

Tuesday – January 25, 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:**

Mayor Manheimer introduced the new Assistant City Manager Rachel Wood.

### **PASSING OF KAREN CRAGNOLIN**

City Manager Debra Campbell expressed the City's sympathies to Karen Cragnolin's family on her passing. Ms. Cragnolin spearheaded the revitalization of the French Broad River and the River Arts District. Ms. Cragnolin founded the regional nonprofit RiverLink in the mid-1980's and fought for cleanup of the river and ecologically responsible development nearby.

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

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 11, 2022**
- B. RESOLUTION NO. 22-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MOTOROLA SOLUTIONS INC. TO EXTEND THE MACH ALERT STATION ALERTING SYSTEM TO THE BROADWAY PUBLIC SAFETY STATION**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Motorola Solutions, Inc. in the amount of \$145,691 to extend the Mach Alert station alerting system to the Broadway Public Safety Station.

#### **Background:**

- The Broadway Public Safety Station—a combined use facility comprising Fire Station 13, a police substation, an emergency operations center (EOC) and a community meeting room—is currently under construction.
- The facility requires a station alerting system to provide visual and audible notification to fire and rescue personnel of incoming emergency response events.
- Motorola's Mach Alert System is the current station alerting system employed by the Asheville Fire Department.
- Mach Alert has been approved as a sole source procurement via Resolution 21-37.
- This contract will have a duration of 371 calendar days, completing by January 31, 2023

**Vendor Outreach Efforts:**

- Not Applicable - Sole source procurement

**Council Goal(s):**

- Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- Maintains the standardization of a critical fire department system
- This standardization results in cost savings in operations and maintenance

**Con(s):**

- Sole source procurement may reduce competitive pricing.

**Fiscal Impact:**

- Funding for this contract is already included in the adopted Capital Improvement Program (CIP) project budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Motorola Solutions, Inc. in the amount of \$145,691 to extend the Motorola Mach Alert station alerting system to the Broadway Public Safety Station.

**RESOLUTION BOOK NO. 43 - PAGE 1**

**C. RESOLUTION NO. 22-15 - RESOLUTION APPROVING THE USE OF OWNER'S PREFERRED ALTERNATES FOR LOCHINVAR BOILER SYSTEMS FOR THE SHILOH COMMUNITY CENTER AND MONTFORD COMMUNITY CENTER HVAC MODERNIZATION PROJECTS**

**Action Requested:** Adoption of resolution approving the use of owner's preferred alternates for specific City standard systems prior to bidding the Shiloh Community Center and Montford Community Center HVAC Modernization construction projects.

**Background:**

- The Shiloh Community Center and the Montford Community Center HVAC modernization projects are in design and will soon be ready to bid.
- The projects will require specific equipment or systems to be procured with bid specifications that will identify brand names known as preferred alternates.
- These methods are in the best interest of the City for the reasons identified below:

**Owner's Preferred Alternates:**

- NCGS 133-3, authorizes the listing of one or more preferred brand alternates in bid specifications to list a preferred brand alternate.
- Specifications containing a preferred brand alternate must identify the performance standards that support the preference and must be approved in advance by the owner in an open meeting.
- Any alternate approved by the owner shall be approved only where:
  - Preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and
  - Justification identifying these criteria is made available in writing to the public.
- The items listed below will be specified in the construction bid:

- Lochinvar Boiler Systems-Shiloh Community Center and Montford Center
  - Currently installed at several City owned facilities.
  - Required to continue developing Building Construction Division's operational and equipment standard objectives.
  - Boiler standardization results in reduced in-house labor costs and equipment downtime in the event of failure, while also lowering required part stock and allowing more accurately focused training of the maintenance staff.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- A financially resilient city

**Committee(s):**

- None

**Pro(s):**

- Facility Maintenance Division functions and efficiency are enhanced and simplified when mechanical equipment is standardized across the City's building portfolio.
- As a bid alternate, City staff will be able to choose whether or not to accept.

**Con(s):**

- None

**Fiscal Impact:**

- No fiscal impact for this specific action.
- Funding has already been approved for these capital projects.

**Motion:**

- Motion to adopt a resolution approving the use of owner's preferred alternates for Lochinvar boiler systems for the Shiloh Community Center and Montford Community Center HVAC Modernization projects.

**RESOLUTION BOOK NO. 43 - PAGE 2**

**D. RESOLUTION NO. 22-16 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR REIMBURSEMENT TO THE CITY FOR CURB AND GUTTER CONSTRUCTION DURING THE CITY'S PATTON AVENUE**

**Action Requested:** Resolution authorizing the City Manager to execute an agreement with the NCDOT for reimbursement of construction costs related to NCDOT's request for concrete curb and gutter to be installed during the City's upcoming Patton Avenue sidewalk project.

**Background:**

- The City's Capital Projects Department is preparing to construct sidewalks along Patton Ave. between Druid Drive and Louisiana Avenue.
- During the design process, a minimum quantity of concrete curb and gutter was identified as needed for the City's sidewalk project.
- As part of their plan review, NCDOT identified additional concrete curb and gutter they felt was needed within the project limits, and asked the City to install it as part of our project without compensation.

- The City's budget did not support this additional work.
- Subsequently, NCDOT asked the City to install concrete curb and gutter as part of the City's construction activities, and offered to reimburse the City for the curb and gutter installation.
- This agreement is a result of that compensation offer.
- NCDOT offered to compensate up to \$90,000, and it's expected that the City will ask for the entire amount.

**Vendor Outreach Efforts:**

- NA - Intergovernmental Agreement

**Council Goal(s):**

- Clean and healthy environment

**Committee(s):**

- None

**Pro(s):**

- Will assist in stormwater transport, improving road conditions for traffic along a heavily-traveled roadway

**Con(s):**

- Additional construction time needed for curb and gutter installation will impact traffic and nearby properties

**Fiscal Impact:**

- There will be a negligible financial impact due to NCDOT reimbursing for the work and City staff needing to process construction records and inspect the work.
- Construction timetables and project management will be impacted with the additional work, but this is considered negligible.
- The budget for this project is already included in the adopted Capital Improvement Program (CIP).

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute an agreement with the NCDOT for reimbursement of construction costs related to NCDOT's request for concrete curb and gutter to be installed during the City's upcoming Patton Avenue sidewalk project.

**RESOLUTION BOOK NO. 43 - PAGE 3**

**E. RESOLUTION NO. 22-17 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE N.C. DEPT. OF TRANSPORTATION FOR SECTION 5303 METROPOLITAN PLANNING PROGRAM ANNUAL FUNDING TO FUND A PORTION OF EXISTING TRANSIT PLANNING DIVISION PERSONNEL BUDGET, AND IF SUCCESSFUL, TO SIGN ALL APPROPRIATE AGREEMENTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to apply to the North Carolina Department of Transportation (NCDOT) Public Transportation Division for the Fiscal Year (FY) 2022-23 Federal Transit Administration (FTA) Section 5303 Metropolitan Planning Program annual funds, which are used to fund a portion of the existing Transit Planning Division personnel budget, and if successful, to accept the grant funds, and sign all the appropriate agreements, and include the revenue in future fiscal year budgets.

**Background:**

- FTA Section 5303 Metropolitan Planning Program provides funding for transit planning activities, including personnel.
- The City has historically applied for and received Section 5303 funding to supplement a portion of existing Transit Planning Division staff wages.
- The City has historically received \$60,000 (80%) from FTA, and the City and NCDOT have provided \$7,500 each in matching funds (20%).
- However, on January 4, 2022, the French Broad River Metropolitan Planning Organization notified the City of Asheville that the annual 5303 funding allocation to the Asheville Urbanized Area has increased and next fiscal year the City will receive additional funding.
- The total Federal (80%) share from FTA for the 5303 allocations in FY 2022-23 to the City will increase from \$60,000 to \$223,082.
- Accordingly, the State and Local (20%) share for each entity will also increase from \$7,500 to \$27,885 each.
- The application deadline is January 28, 2022.
- If for some reason the Council does not authorize the application on January 25, 2022, staff will withdraw it.
- Upon approval, NCDOT will approve a two-year grant agreement with the City for FY 2022-23 and FY 2023-24.
- If awarded, staff will budget the funding in upcoming Transit Operating Budgets.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- Supplements funding for multiple transit planning positions.
- Enables the City of Asheville to leverage \$223,082 in Federal funds and \$27,885 in State funds to support the City's transit planning activities.

**Con(s):**

- The City is responsible for half of the 20% local match, which is \$27,885.

**Fiscal Impact:**

- The required local match in the amount of \$27,885 will be included in upcoming Transit Operating Budgets.

**Motion:**

- Motion to authorize the City Manager to apply to the North Carolina Department of Transportation (NCDOT) Integrated Mobility Division for the FY 2022-23 Federal Transit Administration (FTA) Section 5303 Metropolitan Planning Program annual funds, which are used to fund a portion of the existing Transit Planning Division personnel budget, and if successful, to accept the grant funds, and sign all the appropriate agreements, and include the revenue in future fiscal year budgets.

**RESOLUTION BOOK NO. 43 - PAGE 4**

**F. RESOLUTION NO. 21-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH DEWINE SEEDS -**

**SILVER DOLLAR BASEBALL LLC FOR CITY- OWNED PROPERTY AT 30  
BUCHANAN PLACE**

**Action Requested:** Approve a resolution authorizing the City Manager to sign a lease agreement with DeWine Seeds -Silver Dollar Baseball LLC

**Background:**

- The City of Asheville has owned the property located at 30 Buchanan Place, known as McCormick Field, since 1984 and leases the property for operation as a minor league baseball stadium.
- The presence of a minor league baseball team is a positive contributor to quality of life for people and businesses within the City of Asheville.
- The economic Impact of the team is very positive for local business and is expected to exceed \$10 million annually.
- The Tourists team also annually utilizes hundreds of local citizens as temporary seasonal workers.
- Having the team downtown contributes to the continuing revitalization of the South Slope, providing numerous walkable options for pre and post game food & beverage and retail customers for downtown businesses.
- The most recent lease expired on December 31, 2021.
- In lieu of lease payments, the DeWine organization will continue to provide substantial in-kind services to include the staffing of the stadium, the care and maintenance of the field and the day to day operations of McCormick Field.
- The premises to be leased include the field, stadium, and front parking lot along Buchanan and McCormick, access will also be permitted for use of the storage area located near Mountainside Park.
- The enclosed map shows the areas that are covered by the lease.
- It should be noted that the lessee is prohibited from using the parking lot located off of Hunt Hill Place at Mountainside Park for operations and/or parking on game days. The one exception is that the area may be used to stage fireworks.
- Major League Baseball has implemented a significant reorganization recently, the Asheville Tourists are now affiliated with the Houston Astros professional baseball team.
- The proposed lease will cover up to a two year period.
- A shorter term lease is proposed in order to align with new expected standards from Major League Baseball Professional Development League which take affect, April 2024.
- Significant capital improvements will be required to meet new standards, staff will need this time to negotiate a long term (15 - 20 year) solution to capital maintenance at McCormick Field. Additionally this time will allow for creation of a more transparent game day operations plan relative to the impact on the surrounding neighborhoods.

**Council Goal(s):**

- Thriving Local Economy
- Well Planned & Livable City

**Committee(s):**

- None

**Pro(s):**

- DeWine Seeds-Silver Dollar Baseball, LLC is committed to keeping minor league baseball in Asheville.
- The presence of the Tourists team has a positive economic impact on the local economy

**Con(s):**

- The City is not receiving fair market rent for the facility.
- This lease should be renegotiated for a longer term when a long term plan for the facility & team is in place, prior to opening day, April 2024.

**Fiscal Impact:**

- DeWine Seeds-Silver Dollar LLC will pay the City \$1 in annual lease payments, but as noted above, they will provide in-kind services to include staffing of the stadium and maintenance of the field and the day to day operations.

**Motion:**

- Motion to approve a resolution authorizing the City Manager to sign a lease agreement with DeWine Seeds-Silver Dollar LLC with a lease payment in the amount of one dollar annually.

Jonathan Wainscott requested more conversation about the future of the Asheville Tourists baseball in that it is dwindling and not providing that much to our community.

Councilwoman Mosley said that she has talked with a representative from the East End/Valley Street Neighborhood Association regarding this lease extension. They asked that she convey their support of this stop-gap leasing in its current form. While there was some hesitancy regarding allowing the club to utilize the facility on Hunt Hill Place, they felt that their discomfort was outweighed by the decades of friendly relationships they've had with the organization. It is their hope that we will take into consideration their willingness to move forward without seeking to impede progress when we begin talks regarding Memorial Stadium and the inclusion of a track. It is their belief that because they are so willing to not stand in the way of one stadium that the other stadium at Memorial Stadium be used as a neighborhood park.

**RESOLUTION BOOK NO. 43 - PAGE 5**

**G. RESOLUTION NO. 22-19 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTINUE THE VEHICLE RENTAL CONTRACT WITH TLG LEASING INC. UNTIL THE SANITATION FLEET IS STABILIZED THROUGH REPAIR OF CURRENT TRUCKS OR RECEIPT OF NEWLY PURCHASED VEHICLES**

**Action Requested:** Resolution authorizing the City Manager to continue the Vehicle Rental Contract with TLG Leasing, Inc.

**Background:**

- The Sanitation Division requires a reliable fleet to provide essential trash collection services to City residents.
- The COVID-19 pandemic has made it difficult to acquire parts to repair Sanitation vehicles and has extended the time to build and purchase new sanitation trucks to greater than 1 year.
- The Sanitation Division entered into a contract with TLG Leasing, Inc. in December 2020 to rent a trash collection truck due to truck shortage issues.
- The Sanitation Division needs to continue utilizing the rental truck until the Sanitation fleet is stabilized through repair of current trucks or receipt of newly purchased vehicles.
- Three (3) new trash collection trucks were ordered in September 2021, with an estimated arrival date of December 2022.

**Vendor Outreach Efforts:**

- Automated side-loading trash collection vehicles are highly specialized pieces of equipment and availability is extremely limited.
- The current rental truck was sourced from a vendor that could provide the type of truck needed.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Continuing this contract allows the Sanitation Division to continue to provide the core service of waste collection to the Asheville community.

**Con(s):**

- Spending this funding on a rental truck rather than investing in the capital purchase of a new truck is not ideal, but is the needed action to have a reliable fleet of Sanitation trucks to deliver core trash collection services.

**Fiscal Impact:**

- The cost to continue the automated side-loading vehicle rental is \$8,999.03 per month. The rental truck will be used until the Sanitation Fleet is stabilized, either through repair of current vehicles or receipt of new vehicles with an estimated time of arrival of December 2022.
- Funding for the rental will be paid from the current Sanitation Division budget for Fiscal Year 2021-22.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to continue the Vehicle Rental Contract with TLG Leasing, Inc., until the Sanitation fleet is stabilized through repair of current trucks or receipt of newly purchased vehicles.

**RESOLUTION BOOK NO. 43 - PAGE 6**

- H. RESOLUTION NO. 22-20 - RESOLUTION AMENDING THE 2022 CITY COUNCIL MEETING SCHEDULE TO ADD A VIRTUAL AMERICAN RESCUE PLAN ACT WORKSESSION ON TUESDAY, FEBRUARY 1, 2022, BEGINNING AT 10:00 A.M. AND ON WEDNESDAY, FEBRUARY 2, 2022, BEGINNING AT 11:00 A.M.**

Patrick Conant requested that Cit Council allow the ARPA worksessions to receive public comment especially due to the large number of proposals and large amount of money available to be distributed.

**RESOLUTION BOOK NO. 43 - PAGE 7**

- I. RESOLUTION NO. 22-21 - RESOLUTION REAPPOINTING CHRIS PELLEY TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS**

On January 11, 2022, City Council appointed Derek Weekley to serve; however, Mr. Weekley was unable to accept the appointment.

**Motion:**



- Motion to reappoint Chris Pelly as a member of the Metropolitan Sewerage District Board of Directors, to serve an additional three-year term, term to expire January 19, 2025, or until Chris Pelly's successor has been appointed.

### **RESOLUTION BOOK NO. 43 – PAGE 8**

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

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

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

#### **A. MANAGER'S REPORT**

City Manager Campbell introduced the new Assistant City Manager Rachel Wood, and the new Director of Parks & Recreation D. Tyrell McGirt.

She also congratulated Mayor Manheimer on her community service award for her work on reparations and the Vance Monument Task Force; and Director of Equity & Inclusion Brenda Mills on her community service award for her work on the Minority and Women Business Inclusion Program, neighborhood services, and reparation efforts. These awards were presented at the Martin Luther King Jr. breakfast.

City Manager Campbell then acknowledged the excellent work of our Public Works Department, along with other City departments - Fire Department; Community & Public Engagement; Police Department; Transportation Department; Communication & Economic Development Department; and Parks & Recreation Department, for their efforts regarding the snow and ice event last week. She also thanked Kelley Klope and Chad Bandy for being our spokespersons for local and national interviews.

#### **Climate Justice Final Update**

City Manager Campbell introduced Sustainability Officer Amber Weaver, who outlined the following key takeaways from this presentation (1) build a community-defined understanding of climate equity and climate resiliency; (2) create of the Climate Justice Data Map; (3) developed a Climate Justice Guide & Screening Tool to support climate justice and equity decision-making within the City of Asheville; and (4) the importance of continued education on equity and climate justice for both the organization and the public. She said that in January 2020 City Council declared a Climate Emergency by Resolution No 20-25. It states that a Climate Justice Plan be created to consolidate the various separate goals and department initiatives. She said the Asheville's Climate Justice Plan (1) defines Climate Justice and Climate Equity with BIPOC community members; (2) creates the Climate Justice Data Map; and (3) creates a Climate Justice Screening Tool to complement the work of the GARE Racial Toolkit and Asheville's adopted plans. She said that Phase I of the Climate Justice Initiative is frontline 1:1 interviews; story circles; and City of Asheville Listening and Learning. Phase II is the Climate Justice Guide and Screening Tool; and voices of our youth public art project.

Marisol Jimenez, representing Tepeyac Consulting, explained that She explained voices from the frontline - climate justice is having access to information, relationships, land, and resources needed to have sovereignty and self-direction in response to climate crisis events and long-term sustainability that is community-led, deeply informed, organized, prepared for rapid response, and well-resourced. Community resilience is (1) economic power; (2) health

environments; and (3) strong social networks. Climate justice concerns are (1) displacement; (2) inequity evacuation plans and emergency responses; (3) impacts of structural racism; (4) access to healthy food and transportation; (5) lack of conversation about how to prepare and respond; and (5) lack of awareness of the impacts of BIPOC homes and neighborhoods.

Voices of the City recommendations include (1) integrate the GARE Toolkit and the Climate Justice Screening Tool; (2) collaborate with departments; (3) commit resources to racial equity and climate justice efforts; and (4) invest in community engagement capacity.

The Climate Justice Screening Tool (1) follows guidance about key climate and equity choice points identified by frontline leaders and City staff; (2) offers a framework for applying a climate justice lens to planning and implementation of proposed climate and resilience actions; (3) support staff in identifying the policies and practices where they can focus their work towards advancing climate justice; and (4) incorporate the lessons learned from their experiences with the GARE Toolkit.

Councilwoman Roney expressed gratitude to those who participated in the acknowledgement of our stated climate emergency and in this climate justice initiative effort. She said this has been a leaderful work with youth residents who live in and will take care of the planet that our generations are stewarding right now. So speaking for herself and her expectation of the organization of the City of Asheville, we stated the climate emergency so we do have to act on it everyday. She hears and agrees on the choice points that might include acknowledging equity and sustainability impacts along with fiscal impacts on our staff reports, and responding meaningfully to engagement efforts like this one with recommendations which are listed and should be referred to in our budget because it will require resources.

### **Regulation of Food Distribution in City Parks**

City Attorney Branham clarified an issue that has generated a lot of public attention. Specifically, he wanted to correct any misconceptions that may be circulating regarding regulation of food distribution in City parks. An ordinance to regulate food sharing is not on the Council agenda tonight, nor scheduled for any future agenda. City staff are in the early stages of researching options to allow anyone to provide for the safe and sanitary distribution of food in City parks. It is the City's goal to ensure that this practice can continue in a safe manner, and that the sanitation of our parks is not adversely affected in the process. Any proposal by staff in the future would attempt to balance the safety of those taking part in the programs with maintaining the use of public spaces for all. He also wanted to plainly state that no consideration whatsoever has been given to criminalizing food sharing in parks or elsewhere in the City. Any future staff proposal would, however, be done publicly and with opportunity for community input.

Councilwoman Roney said that we have limited capacity for staff and resources. In the absence of a civic conversation, we are seeing a community conversation which has informed her of a lot of ripple effects - things she hadn't considered and she might have missed if she hadn't heard the public's response. But as a Council Member she is thinking about her role around supporting ongoing work and whether or not this gets us to our goals. Her ask and her support is to withdraw any future effort on this whatsoever so we stay on track with our Council goals and our comprehensive plan goals.

Mayor Manheimer said we are more at the research stage and looking at options. We will have the opportunity to look at this issue more.

Councilwoman Turner explained the process on how this information came to Council and they asked how other cities are handling feeding of large crowds. She felt there is so much more to be heard and how we need to explore how we can do better.

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

- A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO (1) CHAPTER 7 OF THE CODE OF ORDINANCES TO UPDATE MEMBERSHIP AND APPOINTMENTS TO THE DESIGN REVIEW COMMITTEE; AND (2) CHAPTER 2, ARTICLE III OF THE CODE OF ORDINANCES IN ORDER TO ALIGN ROLES AND RESPONSIBILITIES OF THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION WITH THE UNIFIED DEVELOPMENT ORDINANCE RELATED TO DESIGN REVIEW**

**ORDINANCE NO. 4926 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO UPDATE MEMBERSHIP AND APPOINTMENTS TO THE DESIGN REVIEW COMMITTEE**

**ORDINANCE NO. 4927 - ORDINANCE AMENDING CHAPTER 2, ARTICLE III OF THE CODE OF ORDINANCES IN ORDER TO ALIGN ROLES AND RESPONSIBILITIES OF THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION WITH THE UNIFIED DEVELOPMENT ORDINANCE RELATED TO DESIGN REVIEW**

Principal Planner Shannon Tuch said that this is the consideration of an amendment to (1) Chapter 7 of the Code of Ordinances to update membership and appointments to the Design Review Committee; and (2) Chapter 2, Article III of the Code of Ordinances in order to align roles and responsibilities of the Asheville Area Riverfront Redevelopment Commission with the Unified Development ordinance related to design review. This public hearing was advertised on January 14 and 21, 2022.

#### **Background:**

- On February 23, 2021 the Asheville City Council adopted [Ordinance No. 4855](#), “Ordinance Amending Chapter 7 of the Code of Ordinances of the City of Asheville to establish new standards for hotel development.”
- Ordinance No. 4855 also formalized the city’s design review process and established the Design Review Committee (DRC).
- Upon adoption of Ordinance No. 4855, the Asheville City Council requested that staff return in approximately six months to provide an update.
- A [report](#) was presented to the Asheville City Council on September 14, 2021 providing an update on 1) hotel development activity; and, 2) observations regarding the review process and the application of the new hotel standards.
- A number of code clarifications were recommended as part of the staff report to Council.
- Council requested that staff return with a zoning text amendment addressing those clarifications.
- Council adopted [Ordinance No. 4920](#) on December 14, 2021 updating development standards regulating hotels; however, revisions affecting the new DRC were processed separately to allow time for the respective bodies to review and weigh in on proposed changes.
- These changes include reducing the number of appointments that must come from both the Downtown Commission (DTC) and Asheville Area Riverfront Redevelopment Commission (AARRC) from four seats to three, and making the remaining three seats to be appointed at large by the City Council (for a total of nine seats).
- All nine seats on the DRC would continue to be appointed by City Council.

#### **Comprehensive Plan Consistency:**

- As with the previous hotel amendment, this proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'Interwoven Equity' by supporting greater diversity on city boards and commissions, 'A Livable Built Environment' in that this change helps to promote great architecture and urban design; and a 'Resilient Economy' by further implementing a comprehensive study of lodging facilities and their impact, and to develop new policies.

**Council Goal(s):**

- An Equitable and Diverse Community
- A Well-Planned & Livable Community

**Committee(s):**

- A six-month report on the new hotel development regulations was presented to the City Council on September 14, 2021.
- A memo detailing the proposed changes was shared with both the Downtown Commission (DTC) and Asheville Area Riverfront Redevelopment Commission (AARRC) on November 16, 2021, and with the Design Review Committee (DRC) on November 18, 2021. Both the DTC and DRC discussed the changes during their respective meetings in November and offered support for the changes.
- The Planning & Zoning Commission reviewed this amendment proposal at their regular meeting on December 1, 2021 and recommended approval of the request unanimously, 7:0.

**Fiscal Impact:**

- None

Ms. Tuch briefly reviewed the background (1) Ordinance No. 4855 was adopted in February 2021 - establishing new development standards and review processes for hotels; (2) Included in Ord. No. 4855 was the establishment of a formal Design Review Committee; (3) Staff provided a 6-month report in September 2021 which included a recommendation to change the committee appointment structure; and (4) Council directed staff to return with a zoning text amendment addressing those clarifications. The summary of the changes include (1) Change the number of appointments from the DTC and AARRC from four members to three members each, and (2) Council will appoint the remaining three members at large. This requires an amendment to Ch. 7 (UDO) but also to Ch. 2. The following is a Code mark-up of UDO Sec. 7-3-11(b): (3) The Asheville City Council shall appoint ~~eight~~ nine members to the Asheville Design Review Committee with ~~four~~ three members selected from the Downtown Commission, ~~and four~~ three members selected from the Asheville Area Riverfront Redevelopment Commission, and three members selected at large, in accordance with the Council's rules of procedure. Vacancies shall be filled as they occur by the Asheville City Council. ~~(4) The ninth member of the committee shall be selected by a majority vote of the seated members of the Asheville Design Review Committee.~~ The following is a Code mark-up of UDO Sec. 7-3-11(b): (3) The Asheville City Council shall appoint ~~eight~~ nine members to the Asheville Design Review Committee with ~~four~~ three members selected from the Downtown Commission, ~~and four~~ three members selected from the Asheville Area Riverfront Redevelopment Commission, and three members selected at large, in accordance with the Council's rules of procedure. In the event that there is insufficient interest from either of the respective commissions to fill the assigned committee seats, and after exhausting efforts to ensure equal representation by soliciting applications from the commissions to fill these seats, the City Council may appoint individuals at large. Vacancies shall be filled as they occur by the Asheville City Council. This amendment was shared with: Downtown Commission; Asheville Area Riverfront Redevelopment Commission; and the Design Review Committee. These commissions/committees did not have any concerns. This amendment was also reviewed by the Planning & Zoning Commission on December 1, 2021, and voted unanimously to recommend approval of the amendment.

Councilwoman Turner, liaison to the Downtown Commission, the Asheville Area Riverfront Redevelopment Commission, and the Design Review Committee, spoke in support of these changes.

Mayor Manheimer opened the public hearing at 5:49 p.m., and when the one advanced caller did not call into the meeting, she closed it at 5:49 p.m.

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

Councilwoman Turner moved to approve the proposed wording amendments to Chapter 2 and Chapter 7 (UDO) of the City Code of Ordinances and find that the proposed amendments are reasonable, in the public interest, and consistent with the city's comprehensive plan in that they: 1) support greater diversity and design expertise on city boards and commissions; 2) promote great architecture and urban design; and, 3) act on a comprehensive study of lodging facilities and their impact by developing new policies for hotel development. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

**ORDINANCE NO. 4926 - ORDINANCE BOOK NO. 34 – PAGE 62**  
**ORDINANCE NO. 4927 - ORDINANCE BOOK NO. 34 – PAGE 64**

**B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 343 AND 357 W. HAYWOOD STREET FROM COMMUNITY BUSINESS I DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONE**

Councilwoman Wisler moved to continue this public hearing until February 22, 2022. This motion was seconded by Councilwoman Mosley and carried unanimously by roll call vote.

**C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING FOR PROPERTY LOCATED AT 324 BILTMORE AVENUE**

**ORDINANCE NO. 4929 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 324 BILTMORE AVENUE**

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend the conditional zoning of property (Ordinance No. 4733) located at 324 Biltmore Avenue. This public hearing was advertised on January 14 and 21, 2022.

**Project Location and Contacts:**

- The project site consists of a single 0.80 acre parcel located at 324 Biltmore Ave. (PIN 9648-46-4336).
- Owner: Milan Asheville LLC

**Summary of Petition:**

- This petition is to amend the conditional zoning ordinance (Ord. No. 4733, March 2019) that conditionally rezoned the subject property to Lodging Expansion (LODG EXP) and approved a seven-story extended stay hotel with 103 guest rooms and structured parking.
- The applicant is now seeking to make certain design and material changes to the proposed building, while keeping the overall height, size, orientation and general configuration of the project the same (or marginally reduced).

- The applicant is also seeking to amend the approved land uses to include an “eating and drinking establishment” to allow a restaurant and bar.
- Included in the original approval are a number of building elevations and renderings along with the condition that reads:  
*“The building design, site design, construction materials, and orientation on site must substantially comply with the approved site plan, which is incorporated herein by reference. Any major deviations from these plans may require rezoning by the City Council.”*
- UDO Sec. 7-7-8. - Conditional zoning provides additional guidance:  
(c)(6) Minor modifications to the approved site plan may be reviewed and approved administratively provided that they do not involve a change in permitted uses, changes in overall density or substantial changes to the configuration of the development that affect the operation or impacts of the development. Any other modification of the conditions and standards in a conditional zoning district shall be approved by the city council following this review process as an amendment to the conditional zoning ordinance and may be referred to the technical review committee as appropriate [ . . . ].
- The proposed design changes are summarized as:
  - the substitution of siding materials that are less residential in appearance;
  - changes to the roof form to resemble a commercial or a mixed-use, project;
  - changes to the parking garage screening;
  - the addition of a second floor lobby and outdoor patio area.
- The subject property is not located in a hotel overlay area but was approved for a hotel at a time that pre-dates the establishment of the overlay.
- The applicant voluntarily sought design review committee input before proceeding.
- The property is currently vacant and unimproved.

**Comprehensive Plan Consistency:**

- The proposed development continues to support the comprehensive plan as originally identified in 2019:
  - (1) the development is located within close proximity to medical and commercial uses that would be well served by the proposed use;
  - (2) the project is walkable to downtown and directly accessible to transit;
  - (3) the proposed hotel is an active use that would contribute to the vibrancy of this area of the city; and,
  - (4) the proposal is aligned with the Future Land Use map in the Living Asheville Comprehensive Plan.

In addition, the proposed design further supports the plan in the area of “placemaking” where “quality architecture, historic preservation, and smart urban planning create memorable, walkable places that are pleasant, vibrant, attractive and comforting.

**Compatibility Analysis:**

- The project is located on Biltmore Ave., a high frequency transit route, and close to downtown and Mission Hospital.
- The scale of the proposed building is compatible with other commercial or institutional uses along the corridor.
- The applicant worked with residents to the east (White Fawn) and incorporated design changes that would mitigate the impact of the project on the adjacent residences including removing rooms closest to the residents, relocating the parking garage entrance to Biltmore Ave., and locating trash collection in the garage.

**Council Goal(s):**

- This project is most closely aligned with the council goal of *A Well-Planned and Livable Community*.

**Committee(s):**

- Technical Review Committee (TRC) - Not applicable.
- Design Review Committee (DRC) - November 18, 2021. The Committee reviewed the proposed project, along with the applicable materials, and supported the project moving to the Planning & Zoning Commission expressing that the new design was an improvement over the former.
- Planning & Zoning Commission (PZC) - January 5, 2022.
- The Commission recommended approval of the proposed amendment, 4:2.

**Staff Recommendation:**

- Staff recommends approval of the proposed amendment based on the reasons stated above. Additionally, staff recommends the following changes to the project conditions, as approved by the applicant:
  1. Revise condition #2 to include “eating and drinking establishments”;
  2. Add a new #17 to clarify that should a mural be added to the exterior of the building, the artwork would be prepared by a local/regional artist; and,
  3. Revise condition #21 to clarify that expiration of approval is based on the original City Council adoption date (March 12, 2019).

Ms. Tuch said that there are two requests (1) to amend the Exhibit B1 (Project Conditions) to clarify the uses and the approval period, and to restrict murals to local artists; and (2) amend the approved plans to accommodate changes in the building facade. Changes proposed include (1) materials and color palette; (2) roofline; (3) building articulation; (4) screening of parking garage; and (5) second floor outdoor patio/balcony.

In response to Councilwoman Roney, Ms. Tuch explained what type of safe access, for people crossing the street, is planned for all modes of traffic at this site.

Mayor Manheimer opened the public hearing at 6:02 p.m., and when no advanced callers signed up, she closed it at 6:02 p.m.

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

Councilwoman Kilgore moved to approve the conditional zoning amendment request for the property located at 324 Biltmore Ave. 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) is strategically located to downtown and transit; 2) is aligned with the Future Land Use map in the Living Asheville Comprehensive Plan; and 3) supports placemaking along Biltmore Ave. This motion was seconded by Councilwoman Mosley and carried on a 5-2 vote with Councilwoman Roney and Councilwoman Wisler voting “no”.

Councilwoman Wisler explained that she did not support the original conditional zoning for this project and will not support the amendment, although these are improvements.

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**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

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

From advanced live call-ins, 29 individuals spoke to Council about several items, including, but not limited to the following: Stormwater Task Force recommendations; need to take action to commit to applying the community defined understanding of climate equity and climate justice to all strategic plans, and to fully incorporate the climate justice data map and screening tool into decision-making processes; follow the CDC guidelines and make camping legal on City and County property and provide 24/7 access to clean public restrooms where facilities exist and continue offering regular trash and recycling disposal and sharp disposal containers to all public park infrastructure; don't displace camps until there is another place for them to go; demolition and removal of granite stones of Vance Monument and plans to remove base and redesign Pack Square Park is illegal; climate emergency is a real threat and should be treated as such; opposition to proposed ordinance on permits for food distribution in City parks; stop initiative to restructure boards and commissions which would par down 20 advisory boards to 4 boards, and adopt an open meetings policy to make boards and commissions more inclusive and more easier for volunteers to participate; need to create more choices for those at risk; Asheville Police Department's new policy regarding camps does not reduce the incidents of rape as implied, but in fact creates conditions that promote rape and harm those who have experienced it; requiring permits in City parks to feed the homeless does not comply with Asheville's goal of expanding services to the houseless population; any limitation on feeding the homeless will only harm the most vulnerable in our community; Asheville-Buncombe Community Christian Ministry has a successful model of moving homeless into permanently housing with good jobs and the City should replicate their model; and support for restore Asheville Police ballot initiative.

Vice-Mayor Smith said that her efforts to connect with groups around this matter, and other community meal offerings has been vilified. It is because a person on this Council leaked information to the public and allowed the discrepancies in the information that they shared to fester. "It made connections with stakeholders around this matter very hard. Connections with people we need to have conversations with to look into this matter and other matters concerning how we make sure that food is accessible to our community and that the accessibility is stable. What happened on Saturday when I connected with a group at Aston Park, I went to go see what they were doing and if, in fact, if that was the only community meal offered to this community on the weekends. And that fact is true. Monday through Friday there are a lot of community public meals offered to our community in that section of town. But there is a limited amount of opportunity for folks who need food, both housed and unhoused, to get a hot prepared meal on the weekend. What this group is doing, the one distributing food at Aston Park, is very honorable work. Meals on Wheels does not even deliver food to people who are housed on the weekend. They are filling a major gap. The reason why we are here is because information was shared to the public very prematurely and a lot of confusion was allowed to ensue. I will not be vilified in this conversation because in fact if we go forward with the information that is being researched, we will be preventing accessibility to a major group who needs hot meals on the weekend. And there are things that people need - four elements that have to be there in order for us to demonstrate our support for food security - stability, utilization, accessibility and availability. On the weekends when this group is providing food for our community, a hot, prepared, nutritious meal to the community, they are doing something that this community, even sponsored nonprofits have not been able to do. Because on Fridays, things shut down and people need to fend for themselves. So the direction that we are researching to go, that will not work. It means that this group will only be able to serve the public one weekend, because they cover Saturday and Sunday. There are a lot of conversations that could have been had around this issue that were limited, hindered, gas-lit, triggered and electrified just because bad information was released to the public and making a good, reasonable connection to the public was very hard. Anyone delivering food to people, especially when there are gaps, is honorable work. And, hopefully we can have a conversation about how support for your work will look." She hoped that this practice does not continue. Because there are some relationships that she really honored but now she



feels they are irreparable. She hoped that we respect one another as colleagues and if there is anything that you feel is not going the direction that it should be going in process and policy discussions, or just in relations, let's have that conversation. The door is always open. We need to talk - good/bad or indifferent. Let's not make this a practice.

Mayor Manheimer said we have a process that we use to bring along items for consideration. It is always ultimately discussed in public, with public comment, and usually there is an opportunity to reach out to stakeholders in particular areas, as we move through studying and examining any process. One of the benefits of being on City Council is that you have at your disposal a City Manager, a City Clerk and a City Attorney who are at your disposal to answer questions. Frequently City Council does email one of their three appointments questions and they are answered. These are all public records. But it is very difficult to be an effective leader trying to weigh through complex issues and learn more without those resources available to you. We have generally honored that system. Unfortunately, when that system isn't honored there is a great deal of confusion created in the community and it undermines the integrity of this body. The community needs to be able to trust us and know that ultimately all decisions are made with transparency and they will have an opportunity to weigh in. A lot of things considered have crashed and burned, and that is part of the process.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:50 p.m.

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CITY CLERK

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MAYOR