

Regular Meeting

Present: 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

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 2022 AS “ASHEVILLE SISTER CITIES MONTH”

Mayor Manheimer read the proclamation proclaiming October, 2022, as “Asheville Sister Cities Month” in the City of Asheville. She presented the proclamation to Asheville Sister Cities President Jessica Coffield, and Asheville Sister Cities Vice-President Ken Nelson, who briefly provided Council with information on their work the past year.

B. PROCLAMATION IN SUPPORT FOR EFFORTS OF THE TRIBAL COUNCIL OF THE EASTERN BAND OF CHEROKEE INDIANS TO RESTORE THE NAME OF KUWOHI TO THE MOUNTAIN PRESENTLY KNOWN AS CLINGMANS DOME

Councilwoman Roney read the proclamation in Support for Efforts of the Tribal Council of the Eastern Band of Cherokee Indians to Restore the Name of Kuwohi to the Mountain Presently known as Clingmans Dome. She presented the proclamation to Lavita Hill Mary Crowe, and others, who briefed City Council on the proclamation.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 27, 2022

B. RESOLUTION NO. 22-225 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION (NCDOT) FOR THE CITY TO ACCEPT RESPONSIBILITY TO PROVIDE VEGETATION CONTROL ON VARIOUS NCDOT PROPERTIES ALONG CLINGMAN AVENUE/HAYWOOD ROAD

Action Requested: Adoption of a resolution authorizing the City Manager to enter into and execute a vegetation maintenance agreement with the N.C. Dept. of Transportation (NCDOT) for the City to accept responsibility to provide vegetation control on various NCDOT properties along SR 3548 (Clingman Avenue/Haywood Road).

Background:

- The West End/Clingman Avenue Neighborhood (WECAN) has been providing vegetation control services along the subject properties (see map section) for many years.
- The purpose of the subject action is intended to solidify and document the partnership between the NCDOT, the City, and WECAN.

- The NCDOT prefers to only enter maintenance agreements with another governmental entity.
- The City agrees to be that governmental entity and partner with WECAN to provide the appropriate vegetation control.
- WECAN agrees to continue to provide vegetation control services along the subject properties (see map section) on behalf of the City (WECAN typically spends about \$5,200 per year including volunteer labor at an hourly rate of \$25).

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- The subject action enables a partnership between the NCDOT, the City, and WECAN.
- The subject action enables WECAN to continue to maintain aesthetics improvements in their neighborhood.

Con(s):

- The City is agreeing to be responsible to provide vegetation control on the various NCDOT properties.

Fiscal Impact:

- This action requires no City resources and has no fiscal impact as long as WECAN continues maintenance activities.

Motion:

- Motion to authorize the City Manager to enter into and execute a vegetation maintenance agreement with the N.C. Dept. of Transportation (NCDOT) for the City to accept responsibility to provide vegetation control on various NCDOT properties along SR 3548 (Clingman Avenue/Haywood Road).

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C. RESOLUTION NO. 22-226 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A REVIEW/INSPECTION AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE CITY TO INSTALL A TRAFFIC SIGNAL AT THE INTERSECTION OF SOUTH CHARLOTTE STREET AND DR. MARTIN LUTHER KING JR. DRIVE

Action Requested: Adoption of a resolution authorizing the City Manager to enter into and execute a traffic - review and inspection agreement with the N.C. Dept. of Transportation (NCDOT) for the City to install a traffic signal at the intersection of SR 3284 (South Charlotte Street) and Martin Luther King Drive and to submit payment in the amount of \$7,500 upon partial execution of the agreement by the City.

Background:

- The City performed a traffic signal warrants study at the intersection of SR 3284 (South Charlotte Street) and Martin Luther King Drive and determined that a traffic signal was warranted and it would be effective.
- Since South Charlotte Street is a state-maintained street, the NCDOT agreed that a traffic signal was warranted at the intersection of SR 3284 (South Charlotte Street) and Martin Luther King Drive.

- The City is responsible to fully fund the traffic signal including design, materials, and installation.
- Design and construction funds were approved in the FY 2021-22 adopted budget.
- The project includes pedestrian signals and crosswalks.
- The NCDOT will review the designs and inspect the work during the construction phase.
- Upon completion of the project, the NCDOT will own and maintain the traffic signal.

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- The subject project will enable the intersection to operate in a more efficient and safe manner for all modes of travel.

Con(s):

- None

Fiscal Impact:

- Funding for this contract was previously budgeted and is available in the General Capital Projects Fund.

Motion:

- Motion to authorize the City Manager to enter into and execute a traffic - review and inspection agreement with the N.C. Dept. of Transportation (NCDOT) for the City to install a traffic signal at the intersection of SR 3284 (South Charlotte Street) and Martin Luther King Drive and to submit payment in the amount of \$7,500 upon partial execution of the agreement by the City.

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D. RESOLUTION NO. 22-227 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DAIKIN APPLIED AMERICAS INC. FOR REPAIRS AND UPGRADES TO THE CHILLER AT HARRAH'S CHEROKEE CENTER - ASHEVILLE

Action Requested: Adoption of a resolution authorizing the City Manager to execute a change order to the contract with Daikin Applied Americas Inc. for repairs & upgrades to the Harrah's Cherokee Center - Asheville (HCCA) chiller in the amount of an additional \$265,000.

Background:

- The HCCA chiller service has been under contract with Daikin Applied Americas Inc. since August 11, 2017. The current contract expires on July, 31, 2023.
- HCCA recently upgraded Building Management System software, to assist with controls of the facility HVAC systems.
- This software creates a more energy efficient operation and reduces required on-site manpower during off hours.
- The current chiller at HCCA is nearly 25 years old and can not 'communicate' with the new software, resulting in a requirement for staff to physically turn on, off and adjust building temperature at the chiller unit.
- Repairs and upgrades will allow for more energy efficient operation and extend the useful life of the chiller by approximately 15-20 years of additional service.

- A brand new chiller would cost approximately \$1.7 Million, therefore this repair and upgrade option is recommended.

Vendor Outreach Efforts:

- When initially contracted, staff performed an informal bidding process which included outreach to Minority & Women-Owned Business Enterprise (MWBE) service providers for services.
- No MWBE service providers responded.

Council Goal(s):

- A Thriving Local Economy
- A Clean and Healthy Environment

Committee(s):

- None

Pro(s):

- Reduced energy consumption with well maintained equipment with intelligent controls.

Con(s):

- None.

Fiscal Impact:

- Funding for this work is available in the HCCA Capital Projects Fund.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a change order to the contract with Daikin Applied Americas Inc. for repairs & upgrades to the Harrah's Cherokee Center - Asheville Chiller in the amount of an additional \$265,000.

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E. RESOLUTION NO. 22-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE FACILITY AT 81 THOMPSON STREET

Action Requested: Adoption of a resolution authorizing the City Manager to execute a lease agreement with the North Carolina Department of Transportation (NCDOT) Rail Division for the facility at 81 Thompson Street.

Background:

- The City's Parks Maintenance Division is currently located at 8 Hunt Hill Place.
- 81 Thompson Street has been identified as a preferred alternative to house the Parks Maintenance Division.
- Located along the Swannanoa River, the parcel at 81 Thompson Street was jointly purchased by NCDOT and the City of Asheville in 2005 to support a future implementation of a multi-modal transportation and passenger rail station.
- Norfolk Southern Railroad has an active rail line along the rear property line.
- NCDOT's Rail Division owns 90% of 81 Thompson Street (PIN #9648-70-6712) and the City of Asheville owns a 10% share of the property.
- For over ten years, G3 Medical, a medical supply company has been leasing the facility.
- They have recently terminated the lease and vacated the facility.
- The facility is a mix of office and warehouse space for a total of 18,456 square feet.

- The City of Asheville has offered to lease the facility from the NCDOT Rail Division for \$8.00 per square foot with a 10% discount applied because of the City's ownership share.
- This would equate to \$7.20 per square foot, or \$11,073.60 per month or \$132,883.20 per year.
- The rent rate would increase 2% per year.
- The City has agreed to replace the roof of the facility.
- In return, the City will receive rent credit until the total cost is satisfied.
- The proposed term of the lease is for a period of 10 years with the option to renew for one additional five year period.

Council Goal(s):

- A Well Planned and Livable Community

Committee(s):

- None

Pro(s):

- Parks Maintenance will be able to move out of the current Hunt Hill location, reducing the impact to the surrounding neighborhood into a more workable office/warehouse space that is within City limits.
- This relocation allows the building on Hunt Hill to be repurposed.
- In review of area comparable rents, this represents a favorable deal to the City and is at or below market value for this type of space in this convenient location.

Con(s):

- None noted.

Fiscal Impact:

- Funding for this lease was budgeted and is available in the Parks and Recreation Department operating budget.

Motion:

- Motion to approve the resolution authorizing the City Manager to execute a lease agreement with NCDOT for the facility located at 81 Thompson Street.

Councilwoman Mosley was pleased to see that the Park Maintenance facility will be moving from Hunt Hill to Thompson Street, as it has been promised to the East End community for several years. She particularly thanked Councilwoman Wisler, City Manager Campbell and City staff for their work on this move.

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

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions 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.

III. PRESENTATIONS & REPORTS:

A. MANAGER’S REPORT - EMPLOYEE RECOGNITION

City Manager Campbell said that City of Asheville employees are heroes in lots of ways. She was pleased to acknowledge their exemplary work all the time but especially when an employee does something extraordinary. At this time, she would like to recognize Public Works Fleet Manager Jake Klodt for being honored as the 2022 Fleet Manager of the Year for the State of North Carolina by the NC Chapter of the American Public Works Association. She said some of Jake’s efforts include (1) Jakob Klodt has been a vital member of the City of Asheville since 2012; (2) he was promoted to Fleet Manager in the Public Works Department in 2019; (3) during the COVID-19 pandemic, working from home was not an option for Fleet Management mechanics; (4) employees had to continue working on site to repair essential vehicles and equipment for emergency responders, sanitation, and water; (5) Jake was diligent in keeping his employees and customers safe, and implemented many safety procedures and regulations; (6) the covid virus never spread among Fleet employees. Fleet was able to keep all City departments on the road in safe, maintained vehicles and equipment; (7) he has gone above and beyond the call of duty and truly cares about the wellbeing of all his staff and the impact of the work performed by Fleet; (8) Jake is dedicated to his career while also keeping his family a priority; (9) Jake and his wife Leslie are the proud parents of their twin boys Ascher and Maverick; and (10) Jake truly embodies the essence of the Fleet Manager of the Year Award. She was pleased to congratulate Jake on winning this prestigious award and recognition for himself, the Public Works Department and the City of Asheville!

Mr. Klodt thanked Public Works Director Greg Shuler and his team.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE SOUTH SLOPE: A SOUTHSIDE NEIGHBORHOOD VISION PLAN

Councilwoman Turner moved to continue the public hearing on adoption of the South Slope: A Southside Neighborhood Vision Plan to November 15, 2022. This motion was seconded by Councilwoman Kilgore and carried unanimously.

B. PUBLIC HEARING TO CONDITIONALLY ZONE 100, 54 & 99999 (x3) WOODLAND DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE

ORDINANCE NO. 4793 - ORDINANCE TO CONDITIONALLY ZONE 100, 54 & 99999 (x3) WOODLAND DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE

Principal Planner Will Palmquist said that this is the consideration of an ordinance to conditionally zone 100, 54 & 99999 (x3) Woodland Drive from RM-8 Residential Multi-Family Medium Density District to Residential Expansion/Conditional Zone. This public hearing was advertised on September 30 and October 7, 2022.

Project Location and Contacts:

- The project site totals 9.12 acres located at Woodland Dr (PINs 9628-44-0165, 9628-43-2859, 9628-43-1782, 9628-33-8790, and 9628-33-8499).
- Owner: Birch Circle Associates LLC

Summary of Petition:

Project Site

- The project site consists of five parcels totalling 9.12 acres located at Woodland Dr.
- The site is currently zoned Residential Multi-Family Medium Density (RM-8).
- Given the size of the project (over 50 residential dwelling units), a conditional zoning to the Residential Expansion (RES EXP) district is required.
- The site is designated “Residential Neighborhood” on the city’s Future Land Use (FLU) Map.
 - A change in the FLU designation will not be required.

Overall Project Proposal

- New building construction includes 72 dwelling units located across 10 groups of two-story, attached townhomes.
- The proposed development represents a type of “missing middle” housing not often found in the community. The development represents a form of housing at medium densities between the scale of single-family houses and large apartment buildings.
- The project proposes to subdivide the site into individual parcels for each townhouse.
- Other site improvements include a new roadway, off-street parking, sidewalks, a gravel walking path, and a community area and proposed playground.
- 5% of the units (4 units) will be designated affordable to those earning at or below 80% Area Median Income (AMI) for a minimum of 20 years.
- 50% of those affordable units (2 units) will accept HACA Housing Choice vouchers.

Site Layout and Design

- Maximum building height for single-family buildings in the RES EXP district is 40 feet.
- The maximum building height of the proposed project is 30 feet.
- Maximum density in the RES EXP district is 20 units/acre.
- The proposed project’s density is 7.9 units/acre.
- Front yard, rear yard, and side yard setbacks of 15 feet, 15 feet, and 6 feet, respectively, are required for single-family development in the RES EXP district.
- Maximum impervious surface in the RES EXP district for single-family uses is 50%.
- The proposed project would result in a total impervious area of 39.95%.

Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, building impact, property line and retaining wall screening.
- The RES EXP district requires a 30 foot-wide “Type B” landscape buffer where the subject property is adjacent to any other residentially zoned property, which will be required along the western and northern property border, as well as the northern half of the eastern property border.
 - The project is proposing a 20 foot-wide “Type A” buffer instead, as well as a reduction in the required buffer due to the presence of an MSD easement and the project's roadway entrance.
- The project is classified as “suburban” under the Tree Canopy Preservation standards and has a classification of “Class C”.
- The existing canopy coverage (2018) ranges between 6% to 66%.
- The project proposes preserving 14.9% of tree canopy, the remaining 0.1% will be accommodated on-site.
- Open space is required at a rate of 20% of the total site, resulting in a required 1.82 acres of open space, with at least one 7,200 square foot area that provides park or plaza-type features.
- The project is proposing a total of 3.1 acres of open space.

Access, Sidewalks and Parking

- Access to the site will be provided by a new roadway and extension of Woodland Dr.
- A total of 177 parking spaces are proposed, 72 of which would be located at a rate of one

- garage space per townhome, 72 of which would be located at a rate of one driveway space per townhome, and 37 additional surface parking spaces.
- Based on the number of bedrooms and dwelling units, the minimum/maximum number of required parking spaces is 124/194 for the RES EXP district.
 - The townhomes are accessed by a mix of shared driveways and individual driveways.
 - The RES EXP district requires new five foot-wide sidewalks be constructed for single-family projects, both along the primary access corridor and internally throughout the site.
 - The project is proposing a new five foot-wide sidewalk with a five foot-wide planting strip along the north side of Woodland Dr.
 - The project is proposing five foot-wide sidewalks internal to the site.
 - The project proposes a 25 foot-wide cross connectivity easement to the parcel to the south, limited to future redevelopment of that parcel for residential use only.

Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
 - A 20-foot wide “Type A” landscape buffer where the project is adjacent to residential zoning districts instead of the required 30-foot wide “Type B” landscape buffer.
 - Reduction of 210 linear feet of Type A landscape buffer due to the presence of an MSD easement and the project’s roadway.
 - No bike lanes into the development, though bike sharrow pavement markings will be installed on Woodland Drive.

Comprehensive Plan Consistency:

- The proposed development supports a number of goals in the Living Asheville Comprehensive Plan including:
 - **Encourage Responsible Growth** - by prioritizing greater densities of development overall, throughout the city as appropriate.
 - **Increase and Diversify the Housing Supply** - by increasing the housing supply in existing residential neighborhoods at greater densities and diversity in building types.
 - **Celebrate the Unique Identity of Neighborhoods Through Creative Placemaking** - by providing contextually appropriate infill development and a variety of housing types.
- The proposed development is compatible with the Future Land Use designation of “Residential Neighborhood” which is proposed, in part, that “residential neighborhoods can benefit from having more housing diversity such as accessory apartments, duplexes and other types of smallscale infill housing”.

Compatibility Analysis:

- The proposed townhouse residential project is compatible with the surrounding land uses, including:
 - Single-family residential dwellings to the north and west.
 - Light industrial and commercial uses to the east and south.

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) - June 6, 2022 - approved with conditions.
- Planning & Zoning Commission (PZC) - July 6, 2022 - continued to 8/3 PZC meeting.
- Planning & Zoning Commission (PZC) - August 3, 2022 - continued to 9/7 PZC meeting.
- Planning & Zoning Commission (PZC) - September 21, 2022 - no recommendation given, motion to approve failed with a tie vote (2-2).

Staff Recommendation:

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

Mr. Palmquist reviewed with Council the existing zoning, proposed zoning, aerial imagery and the future land use map. He outlined the site plan as follows: 72 dwelling units located across 10 groups of two-story, attached townhomes; 10% affordable units at 80% AMI; to be subdivided into lots; Access via an extension of Woodland Drive; 177 parking spaces, 72 of which are garage spaces, 72 of which are driveway spaces, and 37 additional surface spaces; Sidewalks: 5'-wide with 5'-wide planting strip on north side of Woodland Dr, 5'-wide internal sidewalks; Gravel walking path along creek; Cross connectivity easement; Landscaping, Open Space Standards, and Landscape Buffer; and Tree Canopy Preservation standards met on-site through preservation and new plantings. Changes to the project since the October 5 Planning & Zoning Commission meeting include (1) 10% affordable units (7 units) with half (4 units) accepting housing choice vouchers - that is an increase from 5% affordable units (4 units) with half (2 units) accepting housing code vouchers; and (2) updated architectural renderings with improved design characteristics and materials proposed. He then reviewed the landscape plan, along with building elevations. Regarding the stormwater plan, (1) stormwater catch basins; (2) bio-basins to slow and improve quality of runoff; and 30' stream buffer. Regarding conditions, since (1) 10% of the units (7 units) will be designated affordable to those at or below 80% Area Median Income (AMI) for a minimum of 20 years - at least 50% of those affordable units (4 units) will accept HACA Housing Choice Vouchers; and (2) Technical modifications: (a) Type A (20'-wide) Buffer instead of required Type B (30'-wide) Buffer; (b) Reduction of 210 linear feet of Type A buffer due to the presence of an MSD easement and the project's roadway; and (c) No bike lanes into the development. (Bike sharrows added to the site plan). He then reviewed the review process, along with how the project complies with the Living Asheville Comprehensive Plan. He said that staff recommends approval of the proposed conditional zoning.

Councilwoman Roney felt that this is a car centric project, which has a garage in every spot, not enough sidewalks and no bike lanes. She felt that that speaks to the situation of today but not the situation for a hopeful future. This is the second project recently that has no opportunity for bicycle safety in the neighborhood. She felt the neighbors deserve resilient options for transportation. She also noted that the project is 7/10's of a mile from the bus route, which is one of our later and more frequent routes. Her concern is not just for this project, but about what is happening on our side that we are not getting what we need for our neighbors.

In response to Councilwoman Roney about what are the opportunities for renewable energy for this to be a neighborhood that helps to meet not only the future needs of this neighborhood but also reach our carbon reduction goals, Mr. Derek Allen, attorney representing the developer said that the developer is committed to add two vehicle charging stations and they are working with a solar consultant to look at solar as an option on all their projects.

Mr. Allen spoke in support of the project, noting that the project will assist with the missing middle housing shortage. He explained all the changes made to this project from meetings with the Planning & Zoning Commission and neighborhood concerns.

Mr. Palmquist responded to questions raised by Mayor Manheimer, some being, but are not limited to: confirmation that the units will not be eligible for short-term rentals; will the fronts of

the townhomes be visible if you are not in the development; can the front facing garages be moved to the rear of the homes; and why is only a sidewalk required on one side of the road.

Mayor Manheimer opened the public hearing at 6:06 p.m.

Three individuals spoke in opposition to the conditional zoning for several reasons, some being, but are not limited to: the Sulphur Springs Neighborhood Association views the Woodland Development Plan as inconsistent with overarching goals explicitly stated in Asheville's current Comprehensive Development Plan, as it (1) provides almost no affordable housing; (2) makes our Sulphur Springs Neighborhood less walkable and bikeable; (3) provides minimal access to and discourages use of public transit; (4) provides no green stormwater infrastructure; (6) proposes infill housing incompatible with traditional Sulphur Springs Neighborhood; and (7) contributes to worsening traffic safety and congestion; and development will destroy the nature and creek on the existing site.

Two individuals spoke in support of the conditional zoning for several reasons, some being, but are not limited to: this project is missing middle housing we so desperately need; find sites to build is very difficult, and with the costs of construction and skilled labor being constrained, this project with it's creativity is needed in Asheville.

Mayor Manheimer closed the public hearing at 6:34 p.m.

Mayor Manheimer said that this proposal is extremely challenging for her. Council has been struggling with how to address affordable housing in many ways. Even though there is no sidewalk in the front and no bike lanes, she hoped that there will be one day. She felt that even though there is neighborhood opposition, balance is a challenge and she would support the conditional zoning.

Councilwoman Turner pointed out our crisis with affordable housing and felt this is a step towards greater density.

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 request for the properties located at 100, 54, and 99999 Woodland Dr from Residential Multi-Family Medium Density (RM-8) to Residential Expansion - Conditional Zone (RES EXP - CZ) with an amendment to the conditions to add two vehicle charging stations, 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) prioritizes greater densities of development overall, throughout the city as appropriate; 2) increases the housing supply in existing residential neighborhoods at greater densities and diversity in building types; and, 3) provides contextually appropriate infill development and a variety of housing types. This motion was seconded by Councilwoman Turner and carried on a 6-1 vote, with Councilwoman Roney voting "no."

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. PLASTIC REGULATION

ACTION ON STAFF'S RECOMMENDATION TO PROHIBIT PLASTIC BAGS FOR

CURBSIDE LEAF COLLECTION

DIRECTION TO STAFF TO COMMENCE EXTERNAL STAKEHOLDER ENGAGEMENT PROCESS AND PREPARATION OF AN ANALYSIS REPORT REGARDING POTENTIAL REGULATION OF PLASTIC BAGS AT POINT OF SALE AND DISPOSABLE FOODWARE PRODUCTS

Mayor Manheimer announced that in order to hear from everyone who wishes to speak within the one hour time limit, that each speaker will be allotted two minutes.

Director of Sustainability Bridget Herring said this is the consideration of a motion to (1) to revise Chapter 15 of the City Code to prohibit plastic bags for curbside leaf litter collection (Phase I); and (2) to direct staff to work to further address public input on regulation of plastic bags at point of sale and expanded polystyrene disposable foodware products (Phase II).

Background:

- In March 2022, staff received a request from the Mayor and members of Council to have the Sustainability Advisory Committee on Energy and the Environment (SACEE) review and make recommendations on a plastic reduction policy followed by a presentation to the Council Governance Committee.
- On May 18, 2022 MountainTrue, a local non-profit agency, presented their draft plastic reduction ordinance to SACEE.
- After hearing the presentation from MountainTrue, SACEE assigned its Waste Reduction Working Group to collaborate with MountainTrue to review and consider revisions to the ordinance.
- At the July 20, 2022 SACEE meeting the committee voted unanimously to support a revision to Chapter 15 of the City Code prohibiting the use of plastic bags for curbside leaf collection.
- Also at the July 20, 2022 SACEE meeting the committee voted 5-2 to support a new ordinance prohibiting the use of single-use plastic bags at point of sale with 10 cent paper bag fee as optional and prohibiting the use of expanded polystyrene (Styrofoam™) disposable foodware products.
- At the beginning of the year Plastic Free WNC, a coalition composed of MountainTrue, Sierra Club and NC Public Interest Research Group, performed preliminary outreach by conducting a business survey and interviews with agencies that serve vulnerable and low income populations.

Council Goal(s):

- Thriving Local Economy
- A Clean and Healthy Environment

Committees(s):

- Sustainability Advisory Committee on Energy and the Environment July 20, 2022 - 5-2 to recommend ban on plastic bags at point of sale, 7-0 to recommend the elimination of plastic bags from curbside leaf litter collection
- Governance September 13, 2022 - 3-0 supported phased approach

Pro(s):

- Supports [Resolution 14-27](#) to reduce waste by 50% by 2035
- Phase one will eliminate approximately 120,000 single use plastic bags from the landfill annually.
- Phase one will address one of Council's strategic priorities to improve core service delivery.

- Additionally, this will improve staff safety, and enhance community cleanliness by eliminating a source of litter that impacts communities and clogs stormwater drains.
- Phase one will build on previous outreach and education initiatives that will be supported through existing resources already planned and budgeted with the Communications and Public Engagement Department, Sustainability Department and Sanitation Division.
- Directing City Manager to have staff explore a Second Phase will ensure that staff capacity and resources are dedicated to conducting a more extensive public input campaign and equity analysis in order to gather more data on the size of the impacted business community and concerns/support from residents.
- A phased approach will allow staff to develop an implementation plan for enforcement and education and outreach.
- A phased approach will allow staff to explore the lack of precedent and remaining questions regarding legal authority of imposing a \$0.10 fee that is not collected by the City.

Con(s):

- The phased approach will result in continued waste of point of sale single use plastic bags and disposable foodware products in the landfill and polluting the French Broad River.
- There may be an increased cost to residents currently utilizing plastic bags for curbside leaf collection of approximately \$0.10/bag.
- Paper bags can be purchased in bulk, particularly during non-peak leaf season, for the same price or less as plastic lawn bags.
- Alternatively, residents may choose to make a one time purchase of reusable containers of \$20-\$30 for infinite use.
- Staff capacity utilized for this project may result in limiting outreach and engagement of the Climate Justice Initiative to the Community Engagement Academy.

Fiscal Impact:

- Phase one is estimated to cost \$20,000, to include the one-time purchase and distribution of 30,000 leaf bags to residents.
- Funding for this work has been identified within the Public Works Department operating budget.
- Education and outreach materials have already been created and are scheduled to be deployed through the Communications and Public Engagement Department.
- No cost has been estimated for phase two.
- Staff capacity can be utilized to design and conduct an initial public engagement campaign, although additional resources may be required to reach communities who did not participate in initial engagement efforts.
- If Phase II results in the approval of a plastic reduction ordinance, an education and outreach campaign (contracts with nonprofit partners, advertising and supplies) and additional enforcement staff will be required.
- These items would be considered as part of future budget development processes.

Ms. Herring said that the key takeaways from this presentation are (1) Pollution from single use plastic is a problem and regulation is a new area of concern not included in current environmental plans or goals; (2) Nonprofit partners have proposed and both a Council Committee and Advisory Committee have reviewed and supported further study and analysis of plastic reduction ordinance(s); Staff recommends a phased approach with the first phase being to prohibit plastic bags for curbside leaf collection; and (4) Staff further recommends building on the efforts of our nonprofit partners to solicit additional stakeholder feedback to both inform the draft language of a potential prohibition of plastic bags at point of sale and disposable foodware products ordinance as well as the implementation plan. Single use plastic is a problem because (1) harmful to our environment; (2) harmful to our people; (3) harmful to our operations; and (4)

new area of concern, not currently identified through existing Council adopted environmental goals. Actions taken to date are (1) Promoting paper leaf collection bags since 2018; (2) Engagement conducted by Plastic Free WNC (a) Survey responses from 60 area businesses; and (b) Interviews with low income, unhoused, and vulnerable population organizations; (3) Sustainability Advisory Committee reviewed, revised, and supported plastic reduction ordinance concept; (4) Preliminary legal analysis conducted (a) Although no current legal precedent exists in North Carolina: Confidence in authority to regulate single use plastic; and (b) Additional legal research is required on the 10 cent fee paper bags component; and (5) Preliminary analysis by Equity and Inclusion Department recommends (a) Extension of implementation timeline; (b) Significantly more analysis on impact to vulnerable social groups; (c) Robust stakeholder and community engagement; (d) Utilize 3rd party expertise to ensure public engagement is unbiased and comprehensive; and (e) Consider alternatives to a full bag ban. Staff's recommendation is to take a phased approach to regulation of single use plastics: (1) Phase 1: Align with Council's strategic priority to improve/expand core services by updating Chapter 15 of the City Code to prohibit plastic bags from curbside leaf litter collection; (2) Phase 2: Build robust public input campaign around further regulation of single use plastic from the foundation created by our nonprofit partners; and (3) Utilize public input to inform draft language and implementation plan for Council's consideration. Next steps include (1) At the request of the Governance Committee staff has proposed a more condensed timeline; (2) The proposed new timeline is accelerated by one year as compared to staff's original recommendation; and (3) Organizational work plan priorities will remain but community engagement and outreach for the Climate Justice Initiative may be extended.

She then reviewed the proposed timeline as follows: October 2022 - Internal Engagement (60 days to conduct internal engagement focused on impact to operations; and identify who's missing from the conversation); December, 2022 - Update Chapter 15 of the Code of Ordinances prohibiting plastic bags from curbside leaf collection for Council's consideration; January 2023 - design public input survey (utilize previous survey results from Plastic Free WNC, equity analysis, and internal engagement to design public input survey); February 2023 - launch public input survey (survey will remain open for 30 days); March 2023 - review and refine engagement (estimated 6 months to identify gaps, develop focus group engagement strategy, and utilize Community Engagement Academy); and October 2023 - recommendation to City Council (informed by public input).

In response to Councilwoman Kilgore, Ms. Herring said that if we find additional information from the focus groups that was not included in the survey, staff will reach out to other groups to get that additional information. She noted that the public will have the opportunity to weigh in on issues that are not included on the survey. Plastic Free WNC has done an initial survey that has some good starting points that we want to add to. We need to start there and add additional conversations.

Councilwoman Roney said one of the things she has been asked about is why we can't narrow the timeline. When staff was asked if they needed more support, she heard that the resource that we are missing is time. When she looks at the climate justice initiative, which is where we say we are going to do things with equity, we need to listen to the people most impacted by flooding, landslides, wildfires, food security, housing, water quality, etc.. All are serious issues and it's not a small part. But when she hears staff saying they need enough time to do this and they can't shorten it anymore without putting other issues that involve equity on the back burner, we can't do that either. She is a supporter of the longer timeline, and thanked staff for narrowing where they could, but that will potentially delay the climate justice initiative and that needs extra attention in our community.

Twenty-two individuals spoke in support of an ordinance banning plastic bags at point of sale and disposable foodware products by the end of 2022.

Councilwoman Wisler was discouraged that Buncombe County and other municipalities in Buncombe County are not partnering with the City on this timeline.

After discussion surrounded a possible faster timeline for a recommendation to City Council, City Manager Campbell said that this is only an estimated timeline and since we do not want to overstate and under deliver, we are asking for an opportunity to start and if we can accelerate the timeline, we will.

Councilwoman Turner moved to revise Chapter 15 of the City Code to prohibit plastic bags for curbside leaf litter collection (Phase I). This motion was seconded by Councilwoman Wisler and carried unanimously.

Councilwoman Turner moved to direct staff to work to further address public input on regulation of plastic bags at point of sale and expanded polystyrene disposable foodware products (Phase II). This motion was seconded by Councilwoman Wisler and carried unanimously.

B. BOARDS & COMMISSIONS

Regarding the Audit Committee, there were no applications. Therefore, City Council instructed the City Clerk to readvertise for the vacancies.

Regarding the Homeless Initiative Advisory Committee (HIAC), the following individuals applied for the vacancies: Barry Shoor, Sim Wilkes, Sydney Broadhead, Michael Fulbright, Jo Golson, Cheryl Antoncic, Kenny Hancock, Sherri Bagwell, William Snoddy, Jimmi Lang, Andrew Garrard, Josh Houde, Patrick Carey, Elena Mansour, William Hanson, Cristy Streeter, and Luke Rose. It was the consensus of the Boards and Commissions Committee, and City Council, to wait to make an appointment until the Nominating Committee of HIAC makes a recommendation.

Regarding the Noise Advisory Board, there were no applications. Therefore, City Council instructed the City Clerk to readvertise for the vacancy.

Regarding the Public Art & Cultural Commission, the following individual applied for the vacancy: Carlos Fernandez. At the request of the Chair of the Public Art & Cultural Commission, it was the consensus of the Boards & Commissions Committee, and City Council, to readvertise for the seat.

RESOLUTION NO. 22-229 - RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

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

Stephen Blount was removed as a member from the African American Heritage Commission due to lack of attendance, thus leaving an unexpired term until July 1, 2024.

The following individual applied for the vacancy: Sherree Lucas

The staff of the African American Heritage Commission recommends, and the Boards & Commissions Committee concur, to appoint Sherree Lucas.

Vice-Mayor Smith moved to appoint Sherree Lucas as a member of the African American Heritage Commission, to serve the unexpired term of Stephen Blount, term to expire July 1, 2024,

or until Sherree Lucas' successor has been appointed. This motion was seconded by Councilwoman Mosley and carried unanimously.

RESOLUTION BOOK NO. 43 – PAGE 300

RESOLUTION NO. 22-230 - RESOLUTION APPOINTING A CHAIR TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Smith, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a Chair to the Alcoholic Beverage Control (ABC) Board.

The term of Jan Davis, as Chair of the ABC Board expires on November 13, 2022.

The ABC Board recommended appointing Max Haner or Robin Cape as Chair.

It was the consensus of the Boards & Commissions Committee, along with City Council, that the Boards & Commissions Committee interviewed Mr. Haner and Ms. Cape on October 11, after obtaining any other questions from City Council. After interviews, each Board and Commission member acknowledged the expertise of each candidate to serve, and ultimately, it was their consensus to recommend Robin Cape as Chair.

Vice-Mayor Smith moved to appoint Robin Cape as Chair to the ABC Board to serve at the pleasure of City Council. This motion was seconded by Councilwoman Turner and carried unanimously.

RESOLUTION BOOK NO. 43 – PAGE 301

RESOLUTION NO. 22-231 - RESOLUTION APPOINTING MEMBERS TO THE HUMAN RELATIONS COMMISSION

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

Michael Brown has resigned, thus leaving an unexpired term until June 1, 2023; and Susy Chandler has resigned, thus leaving an unexpired term until June 1, 2023. Also, Emma Worthy was removed from the Commission due to lack of attendance, thus leaving an unexpired term until June 1, 2023. In addition, Amanda Benson-Bremseth and Ashley Wilberding have resigned, thus leaving two unexpired terms until June 1, 2024.

The following individuals applied for the vacancies: Ellen Kathrein and Donald Post.

Vice-Mayor Smith moved to appoint Ellen Katherin and Donald Post as members of the Human Relations Commission, to serve the unexpired terms of Michael Brown and Emma Worthy, terms to expire June 1, 2023, or until their successors have been appointed; and to readvertise for other three vacancies. This motion was seconded by Councilwoman Kilgore and carried unanimously.

RESOLUTION BOOK NO. 43 – PAGE 302

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Several individuals spoke to City Council about various things, some being, but are not limited to: an update on the Realignment Working Group; the need for dedicated pickleball courts and nets; and an offer to assist the community with the opioid crisis.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:19 p.m.

CITY CLERK

MAYOR