

Tuesday – January 10, 2023 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sheneika Smith; Councilwoman Maggie Ullman; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: Councilwoman Sage Turner (participating via speaker phone - not voting; and not included in the calculation of quorum, pursuant to City Council Rule of Procedure 36(b).

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 13, 2022**
  
- B. MOTION ADOPTING THE 2023 BUDGET CALENDAR**

**Action Requested:** Adoption of a motion to adopt the Fiscal Year 2023-24 (FY24) Budget Calendar.

**Background:**

- As a part of the Fiscal Year 2023-24 operating and capital budget development process, staff is proposing the calendar for City Council and Council Committee meetings.
- Staff have already begun work to develop estimates for ongoing cost to deliver existing programs and services, needed capital infrastructure and facility investments, and major revenue sources.
- In addition to meeting the statutory requirement that City Council adopt a balanced budget before July 1, 2023, the FY24 budget process is intended to align the budget with ongoing organizational work planning efforts, City Council priorities, and community input.
- The process culminates with the following actions as required by state law:
  - Formal presentation of the City Manager’s Proposed Budget on May 9, 2023.
  - A public hearing on the Proposed Budget on May 23, 2023.
  - Budget adoption on June 13, 2023.

**Council Goal(s):**

- A Financially Resilient City
- A Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- Provides City Council, staff, and the community with a calendar of upcoming dates related to development of the FY24 budget.

**Con(s):**

- None.

**Fiscal Impact:**

- None.

**Motion:**

- Motion to adopt the Fiscal Year 2023-24 Budget Calendar.

Grace Barron-Martinez was concerned that there was only one opportunity for public comment before adoption. This is not transparency and we need participatory budgeting.

**C. RESOLUTION NO. 23-1 - RESOLUTION TO RATIFY THE EXECUTION OF A CONTRACT WITH DAIKIN APPLIED AMERICAS INC. FOR SAFETY REPAIRS TO THE HVAC SYSTEM AT HARRAH'S CHEROKEE CENTER - ASHEVILLE**

**Action Requested:** Adoption of a resolution ratifying the execution of a contract with Daikin Applied Americas Inc. in the amount not to exceed \$165,600 for HVAC emergency repairs and upgrades at Harrah's Cherokee Center-Asheville.

**Background:**

- The Harrah's Cherokee Center-Asheville (HCCA) completed the first phase of an HVAC modernization project in Spring of 2020.
- This included installation of 10 new air handler units, new boiler systems and additional support infrastructure.
- During the initial installation and testing of the project staff raised concerns and immediately after close out of the project, staff concerns were confirmed as cooling issues were prevalent at all shows between close out of the project and COVID shut downs in March of 2020.
- HCCA and Capital Projects Department staff began working with design and construction teams to rectify the issues.
- March 2020, COVID pandemic shut down the event industry, making it nearly impossible to test changes and adjustments to the system in a 'life like' environment.
- In August of 2021, the HCCA 're-opened' to large-scale events with immediate HVAC issues related to cooling the facility with large crowds.
- After adjustments made throughout the COVID closure the facility continued to be unable to adequately cool the space during larger shows.
- As a result, HCCA staff began supporting concerts with significantly more medical staff support, and adding more and free access to water for guests to help combat challenges with overheating and exhaustion.
- In the course of 14 months three of the ten new air handler units have failed, as well as numerous portions of support infrastructure down the line.
- Recently at a concert in December 2022 staff hired a third party company to assess the 'in show' conditions, finding the arena floor to be over 80 degrees, while the balcony seating areas were 62 degrees.
- The company provided an outline of immediate repairs and enhancements that could be made to create more balance in the systems.
- Following the emergency bidding process, HCCA staff found a company able to conduct the suggested repairs and enhancements.
- Due to a break in large scale events in late January & early February 2023, the work could be conducted almost immediately if the project was approved.
- After consultation with the Legal, Purchasing and Capital Projects departments and approval from the City Manager the project was approved on December 15th for the contractor to begin ordering equipment and planning for the work.

- Work will begin on January 9, 2023.

**Vendor Outreach Efforts:**

- Staff followed all City emergency procurement policies and completed ABI requirements
- No Minority & Women-Owned Business Enterprise service providers responded.
- Of three providers, only one responded with pricing and availability to complete the work in the necessary time window available.

**Council Goal(s):**

- Financially Resilient City
- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Allows for a more efficient cooling system prior to the spring concert season beginning in March.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution ratifying the execution of a contract with Daikin Applied Americas Inc. in the amount not to exceed \$165,600, for HVAC repairs and upgrades at Harrah's Cherokee Center-Asheville.

**RESOLUTION BOOK NO. 43 - PAGE 391**

- D. ORDINANCE NO. 4991 - ORDINANCE TO REDUCE THE TOTAL NUMBER OF MEMBERS ON THE HUMAN RELATIONS COMMISSION OF ASHEVILLE FROM 15 TO 9, RETAINING EXISTING MEMBERS UNTIL THEIR PRESENT TERM EXPIRES, RESIGNATION OR REMOVAL; AND TO ALLOW UP TO 3 MEMBERS TO BE NON-CITY RESIDENTS WHO CURRENTLY RESIDE WITHIN BUNCOMBE COUNTY**

**Actions Requested:** Adoption of an ordinance to 1) reduce the total number of members on the Human Relations Commission of Asheville from 15 to 9, 2) retaining existing members until their present term expires, resignation, or removal; and to 3) allow up to 3 members to be non-city residents who currently reside within Buncombe County.

**Background:**

- The HRCA was established by Ordinance 4663 in July of 2018.
- In July 2017, the City Council established The Blue Ribbon Committee (BRC) Task Force and charged the task force with developing the mission, duties, and membership structure of the HRCA.
- The BRC's final recommendations included a 15-member board of city residents.
- In September 2022, City Council amended the Ordinance to remove membership quotas and expand the list of groups to outreach for appointment.
- The HRCA is currently a 15-member commission.

- The HRCA has not met its full 15 person membership since February 2022, just prior to some resignations and removals for non-attendance.
- The Commission has struggled to fill vacancies with active members.
- On October 20, 2022, the HRCA voted unanimously to recommend an update to the Ordinance reducing total membership to 9, retaining existing members until roll-off or resignation (currently 11 of 15 filled).
- The current establishing ordinance for the HRCA also requires that members be residents of the City in order to be eligible to serve on the commission.
- Providing some allowance for non-city residents to serve would help alleviate the difficulties in filling the full commission membership.

**Committee(s):**

- HRCA - October 20, 2022 - Voted 7-0 to recommend amending ordinance to reduce membership from 15 to 9, retaining existing members.
- Boards & Commissions Committee - November 15, 2022 - Voted 2-1 to move forward to City Council

**Pros:**

- Reducing total membership makes it easier to make quorum.
- Allowing some non-city residents helps alleviate difficulties in filling the full membership.

**Cons:**

- Reduced total membership requires further recruitment efforts to maintain diverse representation on the commission.

**Fiscal Impact:**

- This action requires no additional City resources and has no fiscal impact.

**Motions:**

- Move to recommend amending Ordinance 4663 to change the Human Relations Commission of Asheville to a 9-member board; and to allow up to 3 members to be non-city residents who currently reside within Buncombe County.

**ORDINANCE BOOK NO. 34 - PAGE 321**

**E. RESOLUTION NO. 23-2 - RESOLUTION SETTING A PUBLIC HEARING ON FEBRUARY 14, 2023, TO CONSIDER CLOSING AN UNOPENED RIGHT-OF-WAY CONNECTING TO THE EAST SIDE OF BUNCOMBE STREET BETWEEN COMMERCE STREET AND ASTON STREET, AND DECLARING ITS INTENT TO CLOSE THIS RIGHT-OF-WAY**

**Action Requested:** Adoption of a resolution of intent to permanently close an unopened right-of-way connecting to the east side of Buncombe Street between Commerce Street and Aston Street, associated with the Central United Methodist Church, and to schedule a public hearing on such closure for February 14, 2023.

**Background:**

- North Carolina General Statute § 160A-299 grants cities the authority to permanently close streets and alleys.
- The statute requires City Council to consider whether the closure of the right-of-way has a negative impact to the public interest and whether the closure would impede access to parcels, utilities, and other public infrastructure.

- Central United Methodist Church of Asheville has submitted an application requesting to permanently close an unopened right-of-way connecting to the east side of Buncombe Street between Commerce Street and Aston Street.
- The subject right-of-way serves as the driveway in/out of the church's private parking lot.
- There are no utility conflicts, nor any transportation connectivity opportunities associated with this unopened right-of-way.

**Council Goal(s):**

- A Well-Planned and Livable Community.

**Committee(s):**

- Technical Review Committee - 11/7/22 - unanimously recommended approval
- Multimodal Transportation Commission - 12/7/22 - unanimously recommended approval

**Pro(s):**

- There are no utility conflicts, nor any transportation connectivity opportunities associated with this unopened right-of-way.

**Con(s):**

- None.

**Fiscal Impact:**

- This action requires no (additional) City resources and has no fiscal impact.

**Motion:**

- Motion to adopt a resolution to set a public hearing for February 14, 2023, to permanently close an unopened right-of-way connecting to the east side of Buncombe Street between Commerce Street and Aston Street, associated with the Central United Methodist Church.

**RESOLUTION BOOK NO. 43 - PAGE 392**

**F. RESOLUTION NO. 22-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO THE CONTRACT WITH MOTOROLA SOLUTIONS INC. TO ADD ADDITIONAL STATION ALERTING EQUIPMENT AT THE BROADWAY PUBLIC SAFETY STATION**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a change order to the contract with Motorola Solutions, Inc. to add additional station alerting equipment at the Broadway Public Safety Station in the amount of \$11,941.20.

**Background:**

- The Asheville Fire Department utilizes the Mach Alert system to perform station alerting at the City's fire stations.
- Council Resolution No. 22-14 authorized a contract with Motorola Solutions, Inc. as a sole source provider of station alerting equipment to extend the Mach Alert system to the new Fire Station 13 at the Broadway Public Safety Station.
- In situations that require integration into an existing network, sole source contracts are necessary to maintain continuity with existing systems.
- This is the case with this citywide emergency alerting system.
- The Fire Department has requested additional alerting equipment in order to improve emergency response.
- The current contract value is \$145,691.00. There have been no previous change orders.

- This change order in the amount of \$11,941.20 will increase the contract to a revised value of \$157,632.20.

**Vendor Outreach Efforts:**

- Not applicable - sole source procurement.

**Council Goal(s):**

- Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- The station alerting system is a critical component of fire emergency response.
- The requested equipment will extend visual and audible alerts to additional spaces within the building.

**Con(s):**

- The additional expense will require use of project contingency.
- The competitive pricing advantage can be lost with sole source procurement.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a change order to the contract with Motorola Solutions, Inc. to add additional station alerting equipment at the Broadway Public Safety Station in the amount of \$11,941.20.

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**G. RESOLUTION NO. 22-4 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE GRANT AGREEMENTS WITH THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR TOURISM PRODUCT DEVELOPMENT GRANT FUNDS**

**ORDINANCE NO. 4992 - BUDGET AMENDMENT FROM THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY TOURISM PRODUCT DEVELOPMENT FUNDS FOR THE SWANNANOA RIVER GREENWAY, COXE AVENUE GREEN STREET, ASHEVILLE MUNICIPAL GOLF COURSE REVITALIZATION PHASE I AND WNC NATURE CENTER - GATEWAY TO SOUTHERN APPALACHIANS ENHANCEMENT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into grant agreements with the Buncombe County Tourism Development Authority (TDA) for Tourism Product Development Fund (TPDF) grants in the total amount of \$6,458,425; and adopt the associated budget amendments to the City's capital budget incorporating the funds into the appropriate project budgets.

**Background:**

- Four capital improvement projects were submitted to the TDA for funding consideration in their 2022 funding cycle.
- All four project applications received TPDF funding in the following amounts:

- Coxe Ave - \$1,950,000
- Asheville Municipal Golf Course Revitalization - \$1,641,425
- Swannanoa River Greenway - \$2,300,000
- WNC Nature Center Enhancements - \$567,000
- The total TPDF grant award through this round of funding is \$6,458,425.
- All projects selected for TPDF funding have been funded previously or are planned in the City's Capital Improvement Program (CIP), and have a significant connection to tourism development in the City of Asheville.
- The grant funds awarded to these projects supplement existing project budgets and help to ensure that the projects are completed as envisioned and presented to the granting agency.
- The grants require that certain promotional activities occur throughout the duration of the grant and associated project.
- Project managers in coordination with other City staff will ensure that all of the requirements of the grant are met including but not limited to providing the necessary information to request reimbursement from the grantor at the time designated in the grant.

**Vendor Outreach Efforts:**

- Vendor outreach is not applicable when applying for grant funds.
- The appropriate vendor outreach will be conducted to ensure that all requirements and expectations are met in the procurement of services required to complete the projects which these grant funds support.

**Council Goal(s):**

- A well planned and livable community
- Equitable and diverse community
- Transportation and accessibility
- Thriving local economy
- Financially resilient city

**Committee(s):**

- For the approval of these grant awards no committees were engaged.
- City Council received a presentation from staff on the projects that would be submitted for funding, and positive feedback was provided.
- The projects, throughout their development, have been reviewed by the various and appropriate committees.

**Pro(s):**

- Accepting these funds supplements existing budgets which helps to complete the projects as envisioned.
- The projects are all currently budgeted or planned and can be constructed with the funding that is available through these grants and the existing capital budgets.

**Con(s):**

- There are no cons to accepting the funds provided by these grants.
- The projects supported by these grants typically create some level of disruption to the community.

**Fiscal Impact:**

- The required matching funds for these grants were previously budgeted in the General Capital Projects Fund or are planned for in the CIP.

**Motion:**

- Motion authorizing the City Manager to enter into agreement with the Buncombe County Tourism Development Authority for Tourism Product Development Fund grants in the total amount of \$6,458,425; and to adopt the associated budget amendment to the City's capital budget incorporating the funds into the appropriate project budgets.

Jonathan Wainscott felt that we should not be using these funds for greenways, Coxe Avenue improvements, etc. but instead we should be using these funds for proper maintenance of the water system; however, he understands that the City has to follow the rules under the N.C. Legislature.

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ORDINANCE BOOK NO. 34 - PAGE 323**

**H. RESOLUTION NO. 23-5 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH EQUINOX ENVIRONMENTAL CONSULTATION AND DESIGN FOR THE SWANNANOA RIVER GREENWAY PHASE II**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a professional services contract amendment with Equinox Environmental Consultation and Design (Equinox) of Asheville for the project known as the Swannanoa River Greenway Phase II, in the amount of \$108,359.40 increasing the total contract amount to \$758,402.70.

**Background:**

- The City of Asheville entered into a design contract with Equinox in July 2018 for a feasibility analysis of potential greenway routes within the Swannanoa River area.
- The original contract and the first two amendments included project extents from Thompson at Glenn Avenue to the river side of the intersection at Swannanoa River Rd.
- Major scope changes associated with amendment number three included the connection to and modification of the Bleachery Blvd. roundabout to improve the transition from the greenway to the bridge trail crossing.
- Amendment four preserved the scope of the project through construction drawings up to the Bleachery bridge with the addition of lighting.
- Other additions in amendment four included the analysis and design of the entire intersection at Bleachery and Swannanoa River Rd.
- Although amendment four added the scope of the intersection design, the requirement for this intersection design work and the work on the bridge were reduced to 65%.
- This reduction in design requirements was done in anticipation of not having proper funding to build this portion of the project.
- Additional funding was recently received through the Buncombe County Tourism Development Authority's Tourism Product Development Fund grant program to complete the entire, revised project scope.
- As a result of this new grant funding, amendment five is required to add design services for the bridge and Swannanoa River Road intersection through project bidding.
- Amendment five will allow for design work to be completed for all of the entirety of the project scope and allow for the project to be bid and built.
- Completion of the design work under this contract amendment is expected to take several months, following which a final North Carolina Department of Transportation review will result in bidding for construction in summer 2023.
- Construction is anticipated to span approximately 9-12 months.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses on August 28, 2017, through solicitation processes using the State's Interactive Purchasing System and



requesting prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.

- There are no minority or women owned businesses on this consultant team.

**Council Goal(s):**

- Enhances alternative transportation goals and vision.
- Provides safe travel ways.

**Pro(s):**

- Increases access to the City's growing inventory of greenways
- Works towards defining Asheville as a recreation destination

**Con(s):**

- Eventual construction will be disruptive to the area.
- Total design fees for this project are higher than standard when the subject bridge design scope is added.
- The anticipated construction costs for the subject bridge improvements are over \$400,000.

**Fiscal Impact:**

- Funding for this contract is currently budgeted in the General Capital Projects Fund. The City has also been awarded funds from the Buncombe County Tourism Development Authority in the amount of \$2,300,000.

**Motion:**

- Motion authorizing the City Manager to execute a professional services contract amendment with Equinox Environmental Consultation and Design (Equinox) of Asheville for the project known as the Swannanoa River Greenway Phase II, in the amount of \$108,359.40 increasing the total contract amount to \$758,402.70.

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

Councilwoman Roney moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Smith and carried unanimously.

**III. PRESENTATIONS & REPORTS:**

**A. MANAGER'S REPORT - RECOGNITION OF SANITATION WORKERS FOR ASSISTING RESIDENTS IN NEED**

City Manager Campbell said that City of Asheville employees are heroes in many ways. We want to acknowledge their exemplary work all of the time, but especially when employees do something extraordinary. Tonight, we recognize Public Works Sanitation Employees Bryant Williams, Homar Rodriguez, & Stephen (Sean) McAllister. She said last month this crew stopped and helped a couple that was being harassed by a man while walking their dog in West Asheville. Homar and Bryant ran interference between the couple and the man and waited with him until the Asheville Police Department (APD) arrived. Sean gave the couple a ride back home while APD was contacted. APD stated that they had already dealt with this individual earlier that day. The employees were nominated and voted by their peers this week for Public Works employees for the month of December. Bryant Williams has served in several roles, including working with our Water Department, then the Streets Division of Public Works, and finally with Sanitation. He was recently recognized by the North Carolina Chapter of the American Public Works Association

(APWA) as the top Solid Waste Employee in our entire state. Homar Rodriguez is a proven Sanitation employee who has been nominated twice for Employee of the Month. His work ethic and dedication to the job are just as undeniable as his spirit. Stephen (Sean) McAllister rides on a rear packer with the crew and collects yard waste and trash. He has only been with the city since September 2022, but he is on his way to becoming a full-time employee.

On behalf of the City of Asheville, City Manager Campbell thanked Bryant, Homar and Sear for their dedication to the City of Asheville and the public.

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

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

Councilwoman Smith moved to continue the public hearing relative to adoption of the South Slope: A Southside Neighborhood Vision Plan until February 28, 2023. This motion was seconded by Councilwoman Mosley and carried unanimously.

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

##### **A. ORDINANCE NO. 4993 - ORDINANCE AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES RELATED TO YARD WASTE COLLECTION TO PROHIBIT PLASTIC BAGS FOR CURBSIDE AND LEAF COLLECTION, EFFECTIVE AUGUST 1, 2023**

Sustainability Director Bridget Herring said that this is the consideration of an ordinance amending Chapter 15, Solid Waste Management, of the Code of Ordinances related to yard waste collection to prohibit plastic bags for curbside brush and leaf collection, effective August 1, 2023.

#### **Background:**

- In Spring 2018, the Public Works Sanitation Division began accepting biodegradable paper yard waste bags in brush and leaf collection operations.
- In Fall 2018, the City began an ongoing campaign to promote the use of paper bags and reusable containers in brush and leaf collection operations.
- In March 2022, the Sustainability Advisory Committee on Energy and the Environment (SACEE) was asked to review and make recommendations on a plastic reduction policy followed by a presentation to the Council Governance Committee.
- 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.
- At the September 14, 2022, Governance Committee meeting, the committee voted 3-0 to recommend to the full City Council a phased plastic reduction strategy.
- At the October 11, 2022, City Council meeting, Council voted 7-0 to direct staff to revise City Code to prohibit plastic bags for curbside leaf and brush collection as Phase 1 of a plastics reduction strategy.

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

- A Clean and Healthy Environment

#### **Committees(s):**

- Sustainability Advisory Committee on Energy and the Environment, July 20, 2022, voted 7-0 to support prohibition of plastic bags for brush/leaf collection

- Governance Committee, September 14, 2022, voted 3-0 to recommend to the full City Council a phased plastic reduction strategy

**Pro(s):**

- Implements phase one of the plastic reduction strategy as adopted by City Council by eliminating the use and disposal of approximately 120,000 bags annually
- Supports Council [Resolution 14-27](#) to reduce waste by 50% by 2035
- Addresses 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.
- Builds 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 Public Works Sanitation Division.

**Con(s):**

- 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 as or less than plastic lawn bags.
- Alternatively, residents may choose to make a one-time purchase of reusable containers of \$20-\$30 for infinite use.

**Fiscal Impact:**

- Funding in the amount of \$20,000 has been identified within the Public Works Department operating budget to support implementation of the plastic leaf bag ban.
- Funding will be used for education and outreach about the ordinance change and for the one-time purchase and distribution of 30,000 leaf bags to residents. Education and outreach materials have already been created and are scheduled to be deployed through the Communications and Public Engagement Department.
- Paper bags may cost up to \$0.10 more per bag than some plastic bags.

When Councilwoman Ullman asked if we have any data updates on how this effort contributes to reducing our waste by 50% by 2035, Ms. Herring said that that information is available and would provide it to City Council.

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

Councilwoman Ullman moved to adopt an ordinance amending Chapter 15, Solid Waste Management, of the City Code of Ordinances related to yard waste collection to prohibit plastic bags for curbside brush and leaf collection, effective August 1, 2023. This motion was seconded by Councilwoman Roney and carried unanimously.

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**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 23-6 - RESOLUTION ADOPTING THE 2023 CITY COUNCIL LEGISLATIVE AGENDA**

City Attorney Brad Branham said that this is the consideration of adoption of a resolution approving the 2023 Legislative Agenda and direction to share with Asheville's Local Delegation.

**Background:**

- The 2023 legislative long session of the North Carolina General Assembly commenced in January of this year.
- Historically, the City Council has adopted a legislative agenda to provide direction to our local delegation on those priorities for local or general legislation which the City wishes to pursue.

**Council Goal(s):**

- A Financially Resilient City
- An Equitable & Diverse Community
- Transportation & Accessibility

**Committee(s):**

- Policy, Finance and Human Resources - January 10, 2023

**Pro(s):**

- Provides direction to our local delegation on Council's legislative priorities, and serves as a starting point for presentation of potential general and local acts which would benefit the City.

**Con(s):**

- None.

**Fiscal Impact:**

- None.

He briefly outlined the legislative agenda as follows: (1) oppose legislation which would limit municipal authority to reasonably regulate residential properties being utilized as short term vacation rentals; (2) support legislation that would create new tools and increased incentives and subsidies, as well as dedicated funding, for the development of affordable housing, especially in the State's largest metropolitan areas where this issue is most dire; (3) oppose legislation which would remove or limit municipal authority to utilize conditional zoning for land development applications; (4) support legislation that would allow differential property tax treatment of owner-occupied properties as opposed to second homes and income producing properties, and increase the opportunities for low income, elderly and homestead taxation exemptions; (5) support legislation to amend the North Carolina Fair Housing Act to include "Source of Income/Funds" as a protected characteristic; (6) support legislation that would authorize civilian investigators to act as the first responders for certain traffic incidents; (7) support legislation that would empower local governments, remove barriers, and provide funding to support reparations at the state and local level; (8) support new funding that would address bacteria pollution in the French Broad River; and (9) support legislation to make clear authority for electronic meetings permanent and usable at the discretion of local governments.

Councilwoman Roney thanked the Human Relations Commission for their recommendation around protection from Source of Income/Funds discrimination, including comments and public engagement by those with lived experience.

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

Councilwoman Roney moved to adopt a resolution to approve the 2023 City Council Legislative Agenda and to direct the City Attorney to provide the resolution to the members of our local delegation. This motion was seconded by Vice-Mayor Kilgore and carried unanimously.

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**C. RESOLUTION NO. 23-7 - RESOLUTION ESTABLISHING AN INDEPENDENT REVIEW COMMITTEE FOCUSED ON REVIEWING THE WATER OUTAGE; TO ASSESS INFRASTRUCTURE NEEDS AND THE CITY'S RESPONSE; AND TO DETERMINE WHAT CAN BE DONE TO MAXIMIZE PREVENTION OF FUTURE ISSUES AND IMPROVE RESPONSE EFFORTS**

City Manager Campbell outlined the key takeaways for this presentation (1) A series of events associated with sub-freezing temperatures in December 2022 led to water outages in the southern and western portions of Asheville's water system for an extended period of time disrupting the lives of our residential, institutional, and business customers; (2) Numerous factors associated with the complexities of Asheville's water system contributed to the outage, we regret this happened and are taking immediate and long-term steps to prevent and minimize impacts from occurring again during future events; (3) Throughout the response to the service outages, the primary basis for decision making was ensuring the provision of safe drinking water to our customers; (4) The City Council is creating an independent review committee to review and provide a comprehensive account of the water outage, assess the operational and emergency response and communication efforts, and recommend infrastructure and procedural enhancements; (5) The \$72.8 million five-year Water Capital Improvement Program (CIP) includes planned investments to enhance existing infrastructure; and (6) Water Department operations and the Water CIP will be reevaluated based on recommendations of the independent review committee.

Director of Water Resources David Melton gave a water system overview of the water system treatment (1) Three water treatment plants: North Fork (in Black Mountain), William DeBruhl (in Swannanoa), and Mills River (in Henderson County); (2) produces a combined average of 31.5 million gallons per day; (3) 156,000 water customers served; and (4) 183 square mile service area. Regarding the water system distribution, (1) 1,700 miles of six-inch or larger lines; (2) 36 storage tanks providing 21 million gallons of capacity; (3) 60,000+ meters, 18,000+ valves, and 41 pump stations; and (4) combination of gravity fed and pumping zones (a) 54 different pressure zones; and (b) system pressures can exceed 400 psi and average 170 psi. He showed a picture of the sample water supply distribution system; along with a water map for our distribution system.

Mr. Melton then reviewed with Council the incident timeline, beginning with December 24 with water line breaks - public and private - beginning to occur; the Mills River Water Treatment Plant (WTP) begins to experience issues; and North Fork WTP increases production - through January 4 when the Boil Water Advisory was listed for the western area (entire system). He said that from December 25 through December 31 they identified and repaired 27 large water line breaks.

Assistant City Manager Ben Woody then reviewed the communications timeline (1) Communications were sent on multiple platforms, often simultaneously - AVL alerts, social media, website updates, press releases/conferences; (2) Communication between **12/25-1/4**: 38 AVL Alerts; 118 social media posts across Facebook, Twitter and Instagram; 276,572 total web page views; 204,174 unique web page views; 12 press releases; 6 press conferences; Council updated via AVL alerts, on 12/27 with email from the City Manager, and press releases; and (3) Neighborhood Outreach between **12/28-1/4**: Posts to NextDoor; Emails sent to more than 90 Neighborhood Contacts; Direct contact to community leaders; and Neighborhood Leaders shared information through their networks. Communications started on December 21 - January 6, 2023.

Mr. Woody said that the immediate after action includes (1) Forming independent review committee; (2) Finalizing internal assessment of events to provide data to independent review

committee; (3) Replacing, sealing, or enclosing equipment or components to further maintain heat and prevent moisture intrusion; (4) Replacing and relocating chemical lines to create redundancies; (5) Providing additional insulation to outside chemical lines and where lines pass through a wall; and (6) Requesting manufacturer provide site visits to check equipment.

He said the post committee review next steps will include (1) Incorporate analysis from the independent review committee: (a) Consider and prioritize operational changes; and (b) Construct and/or install equipment and infrastructure improvements; (2) Implement lessons learned from this event into the Continuity of Operations Plan and Emergency Operation Plan and provide training to staff; and (3) Review and make associated revisions to the Water Capital Improvement Program.

Regarding the independent review committee, Mr. Woody said the proposed committee scope will be to (1) Review the recent prolonged water outage to provide a comprehensive account of the event; (2) Assess the City's operational and emergency response and communication efforts; and (3) Review and analyze infrastructure needs, process and policy changes to be implemented to maximize prevention of future events and improve communication, emergency response, and mitigation processes. The committee's composition will be (1) Nine members with multi-disciplinary backgrounds: Two residential water customers; One commercial water customer; One emergency response professional; Two communications professionals; and Three subject matter experts in public water systems; and (2) Two appointments made by the Buncombe County Commission; remaining made by City Council. The proposed committee timeline will be (1) **Jan. 3** - Press Conference announcing Committee and update provided to County Commission; (2) **Jan. 10** - City Council establishes Committee; (3) **Jan. 24** - City Council appoints Committee members ; (4) **Feb. 7** - County Commission appoints Committee members; (5) **30 days from establishment (mid to late February)** - Committee to engage an expert, begin development of findings and recommendations, and share updates to City Council; and (6) **90 days from establishment (mid May)** - Committee to provide a final written report and presentation to City Council.

The following resolution was presented: "WHEREAS, in December of 2022, the City of Asheville experienced several days of extraordinarily low temperatures, causing water pipes to freeze and break and related infrastructure to fail; and WHEREAS, the damage to this system resulted in numerous customers of the City's Water Department to go without water for extended periods of time; and WHEREAS, the City of Asheville initially devoted all available resources, as well as coordinating assistance from community and local government partners, to fully restore service to all people and businesses; and WHEREAS, upon completing these restoration efforts, and because the City of Asheville cares deeply about our community's well being and the impacts this outage has had on our residents, their families and businesses, City Council now desires to establish a multidisciplinary and independent review committee to review the water outage in order to assess infrastructure needs and the City's response; and to determine what can be done to maximize prevention and improve response and communication efforts in the case of future events; and WHEREAS, because this water outage also impacted customers who do not reside in the City limits, the independent review committee will include appointees from Buncombe County; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: (1) City Council hereby establishes an independent review committee to analyze the events and circumstances leading up to, and throughout the duration of, the recent prolonged water outage. This committee shall review the water outage in order to provide a comprehensive account of the event, an assessment of the City's operational and emergency response and communication efforts, and an analysis of needed infrastructure and process and policy changes that, if implemented, would maximize prevention of future events and improve communication, emergency response, and mitigation processes; (2) The committee shall be composed of nine members with multidisciplinary backgrounds to include the following position classifications: Two Residential Water Customers, One Commercial Water Customer, One

Emergency Response Professional, Two Communications Professionals, and Three Subject Matter Experts in Public Water Systems. Two appointments shall be made by the Buncombe County Commission, and the remaining appointments shall be made by the Asheville City Council; (3) The committee shall engage an expert to prepare an initial report regarding the findings and recommendations of the committee, with updates on this process being shared with the City Council within 30 days of the committee being established; (4) The Committee shall provide a final report, including the written report of the committee's contracted expert, with the City Council within 90 days of the committee being established; and (5) Thereafter, upon completion of the assigned review, presentation of its report, and fulfillment of any related tasks assigned by the City Council, the commission shall dissolve."

Discussion was held throughout the presentation. Mr. Woody, Mr. Melton and Fire Chief Scott Burnette responded to various questions/comments from Council, some being, but are not limited to: request for a more detailed overview of the incident timeline; what was the City's role and timeline for delivery of non-potable water and drinking water; need to address gaps in emergency communication for people speaking different languages and the hearing impaired; AVL Alert hit rate of people that responded indicating they received the alert; confirmation that the City is updating their Continuity of Operations Plan and Emergency Operations Plan which contains a matrix to follow for emergency response; reason why the City did not issue a Boil Water Advisory for the entire City; need to establish protocol for internal communication and communication with elected officials; need to establish triggers for a press conference, press release, etc.; need to look at timelines for resident updates to provide predictability; suggestion to look at technology and processes for more real time information and more frequent communication with residents; need communication suggestions to reach commercial and residential customers who only rent the space or who are located in in apartment buildings; will the City be prepared in the upcoming months for additional adverse weather conditions; and what is the City's process for determining if our water system can handle more development. City Manager Campbell said that answers not readily available would be provided to City Council. Mayor Manheimer noted that these are some questions that she hoped the review committee will address.

Councilwoman Ullman move to adopt the resolution to establish an independent review committee focused on reviewing the water outage; to assess infrastructure needs and the City's response; and to determine what can be done to maximize prevention of future issues and improve response efforts. This motion was seconded by Councilwoman Smith.

Several individuals spoke to Council regarding this issue, with some comments being, but are not limited to: negative impact of having no water on customers; need to have renters and a emergency management recovery specialist as part of the committee; need for the City to implement any changes identified by the committee; what is the City's plan to make sure this water crisis does not happen again; need to have plans in place for neighborhood coordination, maintenance and distribution of supplies, accessibility to emergency shelters, etc. in case of a catastrophic event; disappointment that the City cannot charge a differential rate for water customers in the County due to state legislation that only applies to Asheville; will water customers be compensated for the loss of water; and all communications must be in Spanish, at a minimum.

Mayor Manheimer explained the history of unique restraints the City has on how it funds the water system.

When Councilwoman Roney asked for a friendly amendment to the resolution to include a disaster specialist, it was the consensus of Council to have the membership revised to one emergency response/disaster preparedness professional.

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

Councilwoman Ullman and Councilwoman Smith both accepted the friendly amendment by Councilwoman Roney to revise the membership to reflect one emergency response/disaster preparedness professional.

The revised motion made by Councilwoman Ullman and seconded by Councilwoman Smith and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 402**

**D. RESOLUTION NO. 23-8 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE CITY SCHOOLS BOARD OF EDUCATION**

Mayor Manheimer said that Peyton O’Conner has resigned from the Asheville City Board of Education, thus leaving an unexpired term until April 1, 2025. It was the consensus of City Council to interview the four candidates who ran for a seat on the Asheville City Schools Board of Education in November and were unsuccessful. City Council interviewed Miri Massachi, Jesse Warren, William Henry Young Jr. and Jose Acebo earlier in the day.

Councilwoman Roney noted the democratic process and the ACAE/BCAE endorsements.

After making positive comments on all candidates, Miri Massachi received no votes; Jesse Warren received 5 votes; William Henry Young Jr. received no votes; and Jose Acebo received 1 vote. Therefore, Jesse Warren was appointed as a member of the Asheville City Schools Board of Education to serve the unexpired term of Peyton O’Conner, term to expire April 1, 2025, or until Jesse Warren’s successor is appointed.

**RESOLUTION BOOK NO. 43 – PAGE 404**

**E. BOARDS & COMMISSIONS**

Regarding the Asheville Area Riverfront Redevelopment Commission, no eligible applications were received for the district business or property owner. Therefore, it was the consensus of the Boards & Commissions Committee and City Council to re-advertise for the two vacancies.

Regarding the Audit Committee, no Certified Public Accountants were received. Therefore, it was the consensus of the Boards & Commissions Committee and City Council to re-advertise for the two vacancies.

**RESOLUTION NO. 23-9 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

Vice-Mayor Kilgore, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Adjustment

The terms of Carter Webb and Elliot Smith, both regular members, will expire on January 21, 2023.

The following individual applied for the vacancies: Annette Wise. Current Alternate member Chris Fundanish is interested in moving into a Regular seat.



The Chair of the Board of Adjustment recommended, and the Boards & Commissions Committee concur, to reappoint Elliott Smith as a Regular Member and appoint Chris Fundanish as a Regular Member and Antenne Wise as an Alternate member (to fill Chris Fundanish's Alternate seat) until January 21, 2024.

Vice-Mayor Kilgore moved to (1) reappoint Elliott Smith as a regular member of the Board of Adjustment, to serve a three-year term, term to expire January 21, 2026, or until Elliott Smith's successor has been appointed; (2) appoint Chris Fundanish as a regular member of the Board of Adjustment, to serve a three-year term, term to expire January 21, 2026, or until Chris Fundanish's successor has been appointed; and appoint Annette Wise as an alternate member, to fill the unexpired alternate term of Chris Fundanish, until January 21, 2024, or until Annette Wise's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 405**

**RESOLUTION NO. 23-10 - RESOLUTION APPOINTING A MEMBER TO THE HISTORIC RESOURCES COMMISSION**

Vice-Mayor Kilgore, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Historic Resources Commission.

Shelly Jackson has resigned as a member of the Historic Resources Commission, thus leaving an unexpired term until July 1, 2024.

The following individual applied for the vacancy: Alexander Ellenbogen.

The Chair of the Historic Resources Commission and staff liaison recommended, and the Boards & Commissions Committee concurred, to appoint Alexander Ellenbogen.

Vice-Mayor Kilgore moved to appoint Alexander Ellenbogen as a member of the Historic Resources Commission, to serve the unexpired term of Shelly Jackson, term to expire July 1, 2024, or until Alexander Ellenbogen's successor has been appointed. This motion was seconded by Councilwoman Ullman and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 406**

**RESOLUTION NO. 23-11 - RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE**

Vice-Mayor Kilgore, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Homeless Initiative Advisory Committee.

Jason Desai has resigned, thus leaving an unexpired term until November 1, 2023.

The following individuals applied for the vacancies: Elena Mansour, William Hanson, Cristy Streeter, Luke Rose, Jason Picking, Celeste Ordiway and Sarah Frances Edgens.

The Nominating Committee of the Homeless Initiative Advisory Committee recommended, and the Boards & Commissions Committee concurred, to appoint Celeste Ordiway.

Vice-Mayor Kilgore moved to appoint Celeste Ordiway as a member of the Homeless Initiative Advisory Committee, to serve the unexpired term of Jason Desasi, term to expire November 1, 2023, or until Celeste Ordiway's successor has been appointed. This motion was seconded by Councilwoman Smith and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 407**

**RESOLUTION NO. 23-12 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT**

Vice-Mayor Kilgore, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Metropolitan Services District (MSD) Board.

The term of Esther Manheimer expires on January 19, 2023.

The following individuals applied for the vacancy: Jennifer Thomas and Chris Day.

The Boards & Commissions Committee recommended reappointment of Esther Manheimer.

Vice-Mayor Kilgore moved to reappoint Esther Manheimer as a member of the MSD Board, to serve an additional three-year term, term to expire January 19, 2026, or until Esther Manheimer's successor has been appointed. This motion was seconded by Councilwoman Smith and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 408**

**RESOLUTION NO. 23-13 - RESOLUTION APPOINTING A MEMBER TO THE MULTIMODAL TRANSPORTATION COMMISSION**

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

John Bausone (transit representative) resigned as a member of the Multimodal Transportation Commission, thus leaving an unexpired term until July 1, 2024.

The following individuals applied for the vacancy: Joseph Chesler, Elyse Marder and Abigail Griffin.

The Multimodal Transportation Commission recommended, and the Boards & Commissions Committee concurred, to appoint Joseph Chesler.

Vice-Mayor Kilgore moved to appoint Joseph Chesler as a member of the Multimodal Transportation Commission (transit representative), to serve the unexpired term of John Bausone, term to expire July 1, 2024, or until Joseph Chesler's successor has been appointed. This motion was seconded by Councilwoman Smith and carried unanimously.

**RESOLUTION BOOK NO. 43 – PAGE 409**

**RESOLUTION NO. 23-14 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

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

The terms of Maggie Gulick, Anne E. Keller and Alison Ormsby (energy management experience) expired on December 31 2022. In addition, Anna Priest resigned, thus leaving an unexpired term until December 31, 2024. Due to inconsistencies in appointing to specific seats, it was the consensus of the Boards & Commissions Committee to make all appointments at-large.

The following individuals applied for the vacancy: Ashley Case, Alisha Goldstein, Mallory McConnell, Sophie Mullinax, Joel Osgood and Djuna Roberts.

The Chair and staff of SACEE recommend, and the Boards & Commissions Committee concur, to appoint Ashley Case, Alisha Goldstein, Sophie Mullinax and Joel Osgood.

Vice-Mayor Kilgore moved to (1) appoint Ashley Case, Alisha Goldstein and Joel Osgood, to each serve a three-year term, terms to expire December 31, 2025, or until their successors have been appointed; and (2) appoint Sophie Mullinax to fill the unexpired term of Anna Priest, term to expire December 31, 2024, or until Sophie Mullinax's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously.

#### **RESOLUTION BOOK NO. 43 – PAGE 410**

#### **RESOLUTION NO. 23-15 - RESOLUTION APPOINTING MEMBERS TO THE URBAN FORESTRY COMMISSION**

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

The terms of Ed Macie and Patrick Gilbert, as members on the Urban Forestry Commission expired on December 31, 2022..

The following individuals applied for the vacancy: Nick Biemiller, Chardin Detrich, Keaton Edwards, Patricia Grace, Alex Kirby, Alvin Ward Peacock Jr. and Tara Wu.

The Urban Forestry Commission recommended, and the Boards & Commissions Committee concurred, to appoint Chardin Detrich and reappoint Patrick Gilbert.

Vice-Mayor Kilgore moved to (1) reappoint Patrick Gilbert as a member of the Urban Forestry Commission, to serve an additional three-year term, term to expire December 31, 2025, or until Patrick Gilbert's successor has been appointed; and (2) appoint Chardin Detrich as a member of the Urban Forestry Commission, to serve a three-year term, term to expire December 31, 2025, or until Cardin Detrich's successor has been appointed. This motion was seconded by Councilwoman Roney and carried unanimously.

#### **RESOLUTION BOOK NO. 43 – PAGE 411**

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: funds for the Coxe Avenue improvements should be directed to other areas downtown, i.e., weekly street sweeping, more litter clean-up, clean up of graffiti immediately, city-wide cameras at intersections, homeless camp monitored 24/7 and checked by Asheville Police

Department drug dogs; and appreciation for pickleball courts with offers to participate in the process to address Montford pickleball concerns.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:43 p.m.

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CITY CLERK

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MAYOR