing and proposed zoning.

In response to Mayor Manheimer, Mr. Satvika said that the K-Mart on Patton Avenue property has been removed from rezoning discussions to Urban Place Form District as City Council has not given staff further direction on pursuing that rezoning. He did note that there is an application from the owner of that property. Since that application is for a conditional zoning, it will come before City Council for review.

Mayor Manheimer opened the public hearing at 7:06 p.m., and when no advanced callers signed up, she closed it at 7:06 p.m.

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

Councilwoman Wisler moved to approve the rezoning request for phase II properties that includes approximately 128 acres of property from Regional Business (RB), River (RIV), Residential Multi-Family High Density District (RM16), and Residential Single-Family Medium Density District (RS4) to Urban Place Form (UP) district and find that the proposed rezoning is reasonable, in the public interest, consistent with the City's comprehensive plan and aligned with the development needs of the community in that the rezoning will 1) encourage responsible growth; 2) increase mixed-use development along transit corridors; 3) improve urban design; 4) make streets more walkable, comfortable and connected; 5) increase housing supply and encourage the development of affordable housing; and, 6) facilitate development that maximizes public benefit. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

**ORDINANCE BOOK NO. 34 - PAGE 36**

**B. PUBLIC HEARING TO CONDITIONALLY REZONE 235 SARDIS ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE**

**ORDINANCE NO. 4924 - ORDINANCE TO REZONE 235 SARDIS ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE**

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally zone 235 Sardis Road from Commercial Industrial District to Residential



Expansion/Conditional Zone. This public hearing was advertised on December 31, 2021, and January 7, 2022.

**Project Location and Contacts:**

- The project site consists of a single parcel totalling 22.1 acres located at 235 Sardis Rd. (PIN 9627-01-8639)
- Owner: VVS Investments LLC.

**Summary of Petition:**

- This petition is for the purpose of constructing 297 new multi-family residential units in six buildings, along with a clubhouse, 437 surface parking spaces, sidewalk and related site improvements.
  - Phase 1 includes buildings 1-4 and the clubhouse for a total of 192 units and 263 parking spaces;
  - Phase 2 includes buildings 5 & 6 for a total of 105 units and 174 parking spaces.
- The property is currently zoned Commercial Industrial (CI) and the applicant is seeking a rezoning via conditional zoning to Residential Expansion - Conditional Zone (RES EXP-CZ) due to the number of residential units.
- Five of the six buildings are proposed to be four stories with the sixth building identified as three stories.
- The maximum height of the four story building is 52 feet and the maximum height of the three story building is 40 feet.
- The clubhouse will be one story with a maximum height of 20 feet.
- A single 0.80 acre parcel is proposed to be subdivided from the subject property and will have frontage on Sardis Rd. It is proposed that this small parcel will be excluded from the conditional rezoning.
- An adjacent parcel, located at 233 Sardis Rd. is included for the purpose of providing additional access to the property and is not included in the conditional zoning.
- Based on the Living Asheville Comprehensive Plan Future Land Use Map (FLUM) the property is currently designated Industrial/Manufacturing, which reserves land with good access to transportation systems to support the economic section for light industry and office or business incubators.
- While Industrial/Manufacturing may include opportunities for housing for workers who may live amongst or adjacent to the industry or other businesses in the area, the property is adjacent to a large single-family neighborhood designated "Residential Neighborhood".
- A change to the FLUM is recommended.
- The maximum density in the RES EXP district is 20 units/acre - the proposed project is designed at approximately 13.4 units/acre.
- The applicant is proposing that 10% of the units (30 units total) be set aside as affordable to those earning at or below 80% AMI for a minimum period of 20 years.
- A Land Use Incentive Grant (LUIG) is not being requested for this project.
- Access to the property comes from Sardis Road through one of three potential access points. Two of the three access points are new driveways on Sardis Rd. while the third comes through an existing private road (Innovation Dr.) currently used by the Franklin School of Innovation, located to the west of the subject property.
- Internal private roads are also proposed connecting the two phases to Sardis Rd.
- Roads are proposed to be 25 feet wide with a 29 foot cross section.
- A three foot bike lane is proposed within the 25 foot road width, leaving 22 feet of vehicular driving surface.
- The Traffic Impact Study recommends some off-site improvements including:
  - 1) adding a left-turn lane along the eastbound approach of Sardis Rd. at its intersection with Innovation Drive, as well as
  - 2) signal timing modifications at the intersection of NC 112 and NC 191.

- The nearest transit route is approximately 1.7 miles to the east on NC191.
- RES EXP requires 10 foot wide sidewalks throughout the site.
- This project proposes sidewalks that range in width from 6-10 feet and will be seeking a modification to this requirement for some sections through the conditional zoning.
- Walking paths are also proposed on the north end of the site along the creek.
- Hominy Creek borders the property to the north, and several tributaries to Hominy Creek are found on the property.
- Tributaries are piped and/or bridged for sections, as shown on the site plan(s).
- The applicant proposes to improve the existing tributaries by revegetating the aquatic buffers with native, riparian plants.
- Open space shall be required at a rate of 15% of the total parcel (148,500 s.f.) and will include walking trails.
- The project is classified as “suburban” under the tree canopy preservation (TCP) standards with a classification of “Class C”.
- The proposed plan will comply with TCP requirements.
- The project is seeking technical modifications to development standards through the conditional zoning process including:
  - Sidewalks less than 10’ in width for some sections.

**Consistency with the Comprehensive Plan:**

- This project meets a number of key city goals in the Living Asheville Comprehensive Plan including:
  - Encourage Responsible Growth - by increasing the city’s housing supply and locating housing in areas close to jobs and schools
  - Increase and Diversify the Housing Supply - by providing contextually appropriate infill development that includes housing, especially affordable housing
  - Promote Access to Well-Maintained Parks and Open Space for All - by encouraging the preservation of green spaces and natural waterways, and by providing access to those natural areas

**Compatibility Analysis:**

- Portions of Sardis Rd. continue to be dominated by industrial, light industrial/commercial uses; however, the character of the area is changing to include more service businesses, community facilities, and residential neighborhoods.
- Despite being zoned Commercial Industrial (CI) the bulk of the subject property lies between the Franklin School of Innovation, a 13.7 acre campus for grades 5-12 to the west, and a large single family residential neighborhood to the east.
- Hominy Creek is located to the north of the subject property and will include 30’ aquatic stream buffers.
- A portion of the subject property along Sardis Rd. is proposed to be subdivided and remain zoned CI to allow for future commercial development.

**Council Goal(s):**

- The council goal of *A Well-Planned and Livable Community* is most applicable.

**Committee(s):**

- Technical Review Committee (TRC) - August 2, 2021 - approved with conditions.
- Planning & Zoning Commission (PZC) - December 1, 2021 - approved unanimously, 7:0.

**Staff Recommendation:**

- Staff recommends approval of the project, for the reasons stated above.

Ms. Tuch said that the multi-family apartment buildings, built in two phases: 297 residential units; Clubhouse + walking trails; 12 on-site garage/storage units; Hominy Creek to the north + jurisdictional streams; 3 vehicular access points; 437 surface parking spaces; 6-10' wide sidewalks; 10% (or 30 units) dedicated to be affordable; and 0.80 acre parcel removed for future Commercial Industrial development. Phase I will consist of Buildings 1-4 + Clubhouse; 192 Units; and 263 parking spaces. Phase II will consist of Buildings 5-6; 105 units; 174 parking spaces; and 12 on-site garage/storage units. Conditions include technical modification (sidewalk width); 297 residential units, 10% affordable (will accept housing vouchers); walking trails, preservation of green space & streams/creeks; internal connections, multi-modal access; 2 year approval period; and compliance with Traffic Impact Analysis recommendations.

Councilwoman Roney said that when she mapped this area to our existing transit options and our future Transit Master Plan recommendations for expansion, Enka-Candler and west extensions are meant to be Phase III. We are in Phase II of the master plan, but we haven't been able to implement Phase II because of staffing limitations. We need more transit and must work with the County and partners for this to happen.

In response to Councilwoman Roney, Damie Sesay, attorney for the developer, explained how they are working with the Housing Authority of the City of Asheville and Thrive Asheville to ensure that voucher holders are housed.

Mayor Manheimer opened the public hearing at 7:19 p.m., and when no advanced callers signed up, she closed it at 7:19 p.m.

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

Councilwoman Mosley moved to approve the conditional zoning request for the property located at 235 Sardis Rd. from Commercial Industrial (CI) to Residential Expansion - Conditional Zone (RES EXP-CZ) with an amendment to the Future Land Use Map of the *Living Asheville Comprehensive Plan* from Industrial/Manufacturing to Residential Neighborhood and find that the request is reasonable, is in the public interest, is consistent with the city's comprehensive plan, and meets the development needs of the community in that the request: 1) encourages responsible growth by increasing the city's housing supply in areas close to jobs and schools; 2) increases the diversity of housing in the area, including affordable housing; and, 3) promotes access to open space and preserves open areas and natural waterways. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

**ORDINANCE BOOK NO. 34 – PAGE 41**

**C. PUBLIC HEARING TO CONDITIONALLY ZONE A PORTION OF 990 TUNNEL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO OFFICE II DISTRICT/CONDITIONAL ZONE**

**ORDINANCE NO. 4925 - ORDINANCE TO CONDITIONALLY ZONE A PORTION OF 990 TUNNEL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO OFFICE II DISTRICT/CONDITIONAL ZONE**

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally zone a portion of 990 Tunnel Road from RM-6 Residential Multi-Family Low Density District to Office II District/Conditional Zone. This public hearing was advertised on December 31, 2021, and January 7, 2022.

**Project Location and Contacts:**

- The project site consists of a 0.99 acre portion of a larger 1.39 acre parcel located at 990 Tunnel Rd. (PIN 9668-07-8758)
- Owner: James Mills & John Laney Jr.

**Summary of Petition:**

- This petition includes a single two-story professional office building to be used as a dental clinic, along with surface parking, sidewalk, landscaping and related site improvements.
- The property is currently zoned Residential Multi-family, Low Density (RM-6) and is designated “Residential Neighborhood” on the city’s Future Land Use Map (FLUM).
- A conditional rezoning of the project area, as well as a change in the FLUM, is required in order to allow for an office use.
- The subject property is proposed to be subdivided with Lot 2 to remain residentially zoned and reserved for future residential development.
- The rezoning and commercial development will be limited to Lot 1 which will meet all dimensional requirements for the proposed O2 zoning.
- The maximum height of buildings in the O2 district is 40’. The proposed building will not exceed 40’ in height.
- The maximum structure size of a single building in the O2 zoning district is 16,000 square feet (for a multi-storied building). The proposed building will not exceed 14,000 square feet.
- 49% of the site will include impervious surfaces, falling under the maximum 80% allowed.
- 40 surface parking spaces are proposed, meeting the minimum parking requirement of 1 space/350 square feet of office space.
- Two handicap accessible spaces are required and provided.
- The project area has road frontage on both Tunnel Rd. and Campground Rd. but access will be limited to a single driveway on Tunnel Rd.
- The nearest bus stop is located approximately 330 feet to the east of the project entrance on Tunnel Rd. near the intersection of Tunnel Road and Maple Springs Road.
- Landscape requirements apply, including street tree, street buffer, parking lot, and property line buffer (Type A) landscaping.
- The proposed development is less than one acre and therefore, open space is not required.
- An existing stream runs along the eastern property boundary and is protected with a 30’ aquatic stream buffer.
- The project is classified as “suburban” under the tree canopy preservation standards with a classification of “Class C” with 0-40% existing canopy coverage.
- The Tree Canopy Preservation requirement for this project is 20%.
- The project is seeking several modifications including:
  - Retain the existing 5’ back of curb sidewalk on Tunnel Rd.
  - Relocate a portion of the required landscape buffer on the east side of the property (adjacent the stream buffer) away from the property line.

**Consistency with the Comprehensive Plan:**

- This project meets a number of key city goals in the Living Asheville Comprehensive Plan including:
  - Promote General Health and Wellness - by accommodating modern small-scale medical facilities ... within every neighborhood.
  - Encourage Responsible Growth - by prioritizing development within designated growth areas.
  - Facilitate Real Estate Development that Maximizes Public Benefit - by supporting the development/redevelopment of sites that are underutilized.

**Compatibility Analysis:**

- The subject property is located directly on Tunnel Rd. (US Hwy 70) and the proposed building is oriented towards this primary corridor with parking in front of the building, consistent with other highway corridor development.
- The subject property is somewhat isolated and is separated from:
  - A large (18+ acre) school (Bell Elementary) to the east by a 40' right-of-way for Maple Springs Rd.;
  - The backyards of residential properties to the south by a highway right-of-way for Tunnel Rd. (US 70) that ranges from 90-175' wide;
  - Residential properties to the north by a 40' wide right-of-way for Campground Rd. and a change in topography where the subject property sits 10-35' lower than the residences; and,
  - Residences to the west by reserving a portion of the subject property that will remain residentially zoned that will help buffer the existing residences.
- The UDO states that the purpose of the Office II zoning district includes serving as, “. . . a transition between residential areas and commercial areas”.
- In regards to potential land use conflicts, the proposed medical office is more compatible with the residential uses surrounding the project area, while consistent with the non-residential corridor development.
- The proposed building is small in scale and consistent with both mid-sized multi-family and businesses on the corridor.

**Council Goal(s):**

- The council goal of *A Well-Planned and Livable Community* is most applicable.

**Committee(s):**

- Technical Review Committee (TRC) - November 15, 2021 - approved with conditions.
- Planning & Zoning Commission (PZC) - December 1, 2021 - approved, 6:1. It was recommended by some commissioners that the existing bus stop be improved with a transit shelter but was not made a condition of approval.

**Staff Recommendation:**

- Staff recommends approval of the project, for the reasons stated above.

Ms. Tuch said that project conditions include language to encourage compatibility with the residential character of the neighborhood; pitched or angled roof; prominent front entrance; exterior materials to be consistent with those found on residential structures in the area; minimum 20% glazing/fenestration on front facade; required articulation; and no or minimal tinting on windows (in discussion, subject to change). Conditions include maximum two-stories; maximum 14,000 s.f.; off-site sidewalk on Maple Springs Rd. (subject to Buncombe County School approval); sidewalk easement - Campground Road; building design standards; technical modifications (1) sidewalk width - Tunnel Road; (2) buffer location; and (3) buffer reduction (to be determined); and 2-year approval period.

In response to Councilwoman Roney, Ms. Tuch said that they have received positive feedback from Buncombe County Schools to allow a sidewalk on Maple Springs Road be built; however, there is a condition that if they are unable to receive permission, that the developer will pay a fee-in-lieu of for a sidewalk along Campground Road.

Mayor Manheimer opened the public hearing at 7:27 p.m., and when no advanced callers signed up, she closed it at 7:27 p.m.

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

Councilwoman Roney moved to approve the conditional zoning request for the property located at 990 Tunnel Rd. from Residential Multi-family, Low Density (RM-6) to Office II Conditional Zone (O2-CZ) with an amendment to the Future Land Use Map of the *Living Asheville Comprehensive Plan* from Residential Neighborhood to Traditional Corridor and find that the request is reasonable, is in the public interest, is consistent with the city's comprehensive plan or other adopted plans, and meets the development needs of the community in that the request: 1) promotes health and wellness by supporting medical facilities in proximity to neighborhoods; 2) encourages responsible growth by prioritizing development in areas targeted for growth; and, 3) supports the development of an underutilized site. This motion was seconded by Councilwoman Turner and carried unanimously.

## **ORDINANCE BOOK NO. 34 – PAGE 54**

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

#### **VI. NEW BUSINESS:**

##### **A. SUPPORT OF WATER RESOURCES DEPARTMENT'S PARTICIPATION IN THE LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM**

Water Resources Director David Melton said that this is consideration of approval to participate in N.C. Dept. of Health & Human Services (NCDHHS) Low Income Household Water Assistance Program (LIHWAP)

#### **Background:**

- The Low Income Household Water Assistance Program (LIHWAP) was created in December 2021 after the State of North Carolina was awarded more than \$38 million in federal funds to establish a new water assistance program for households affected by the COVID-19 pandemic.
- LIHWAP is a temporary emergency program that helps eligible households and families afford water and wastewater services.
- The program provides a one-time payment for eligible low-income households directly to the utility company. LIHWAP runs through September 2023 or until the funds run out.
- The NCDHHS announced the Low-Income Household Water Assistance Program will expand to include all low-income households needing assistance in paying their water bill.
- Buncombe County will be caring for applications for assistance through our community partner Eblen Charities.
- Eblen Charities will qualify applicants and provide approved payments to the City of Asheville Utility Billing Accounts Payable Department.
- The City of Asheville Water Resources Department has registered with NCDHHS to enable customers in need of assistance to be eligible to apply through the program.

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

- An Equitable & Diverse Community

#### **Committee(s):**

- None

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

- This program assists customers in need of assistance for uninterrupted water service.

**Con(s):**

- None

**Fiscal Impact:**

- None expected although a small increase in water revenue is possible.

Patrick Conant supported the City's participation in this program; however, he asked that the City take a closer look at the City's policies for water cutoffs.

Mr. Melton responded to various questions/comments from Council, some being, but are not limited to: confirmation that this program does include sewer; confirmation that the City will have a water spike monitoring system in the future; explanation of the City's payment assistance plans and our leak adjustment programs; confirmation that the City works with 14 charitable organizations that they refer people that need help with their water bills to those organizations; confirmation that the City's goal is to keep water flowing to all our customers; and confirmation that the Water Services Department is an enterprise fund and by statute we must charge for those services, but we do have avenues for help and aid.

City Manager Campbell said that we will do additional outreach through our Neighborhood Services Division, along with posting the other types of payment assistance programs that are available, along with other organizations that will help those in need. We will also coordinate with Buncombe County on any opportunities they have related to payment assistance.

Councilwoman Wisler moved to support the City's participation in North Carolina Department of Health and Human Services (NCDHHS) Low Income Household Water Assistance Program. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

**B. BOARDS & COMMISSIONS**

Regarding the Design Review Committee, it was the consensus of City Council to postpone any appointments until the Asheville Area Riverfront Redevelopment Commission makes their appointments.

Regarding the Homeless Initiative Advisory Committee, the following individuals applied for the vacancy: Angelique Brickner, Emily Kirchmeyer, Louisa Shipnuck Jones, Barry Shoor, Sim Wilkes, Sydney Brodhead, Michael Fulbright, Jo Golson, Cheryl Antoncic, Kenny Hancock, Sherri Bagwell, William Snoddy, Jimmi Lang, Andrew Garrard, Josh Houde, Patrick Carey and Jessica Suplik. It was the consensus of City Council to postpone the appointment until the Homeless Initiative Advisory Committee structure has been revised.

Regarding the Human Relations Commission, the following individuals applied for the vacancy: Amanda Benson-Bremseth, Michael Brown, Edie Welchert and Ashley Wilberding. It was the consensus of City Council to re-advertise and wait until the Human Relations Commission makes a recommendation.

**RESOLUTION NO. 22-6 - RESOLUTION APPOINTING A MEMBER TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Affordable Housing Advisory Committee.

Amber Banks has resigned, thus leaving an unexpired term until September 1, 2022.

The following individuals applied for the vacancy: Jessie Figueroa, Kyle Gilliland, Jeffrey Vanderlip, Kathleen Hasegawa, David Bartholomew, Andrew Garrard and Emily Axtman.

The Affordable Housing Advisory Committee Board Chair recommended, and the Boards & Commissions Committee concurred, to appoint David Bartholomew.

Vice-Mayor Smith moved to appoint David Bartholomew as a member of the Affordable Housing Advisory Committee, to serve the unexpired term of Ms. Banks, term to expire September 1, 2022, or until David Bartholomew's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 465**

**RESOLUTION NO. 21-9 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ADJUSTMENT**

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

The term of Robert Carroll (Alternate member) expires on January 21, 2022.

The individuals applied for the vacancy: Michael Luciano and Elliott Smith.

Boards & Commissions Committee recommended appointing Michael Luciano as an Alternate member to the Board of Adjustment.

Vice-Mayor Smith moved to appoint Michael Luciano as an Alternate member to the Board of Adjustment to serve an additional three-year term, term to expire January 21, 2025, or until Michael Luciano's successor has been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 468**

**RESOLUTION NO. 22-7 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Civic Center Commission.

Mitchell Eaton has resigned, thus leaving an unexpired term until June 30, 2024.

The following individuals applied for the vacancy: Kim Oliver, Kevin King, Chad Evans, John Pierce and Todd Cash.

The Civic Center Commission and staff recommended the appointment of John Pierce; therefore, it was the consensus of the Boards & Commissions Committee to appoint John Pierce.

Vice-Mayor Smith moved to appoint John Pierce as a member of the Civic Center Commission, to serve the unexpired term of Mr. Eaton, term to expire June 30, 2024, or until John Pierce's successor has been appointed. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.



**RESOLUTION BOOK NO. 42 – PAGE 466**

**RESOLUTION NO. 22-8 - RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION**

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

The terms of Robin Raines, Franzi Charen, Dane Barrager and Guillermo Rodriguez expired on December 31, 2021.

The following individuals applied for the vacancy: Tal Frankfurt, Douglas Buchalter, Clair Greear, Ricardo Siejo, Drew Fowler, Nicholas Dugan and Carl Thomas Hughes.

The Downtown Commission and the Boards & Commissions Committee recommended reappointing Robin Raines and Guillermo Rodriguez; and appointing Tal Frankfurt and Ricardo Seijo.

Vice-Mayor Smith moved to (1) reappoint Robin Raines and Guillermo Rodriguez to each serve a three-year term, terms to expire December 31, 2024, or until their successors have been appointed; and (2) appoint Tal Frankfurt and Ricardo Seijo as members of the Downtown Commission, to each serve a three-year term, terms to expire December 31, 2024, or until their successors have been appointed. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 467**

**RESOLUTION NO. 22-10 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Metropolitan Sewerage District Board of Directors.

The term of Chris Pelly expires on January 19, 2022.

The following individual applied for the vacancy: Derek Weekley.

The Boards & Commissions Committee recommended appointing Derek Weekley.

Vice-Mayor Smith moved to appoint Derek Weekley as a member of the Metropolitan Sewerage District Board of Directors, to serve a three-year term, term to expire January 19, 2025, or until Derek Weekley's successor has been appointed. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 469**

**RESOLUTION NO. 22-11 - RESOLUTION APPOINTING A MEMBER TO THE RIVERFRONT REDEVELOPMENT COMMISSION**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Riverfront Redevelopment Commission.

The term of Jane Mathews expired on January 1, 2022.

The following individuals applied for the vacancy: Kathryn Ancaya, Douglas Buchalter, Daniel Ratner, Ben Williamson, Christopher Fundanish, Nicholas Dugan, Brian Loftus, Christina Booher, Aaron Ryba, Brian Cook and Ricardo Seigo.

The Boards & Commissions Committee recommended appointing Kathryn Ancaya..

Vice-Mayor Smith moved to appoint Kathryn Ancaya as a member of the Riverfront Redevelopment Commission, to serve a three-year term, term to expire January 1, 2025, or until Kathryn Ancaya's successor has been appointed. This motion was seconded by Councilwoman Mosley and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 470**

**RESOLUTION NO. 22-12 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Sustainable Advisory Committee on Energy & the Environment (SACEE).

The terms of Anna Priest, Keith McDade and Chris Pelrine, as members of SACEE, expired on December 31, 2021.

The following individuals applied for the vacancy: Kathryn Ancaya, Kelsey Wood, Jerad Crave, Michael Totten and Cara Fiano.

The SACEE Board Chair recommended and the Boards & Commissions Committee moved on a 2-1 vote in reappointing Anna Priest and Chris Pelrine and appointing Michael Totten.

Vice-Mayor Smith moved to (1) reappoint Anna Priest and Chris Pelrine as members of SACEE, to each serve an additional three-year term respectively, terms to expire December 31, 2024, or until their successors have been appointed; and (2) appoint Michael Totten as a member of SACEE to serve a three-year term, term to expire December 31, 2024, or until Michael Totten's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 471**

**RESOLUTION NO. 22-13 - RESOLUTION APPOINTING MEMBERS TO THE URBAN FORESTRY COMMISSION**

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Urban Forestry Commission.

The terms of Stephen Hendricks and Amy Smith as members of the Urban Forestry Commission, expired on December 31, 2021.

The following individuals applied for the vacancy: Deborah Margaritov, Zoe Hoyle, Karen MacNeil and Nick Biemiller.

At the recommendation of the Urban Forestry Commission, the Boards & Commissions Committee recommended reappointing Amy Smith and appointing Zoe Hoyle.

Vice-Mayor Smith moved to (1) reappoint Amy Smith as a member of the Urban Forestry Commission, to serve an additional three-year term, term to expire December 31, 2024, or until Amy Smith's success has been appointed; and (2) appoint Zoe Hoyle to serve a three-year term , term to expire December 31, 2024, or until Zoe Hoyle's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 42 – PAGE 472**

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

From advanced live call-ins, 15 individuals spoke to Council, including, but not limited to the following comments: need for City and Asheville City Schools to rebuild and maintain Jones Park Playground; need to take immediate action to project the 1st amendment rights of journalists working in our City; enforce the 2013 Civil Liberties resolution which reinforces the policy of the City to protect the constitutional rights of all residents; all charges for journalists arrested on December 25, 2021, be dropped and belongings returned; explanation of restore Asheville Police ballot initiative; need support for Police Department; do not spend our resources on problems of the past as African Americans are not asking for hand-outs; need to restore the Asheville Police Department and make Asheville safe for visitors and residents; educate residents and those who visit about responsible behavior when encountering bears; stop camp sweeps; redirect the Asheville Police Department budget to house and feed people; request for Council to review 'The Handbook of Gentrification Studies' by Agustin Cocola Gant; and "The Housing Crisis" by Everett Motley, Esq.; there are not enough Code Purple shelters; options to get more information out to the community when and where there are Code Purple shelters; need for low barrier and emergency shelters; provide sharp containers; don't displace camps until there is another place for them to go; why is Deputy Chief James Baumstark still on duty; make the 7-day notice before removal of homeless camps part of the ordinance; and allow sanctuary camping at one of our parks.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:49 p.m.

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CITY CLERK

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MAYOR