

Tuesday – July 23, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Pelly gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON JUNE 25, 2013; AND THE SPECIAL MEETINGS HELD ON JULY 2, 2013, JULY 5, 2013, AND JULY 11, 2013**

- B. ORDINANCE NO. 4212 - ORDINANCE TO ENACT THROUGH TRUCK PROHIBITIONS ALONG A SECTION OF EAST CHESTNUT STREET, CHATHAM ROAD, RUMBOUGH PLACE, SALOLA STREET, MOUNT CLARE AVENUE, AND A SECTION OF COLEMAN AVENUE**

Summary: The consideration of an ordinance to enact a through truck prohibition on the following city-maintained streets:

- East Chestnut Street, from SR 1781 (Broadway) to a point 325 feet west of US 25 (Merrimon Avenue).
- Chatham Road, from Edgewood Road to US 25 (Merrimon Avenue).
- Rumbough Place, from US 19-23 (Patton Avenue) to Salola Street.
- Salola Street, from Rumbough Place to SR 3412 (Sand Hill Road).
- Mount Clare Avenue, from SR 1781 (Broadway) to Coleman Avenue.
- Coleman Avenue, from Mount Clare Avenue to a point 200 feet west of US 25 (Merrimon Avenue).

The Traffic Engineering Division has conducted traffic-engineering studies along the subject streets and has determined that the streets are not appropriate for through truck traffic.

City Ordinances 19-60 and 19-61 prohibit trucks from using residential and designated streets as listed in Appendix C of the Code of Ordinances. For purposes of these ordinances, a truck is defined as a vehicle that has any of the following characteristics; a gross vehicle weight rating of 10,000 pounds or more, a tandem or tri-axle, or a tractor or tandem vehicle when pulling semi-trailers or tandem semi-trailers. There are certain exceptions to the ordinances including points of destination on the specific street (exclusive means/route), authorized detour route, emergency vehicles, public utility vehicles, wreckers (when towing), and buses.

The initial cost to install the appropriate truck prohibition signs is about \$1,800 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance to enact through truck prohibitions along a section of East Chestnut Street, Chatham Road, Rumbough Place, Salola Street, Mount Clare Avenue, and a section of Coleman Avenue.

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- C. ORDINANCE NO. 4205 - SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE FRANCHISE TO OPERATE A TROLLEY BIKE TOUR SERVICE (PUB CYCLE) WITHIN THE CITY OF ASHEVILLE IN ORDER TO EXTEND THE FRANCHISE ONE YEAR FROM THE DATE OF BUSINESS COMMENCEMENT**

ORDINANCE BOOK NO. 28 - PAGE 259

- D. RESOLUTION NO. 13-148 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES FROM JULY 1, 2013 TO JUNE 30, 2014**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asheville Humane Society (AHS) for animal shelter services within the territorial limits of the City of Asheville.

The City of Asheville has contracted with the Asheville Humane Society (AHS) since 2002 for the care and shelter of impounded animals. The Asheville Humane Society is contracted by Buncombe County to operate the animal shelter and provide care and maintenance of the animals.

The cost for the animal shelter services to the City of Asheville for FY 2012-2013 was \$19,167 per month for a FY year total of \$230,004. The FY 2013-2014 cost reflects no change or increases to last years' service and the \$230,004 is already included in the Asheville Police Department's 2013 - 2014 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society for Animal Shelter Services for the term of July 1, 2013, through June 30, 2014.

RESOLUTION BOOK NO. 35 - PAGE 374

- E. RESOLUTION NO. 13-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PINNACLE LANDSCAPE LLC TO PROVIDE VARIOUS GROUNDS MAINTENANCE SERVICES AT PACK SQUARE PARK**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscape, LCC to provide various grounds maintenance services at Pack Square Park in the amount of \$115,795 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

On October 22, 2012, the Parks, Recreation & Cultural Arts Department issued an Advertisement for Bids for grounds maintenance services at Pack Square Park. Pinnacle Landscape, LCC was lowest responsive and responsible bidder for a total of \$115,795. The bid

included unit prices for landscaping and irrigation repair services, which will be billed under separate invoice on an as-needed basis.

The grounds maintenance contract will extend until June 30, 2014 with the option for two (2), twelve (12) month renewals based on contractor performance.

This action complies with the City Council Strategic Operating Plan in that it supports Park Maintenance operations at the highest levels of fiscal responsibility as well as enhances a basic city service. It also complies with the Parks, Recreation & Cultural Arts Master Plan in that it provides ongoing maintenance and care for the City's park system.

Pros: • Supports the efficient delivery of core park maintenance services.

Con: • None

The \$115,795 to support the Pack Square Park grounds maintenance contract and is budgeted in the FY 2013-2014 Parks, Recreation & Cultural Arts Department operating budget as part of the Pack Square Park budget. The Pack Square Park annual operating budget is \$260,000. The City and Buncombe County share the operating cost for Pack Square Park. The County's annual contribution is \$127,000, a percentage of which goes toward the grounds maintenance contract and the remainder to other park operating cost.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscape, LCC to provide various grounds maintenance services at Pack Square Park in the amount of \$115,795 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

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F. RESOLUTION NO. 13-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH W.K. DICKSON & CO INC. FOR ENGINEERING SERVICES ASSOCIATED WITH HORIZON HILL WATERLINE IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with W. K. Dickson & Co., Inc. for engineering services in the amount of \$205,350.00 for the Horizon Hill Waterline Improvement Project.

The City of Asheville Water Resources Department has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance with this project. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville standards. The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Horizon Hill Waterline Improvement Project. In response to the RFQ, the department received twelve (12) proposals. Companies responding were:

1. Brooks Engineering Associates - Asheville, NC
2. Brown Consultants, PA - Asheville, NC
3. GAI Consultants, Inc. - Charlotte, NC
4. Lamm Engineering Associates, PLLC – Raleigh, NC
5. Mattern & Craig, Inc. - Asheville, NC
6. McGill Associates - Asheville, NC
7. Michael Baker Engineering, Inc. - Asheville, NC
8. The Wooton Company - Raleigh, NC
9. Vaughn & Melton Consulting Engineers - Asheville, NC

10. Weston and Sampson - Charleston, SC
11. Willis Engineers - Charlotte, NC
12. W. K. Dickson & Co., Inc. - Charlotte, NC

A review team, comprised of staff from the City of Asheville Water Resources Department, reviewed these proposals and selected the firm of W. K. Dickson & Co., Inc. Subsequent to this selection, Water Resources staff met with W. K. Dickson & Co., Inc. and has negotiated an Engineering Services Contract in the amount of \$205,350.00.

The funding needed for this agreement is already allocated within the Horizon Hill Waterline Replacement Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with W. K. Dickson & Co., Inc. for engineering services in the amount of \$205,350.00 for the Horizon Hill Waterline Improvement Project.

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G. RESOLUTION NO. 13-151 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH PATTON CONSTRUCTION GROUP LLC FOR THE HAW CREEK AREA AND RIDDLE ROAD WATERLINE REPLACEMENT

ORDINANCE NO. 4213 - BUDGET AMENDMENT FOR THE HAW CREEK AREA AND RIDDLE ROAD WATERLINE REPLACEMENT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of \$95,468.50 to increase the construction contract for Patton Construction Group, LLC, from a total in the amount of \$1,006,269.00 to \$1,101,737.50 for the Haw Creek Area and Riddle Road Waterline Replacement; and a budget amendment in the amount of \$95,469.00 from savings in other capital projects that were completed under budget.

On July 24, 2012, City Council awarded the construction contract to Patton Construction Group, LLC, for the Haw Creek Area and Riddle Road Waterline Replacement. The project consists of the construction and installation of approximately 3,200 linear feet of 8-inch ductile iron pipe and 6,130 linear feet of 6-inch ductile iron pipe with all associated valves, hydrants, and services to provide fire protection and domestic water service to the Haw Creek area and Riddle Road area.

In order to complete the construction and close out the project, a change order is needed to increase the contract amount by an additional \$95,468.50 for a total contract amount of \$1,101,737.50. The change order is needed because of overruns to the original quantities estimated, changes to the scope of the work, and the addition of large areas of pavement resurfacing. The asphalt resurfacing that was added is made up of areas that were scheduled to be paved by City of Asheville Public Works Department and Metropolitan Sewage District. It was included in this project to eliminate the need for the other agencies to produce separate contracts, coordinate the work and produce savings based on scales of efficiencies. The cost for the additional asphalt resurfacing will be recouped through established agreements with the other agencies once the project is complete. The changes to the project were requested through work change directives issued by the Water Resources Department.

The Water Resources Department will initially fund the full construction cost of \$1,101,737.50 (includes the change order amount) for this project until completion when reimbursement will be received from the City of Asheville Public Works Department and Metropolitan Sewage District for additional road resurfacing work. The funds of \$95,468.50 for the change order will be transferred from the General Projects capital project that accumulates

remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Cost summary until reimbursement:

Original Construction Amount	\$1,006,269.00
Change Order Amount	\$ 95,468.50
Total Amount for Project After Change Order	\$1,101,737.50

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of \$95,468.50 to increase the construction contract for Patton Construction Group, LLC, from a total in the amount of \$1,006,269.00 to \$1,101,737.50 for the Haw Creek Area and Riddle Road Waterline Replacement; and a budget amendment in the amount of \$95,469.00 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 35 - PAGE 377
ORDINANCE BOOK NO. 28 - PAGE 285**

H. RESOLUTION NO. 13-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUNICIPAL UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE RELOCATION AND ADJUSTMENT OF MUNICIPALLY OWNED WATERLINES WITHIN THE I-26 / NC 280 AIRPORT ROAD INTERCHANGE PROJECT AREA WATERLINE RELOCATION WORK ASSOCIATED WITH THE I-26/AIRPORT ROAD ROADWAY CONSTRUCTION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a Municipal Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area; the maximum estimate for the relocation and adjustment of the waterlines is \$164,000.

The NCDOT is constructing highway improvements at the I-26 / NC 280 interchange as part of NCDOT project I-5501, in Buncombe County. The City of Asheville owns and maintains municipal waterlines within the right-of-way of the project area. As a condition of the installation, operation and maintenance of said waterlines within the NCDOT right-of-way; the City of Asheville Water Resources Department is responsible for 100% of the cost associated with adjustment or relocation of said waterlines should the need arise. NCDOT project I-5501 creates that need. For the purpose of construction coordination and efficiencies the City of Asheville Water Resources Department wishes to enter into this Municipal Utility Agreement with NCDOT, which allows the waterline utility work to be performed as part of the NCDOT's construction contract. It is estimated that the total cost of the relocation and adjustment of municipally owned waterlines for this project will not exceed \$164,000.

The funding needed for this agreement is currently allocated within the NCDOT I-26 Widening Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a Municipal Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area; the maximum estimate for the relocation and adjustment of the waterlines is \$164,000.

RESOLUTION BOOK NO. 35 - PAGE 378

I. RESOLUTION NO. 13-153 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO TWO AGREEMENTS WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE STATE MATCH TO PURCHASE TWO DIESEL BUSES USING THE CURRENT CONTRACT WITH GILLIG INC.

Summary: The consideration of a resolution authorizing the City Manager to enter into two agreements with the N.C. Dept. of Transportation (NCDOT) in the amount of \$40,000 each, as State matches for the purchase of two diesel buses using the current contract with Gillig, Inc.

During June and August 2012, the City of Asheville received funding from the Federal Transit Administration under the Bus and Bus Facilities, Livability Program, and the State of Good Repair to purchase two 30-foot buses to replace the last two remaining 1996 buses. The City allocated its share of the required 20% local match for both buses, an amount totaling \$160,000. The City was recently informed that the North Carolina Department of Transportation (NCDOT) will fund 10% of the cost of the bus purchases, which will save the City \$80,000. Because the buses are funded with different grants, the NCDOT has produced two agreements, one for each.

The City has order one of the buses and is in the process of ordering the second one under the current contract with Gillig, LLC. The delivery date will be 12 months for both of them.

The cost for purchasing the two buses is approximately \$800,000. 80% will be funded by the FTA, 10% or \$80,000 funded by the City and 10% or \$80,000 by the NCDOT. With NCDOT now providing 10% of the funding, the City will save \$80,000 in funds that were previously budgeted for these bus purchases. Staff recommends that half of this savings (\$40,000) remain in the Transit Capital Projects Fund and be used for City matches for future Transit capital investments, and that the remaining \$40,000 be returned to the General Fund and held in contingency pending current year budget performance.

Staff recommends City Council to authorize the City Manager to enter into two agreements with the NCDOT in the amount of \$40,000 each, as State match to purchase two diesel buses using the current contract with Gillig, Inc.

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J. RESOLUTION NO. 13-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NEXTBUS INC. TO INSTALL AN AUTOMATED VEHICLE LOCATION SYSTEM AND PROVIDE REAL-TIME PASSENGER INFORMATION TO TRANSIT USERS AND EXCEPTION TO BID ANY ITEMS QUOTED IN THE REQUEST FOR PROPOSALS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with NextBus, Inc. to install an Automated Vehicle Location system and provide Real-time Passenger Information to transit users and exception to bid any items quoted in the Request for Proposals.

The City applied for the N.C. Dept. of Transportation's Urban Technology Grant and was awarded \$405,000 to acquire an Automated Vehicle Location (AVL) system with focus in the Real Time Passenger Information feature. The AVL system produces operational information in real time, which includes vehicle location, speed, fuel usage, on-time performance, and historical records. This information is a powerful tool to help manage the system and to identify areas needing improvement. It also enhances the customer experience by providing next bus arrival information in real time, via personal cell phones, Smartphones and through the transit system's website. This project has been identified in the Transit Master Plan as a vital project to help improve the system's operation.

The City issued a Request for Proposals (RFP) on March 19, 2013, and it closed on April 22, 2013. Three proposals were received from the following firms:

- Digital Recorders Inc., a division of Clever Device Ltd. - Durham, NC
- RouteMatch Software - Atlanta, GA
- NextBus Inc. - Emeryville, CA

The proposals were evaluated by a committee that included staff from the IT, and Transportation Departments and overseen by North Carolina State University, Institute of Transportation Research and Education (NCSU/ITRE) and the City's Purchasing Office.

The firms were evaluated based on their qualifications and experience, statement of work, proposal response and cost.

After careful review and consideration of all the evaluation factors and the information provided, the committee recommends NextBus, Inc. to install its Automated Vehicle Location system.

The initial cost to install the basic system, including operations for five years will be \$352,206. The additional cost of installing LED signs at selected bus stops with this funding source will be up to \$97,794. NCDOT is funding 90% of this project in the amount of \$405,000, the remaining 10% (\$45,000) are City's responsibility.

This contract will be valid for five years, giving other transit systems in the area the possibility to piggy back and acquire the same AVL system. It will also give the city the ability to leverage additional funds to install LED signs at important bus stops.

The total anticipated project cost is \$450,000. The City is required to provide a 10% local match in the amount of \$45,000, which is already budgeted in the Transit Capital Project Fund.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract with NextBus, Inc. to install an Automated Vehicle Location system and provide Real-time Passenger Information to transit users and exception to bid any items quoted in the RFP.

RESOLUTION BOOK NO. 35 - PAGE 380

K. RESOLUTION NO. 13-155 - RESOLUTION APPROVING THE REALLOCATION OF EMERGENCY SOLUTIONS GRANT FUNDS TO HOMEWARD BOUND OF WESTERN NORTH CAROLINA AND STAFF SUPPORT FOR THE HOMELESS INITIATIVE

Summary: The consideration of a resolution for the re-allocation of existing Emergency Solutions Grant funds in the amount of \$25,000 to Homeward Bound of Western North Carolina for Rapid Rehousing activities and \$10,000 for staff support for the homeless initiative.

When the original allocations of ESG funds were made earlier this year, the Homeless Initiative Advisory Committee (HIAC) recommended and City Council approved \$35,000 be allocated to offset HMIS costs for community agencies. Since that recommendation, the HUD Continuum of Care Competition resulted in an application for an HMIS project that would cover HMIS fees. We expect to receive those funds in that competition. Therefore, the \$35,000 originally allocated for that purpose needs to be reallocated to other uses.

The HIAC sent a Request for Proposals via the Homeless Coalition for eligible agencies to apply for \$25,000 of these funds for Rapid Rehousing activities. Homeward Bound of Western

North Carolina was the only applicant. The Housing and Community Development Committee recommends the following for the \$35,000 balance of funds:

- 1) \$25,000 to Homeward Bound of Western North Carolina for Rapid Rehousing activities
- 2) \$10,000 to the City of Asheville for HMIS staff support for the Homeless Initiative

The State ESG program agrees that these are eligible uses for these funds.

The proposed activity is a reallocation of funds already awarded. The purpose for which the funds were originally allocated will be met through a different funding source.

City staff recommends City Council accept the Housing and Community Development Committee recommendation for drawing down the \$35,000 balance of Emergency Solutions Grant funds.

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L. RESOLUTION NO. 13-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY, THE CITY OF HENDERSONVILLE, AND CUSTOMER INSPIRED SERVICES, LLC, FOR THE JOB ACCESS AND RESERVE COMMUTE AND NEW FREEDOM GRANTS

ORDINANCE NO. 4214 - BUDGET AMENDMENT FOR THE NEW FREEDOM PROJECTS

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Buncombe County, the City of Hendersonville and Customer Inspired Services, LLC, (sub-recipients of Job Access and Reverse Commute and New Freedom grants); and (2) a budget amendment in the amount of \$75,398 from federal grant funds and sub-recipient matches to increase the project budgets for the New Freedom Federal grants.

The City of Asheville is the designated recipient of the Job Access and Reverse Commute (JARC) and New Freedom grant funds, which are programs of the Federal Transit Administration (FTA). JARC is a formula grant program oriented to provide job access in the urbanized and suburbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas.

The job access refers to projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment.

The reverse commute refers to a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities.

The projects to be funded include: pedestrian improvements along US 64 in Henderson County, which is the City of Hendersonville's project; van purchasing and rehabilitation, which is for Customer Inspired Services, and the City of Asheville's administrative costs for both projects.

New Freedom is also a FTA formula grant program for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990. These funds are intended to assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

To be eligible, the programs require an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization, Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. The plan was approved on March 29, 2012 by the French Broad River MPO's governing body (the Transportation Advisory Committee), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the rules to apply for projects and the projects were selected in a competitive process that was approved by the TAC.

In September 2012, Buncombe County's Mountain Mobility, the City of Hendersonville and Customer Inspired services were selected as sub-recipients of the JARC grant and NF grant. The projects are listed as follows:

Sub-Recipient	Project	Program	Amount funded	Sub-Recipient's match
Buncombe County	Black Mountain Trailblazer	JARC	\$102,181	\$102,181
City of Asheville	Program Administration	JARC	\$22,706	N/A
City of Hendersonville	Pedestrian improvements along US 64	NF	\$197,116	\$37,000
Customer Inspired Services	Van purchasing and rehab	NF	\$18,700	\$2,300
Customer Inspired Services	Operations	NF	\$2,000	\$2,000
City of Asheville	Program Administration	NF	\$24,201	N/A

The City set up project budgets in February 2013, but there was an oversight to authorize the City Manager to sign the sub-recipient agreements. The resolution seeks to remediate this.

In addition, the projects under the New Freedom grant have been increased by the MPO, due to additional funding availability; funding has been allocated to the NF projects as shown in the table below. The city will pass through the funds and will seek reimbursement directly from the FTA. The sub-recipients will be responsible for the match.

Sub-Recipient	Project	Program	Amount funded	Sub-Recipient's match
City of Hendersonville	Pedestrian improvements along US 64	NF	\$239,918	\$59,980
Customer Inspired Services	Van purchasing and rehab	NF	\$21,000	\$5,250
City of Asheville	Program Administration	NF	\$28,567	N/A

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use \$28,567

NF funds, for administration purposes, which will cover the program management expenses for a period of two years.

This program is fully funded with federal grant funds; there is no impact to the City's General Fund budget.

Staff recommends that City Council: 1) authorize the City Manager to enter into an agreement with each one of the sub-recipients of the Job Access and Reverse Commute and New Freedom grants; and 2) adopt a budget ordinance amendment in the amount of \$75,398 from federal grant funds and sub-recipient matches to increase the project budgets for the New Freedom Federal grants.

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**M. RESOLUTION NO. 13-158 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO A UNIT PRICE CONTRACT WITH PATTON
CONSTRUCTION GROUP INC. FOR THE OVERLOOK ROAD SIDEWALK
PROJECT**

**ORDINANCE NO. 4215 - BUDGET AMENDMENT FOR THE OVERLOOK
ROAD SIDEWALK PROJECT**

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute a unit price contract not to exceed the amount of \$324,715 with Patton Construction Group, Inc., along with a 17% contingency fund to cover any change orders up to the total contract amount of \$380,000 for the Overlook Road Sidewalk Construction Project; and 2) a technical project budget amendment in the amount of \$380,000 from previously budgeted fee-in-lieu of sidewalk monies and general fund pay-as-you-go capital funds.

The reason for installing this sidewalk is that it is an identified needed linkage in the City of Asheville's adopted Pedestrian Plan. It will provide a safe pedestrian thoroughfare between three schools, two churches and a public library.

Portions of this work take place in the North Carolina Department of Transportation's Right-of-Way. An encroachment agreement was obtained from that agency on September 6, 2012. Along with the encroachment agreement, several temporary and permanent easements were required to be obtained from adjacent property owners.

The project generally consists of installing new ADA compliant sidewalks, curb and gutter, storm drainage structures, milling and resurfacing a portion of the North bound lane of Overlook Road along with associated items.

An informal request for bids was issued on May 2, 2013. There were no proposal's received on the due date of May 16, 2013. Invitations for bids were sent out again on May 17, 2013, one bid from a local contractor was received on May 23, 2013. Their price exceeded the estimate for this project by 65%. Pursuant to reviewing the bid, staff began negotiations with the Contractor but was unable to come to a mutual agreement.

Another informal request for bids was issued on June 19, 2013, with two bid proposals being received on July 9, 2013. The low bidder being a local contractor, Patton Construction Group, Inc., with an amount of \$324,715.00.

Funding for the design work on the Overlook Road sidewalk project was included in the City's FY 2011-12 Capital Improvement Program. As noted above, funding was included for construction in the FY 2012-13 Capital Improvement Program. In order to consolidate the two

years' of funding for this contract into one capital project, staff is recommending that City Council adopt a technical project budget amendment in the amount of \$380,000.

Staff recommends City Council to: 1) authorize the City Manager to execute a unit price contract with Patton Construction Group, inc., in the amount of \$324,715 along with a contingency amount of 17% to cover any changes or unexpected occurrences, bringing the total contracted amount to \$380,000 for the Overlook Road Sidewalk Construction Project; and 2) adopt a technical project budget amendment in the amount of \$380,000 from fee-in-lieu of sidewalk monies and previously budgeted general fund pay-as-you-go capital funds.

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**N. RESOLUTION NO. 13-159 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY
TO CONTINUE ADMINISTRATIVE COORDINATION OF CHANGING
TOGETHER**

**ORDINANCE NO. 4216 - BUDGET AMENDMENT FOR CHANGING
TOGETHER COMMUNITY PROJECT**

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement with Buncombe County in which the City will act, for a third year, as the coordinating agency for the Changing Together community project aimed at reducing violence through strategic prevention, intervention and suppression; and 2) a technical budget amendment in the amount of \$79,955 to establish a project budget for this program in the City's Grant Fund.

Changing Together is a comprehensive and collaborative community project with participation from law enforcement, the District Attorney's Office and numerous non-profit and social service agencies throughout Asheville and Buncombe County. It was formed to address the issue of violence and chosen by the Governor's Crime Commission (GCC) as a Tier 1 site for implementation of the Focused Deterrence Model (High Point Model) in fiscal year 2009.

On September 13, 2011, and again on June 26, 2012, Council adopted a resolution authorizing the City Manager to enter into an agreement with Buncombe County to have the City oversee the administrative coordination of Changing Together. Since that time, the initiative has continued to address violent crime through the focused deterrence model.

During the last fiscal year, Changing Together facilitated 3 call-ins in which 44 of the 69 notified violent offenders (64%) heard a message from law enforcement and community members that their violent actions will no longer be tolerated. Representatives from local, state and federal enforcement agencies clearly outlined the coordinated information-sharing network created to ensure that notified offenders who continue to commit violent acts receive the most severe sentencing under the law. Community members described the impact of violence on families and neighbors, reminding notified offenders that, if they choose to change their violent behavior, they will find support from the community.

Notified offenders are also made aware of the services and resources available through Changing Together, including assistance with job searches, housing options and life skills classes. Of the 44 offenders who attended these call-ins, 30 stayed after to discuss requested services. To date, 16 (24%) Notified offenders have contacted Changing Together, and 11 (16%) are currently receiving assistance and support through Changing Together from staff, service providers, and community members.

Currently, the Buncombe County receives grant funding from the Governor's Crime Commission to coordinate direct services for call-in participants age 16 and older. Funding pays for the coordination of Changing Together, which includes a salary for the program director, project assistant and one resource counselor. For fiscal year 2013-14, the grant is \$79,955.

The County is requesting the City continue responsibility for administrative coordination of Changing Together. One factor prompting the request is that the Governor's Crime Commission emphasized a preference for the coordination to be located in a municipality because of the stability it provides due to organizational capacity and infrastructure. The Buncombe County District Attorney's Office and the Buncombe County Sheriff's Office continue to be supportive of this restructuring of program coordination responsibilities. If the city manager is granted the authority to execute the agreement, the community relations division of the city manager's office will again oversee the Changing Together Program Director and Project Assistant positions.

With the revenue received from the County, the City will continue administrative coordination of the program director and project assistant positions. As a multi-agency grant partner, the city will contribute \$10,000 for on-the-ground resource coordinator services. Funding for this program was included as part of the community relations approved FY 2013-14 General Fund budget. The technical budget amendment will move the budget from the General Fund to the Grant Fund.

Staff recommends City Council adopt: 1) the resolution authorizing the City Manager to execute, on behalf of the City of Asheville, the agreement with Buncombe County to continue administrative coordination of Changing Together; and 2) a technical budget amendment in the amount of \$79,955 to establish a project budget for this program in the City's Grant Fund.

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**O. RESOLUTION NO. 13-160 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. HISTORIC
PRESERVATION OFFICE TO DEVELOP THE ASHEVILLE BUNCOMBE
PRESERVATION PLAN**

**ORDINANCE NO. 4217 - BUDGET AMENDMENT FROM A FEDERAL PASS
THROUGH GRANT FROM THE NATIONAL PARK SERVICE HISTORIC
PRESERVATION FUND**

Summary: The consideration of a (1) resolution authorizing the City manager to enter into an agreement to accept a federal pass through grant from the National Park Service Historic Preservation Fund via the North Carolina State Historic Preservation Office; and (2) a budget amendment in the amount of \$28,000 for the development of the Asheville Buncombe Preservation.

This budget amendment will be to accept a \$15,000 federal pass through grant from the National Park Service Historic Preservation Fund via the North Carolina State Historic Preservation Office and to dedicate local matching funds of \$2,300 raised by the Historic Resources Commission (HRC) through book sales of Cabins & Castles; \$1,000 contributed by Mountain Housing Opportunities as stipulated in the Memorandum of Agreement for Eagle Market Place; and private donations raised by the HRC with assistance from the Preservation Society in the amount of \$9,700 for a total budget of \$28,000 for the development of the Asheville Buncombe Preservation.

As with many communities across the country, historic preservation in Asheville is at a crossroads. Originally established in 1979, the Historic Resource Commission of Asheville and Buncombe County has operated successfully as a joint body for the past 35 years and now oversees four local historic districts and 47 local landmarks. The HRC is also proud of the 15

National Register Districts and many more properties individually listed on the National Register, located within its jurisdiction.

The Asheville downtown area has experienced a renaissance and continues to be a thriving tourist destination. Its popularity and preservation has been fueled, in part, through the success of the Rehabilitation Tax Credit Program. The number of successful tax credit projects is an indicator of the local desire to protect and reuse historic buildings and of the essential role that historic building rehabilitation has played in Asheville's revitalization.

However, there are new challenges. The popularity of downtown has led to redevelopment efforts that have resulted in the demolition of structures significant to the downtown historic district. Although the Downtown Master Plan, adopted by the City in 2009, identified a goal for the HRC to work more closely with the downtown Commission, the City still struggles with how to achieve this goal as budget constraints have limited staff time and resources.

The HRC is also challenged with engaging the citizens of the community in a planning process that would guide future preservation policy within the broader context of heritage tourism planning, zoning and land use policy, community development, and sustainability initiatives.

In an effort to work towards facing these challenges, staff with the support and encouragement of the HRC applied and has been awarded a grant from the Historic Preservation Fund to develop a preservation plan for the community. The goal of this plan will be to connect the Asheville-Buncombe historic preservation program to overall decision making about community and economic development, public investment, urban form, and rural identity as opposed to the protection of isolated resources. We also see this effort as a means to provide an increased opportunity for public participation in historic preservation for Asheville and Buncombe County.

As noted above, this budget amendment is fully funded with grants and other non-General Fund revenue sources.

City staff recommends that City Council (1) authorize the City Manager to enter into an agreement with the N.C. Historic Preservation Office for the purpose of accepting the grant and developing the Asheville Buncombe Preservation Plan; and (2) a budget amendment, in the amount of \$28,000, to accept a \$15,000 grant from the Historic Preservation fund, via the NC State Historic Preservation Office and dedicate \$13,000 in local matching funds.

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**P. RESOLUTION NO. 13-161 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF
TRANSPORTATION FOR THE STATE MATCH TO PURCHASE A
COMPRESSED NATURAL GAS REPLACEMENT VAN FOR HENDERSON
COUNTY'S TRANSIT SYSTEM**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to provide a Section 5307 Capital Grant in the amount of \$1,453 to be used for the State match to purchase a Compressed Natural Gas (CNG) replacement van for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating

in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with Federal funds.

The estimated total cost of the subject project is \$95,386. Federal funds will provide \$92,462, \$80,841 are part of the ARRA apportionment and don't require a match; and \$11,621 are covered with grant NC-90-X439; this grant requires a match of \$2,906, \$1,453 provided by NCDOT and the remaining \$1,453 provided by Henderson County. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. The van has been already received, but confirmation from the state's participation came recently.

The total estimated project cost is \$95,368, with 96% or \$92,462 coming from Federal funds, 4% or \$2,906 coming from Henderson County and the NCDOT. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation in the amount of \$1,453, as State match to purchase one CNG van.

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

Mayor Bellamy 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.

Councilman Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. EAST END NEIGHBORHOOD ASSOCIATION - BREWGRASS FESTIVAL

Ms. Renee White, President of the East End Neighborhood Association (EEVSNA), said that they request Council to pass a resolution reiterating that the EEVSNA understanding of what occurred at a previous Council meeting in reference to BrewFest is in fact what happened.

"In the spring of 2012, the East End Community complained loudly about the BrewFest attendees' behavior while outside the gates of the MLK Park venue both before entering the Fest and after leaving it. People arrived with beer, drank that beer and left the refuse of broken beer bottles and Styrofoam coolers. After the Fest, folks that had been drinking beer all day had to be somewhat inebriated. They got into their cars and drove in that state through our neighborhood. Was there a sobriety checkpoint anywhere? No, there was not.

"Many of the attendees left their trash behind, blocked driveways and were belligerent with residents when told they could not park at a particular location. Some streets were so jammed with cars on both sides that they were almost impassible. Of particular concern in that instance was whether emergency vehicles like fire trucks could get through.

"After the outcry from the community, the organizers of BrewFest requested to attend the Association meeting in May 2012. Surely after attending that meeting, it had to be abundantly clear that we didn't want them to return. They were not welcome to return to MLK Park. In that meeting the Neighborhood Organizer liaison suggested that additional law enforcement would be present to patrol the neighborhood for the specific purpose of alleviating the problems mentioned earlier and said that once the Pack Square renovations were done, we would not have to worry about future festivals. To follow-up, I came before Council at their community meeting to inform Council that our community did not want BrewFest to return again after 2012. What we took from that Council meeting was that 7 council members supported us and had given BrewFest its walking papers.

"In May 2013, when it was announced that BrewFest was on the calendar, had a website up promoting the venue as MLK Park and was rapidly selling out tickets, folks attending the meeting were outraged. We could not have been more clear that we did not want them back. The puzzling part is that despite that meeting expressing our desires the community never heard a word from BrewFest organizers stating that they were unable to lock down a different venue and in fact would be at MLK Park again in September. One cannot help but feel that this attitude smacks of the lack of regard for the desires of our community. We were told by the Neighborhood Organizer liaison that the City had received no complaints about the 2012 Fest so it was assumed that all was well. That such a leap should be taken, again with no regard for what the neighborhood desired, is mindboggling. The City received no complaints because APD did a fine job of patrolling and keep things in order. Now does that make it right to then go on and proceed with an event that we vehemently objected to having? An event that we instructed the Neighborhood Organizer to make the City aware of our position? No, it does not.

"We get that the BrewFest was originally a so-called community initiative, but the East End alone has bore the brunt of it. We have said it before, and we'll say it again, we do not want BrewFest back in MLK Park.

"We suggest that they take the event to a more suitable venue like Louis Soccer field. It's accessible and there's plenty of parking.

"In closing, our Association support the fundraising BrewFest does for Big Brothers, but the type of event is just not a match for a family oriented neighborhood like ours.

"We trust that you will do the right thing and submit a resolution in regards to this issue. We have met with the organizers and express our desires if they return in 2013 that does include assurance that they will not be in MLK Park in 2014."

Mayor Bellamy said that this Festival sounds like an incompatible use in MLK Park. She supported the residents in their request to find the Brewgrass Festival another location in 2014.

Councilman Pelly moved to not allow the Brewgrass Festival in MLK Park in 2014 and beyond.

Mr. Eddie Dewey, representative from the Brewgrass Festival, said that since 1997 they have held the festival at MLK Park 10 times. They now understand the sensitivity of the neighborhood. They are in support of moving the festival and working with the City to move the festival in 2014 to Memorial Stadium.

Mayor Bellamy felt that moving from MLK Park to Memorial Stadium might be a worse location because it is located around more residential units. She suggested Carrier Park. She also suggested City staff work with Brewgrass organizers to find a suitable location that has additional parking and not a lot of residential around the location. She wanted both the Festival and the surrounding communities to be successful.

Councilman Davis felt it might be better to receive the staff report on the alternatives available before adopting a resolution.

Mayor Bellamy noted that the neighborhood has been to Council before and had their support. Now she felt it was time that they showed their support by adopting a statement.

When Councilman Smith hoped that a new location might be located where people can take the bus and have other modes of transportation, Mr. Dewey said that they are working on expanding the shuttle and trolley. He has spoken with the development group of the new apartments near Memorial Stadium and has plans to reach out to that community. It is still in a similar area, but the parking is in a different location. He noted that Brewgrass is a daytime event and over by 7:00 p.m. The music is not loud rock and roll and feels that Memorial Stadium is a suitable location. He said that MLK Park has been an event site for a long time, but it has become a community park and they agree that it's not the appropriate place for a festival. They have given the East End Community Association their word that they would not have the Festival in MLK Park in 2014, but it has been contingent on the fact that they can find a suitable location.

City Manager Jackson asked for Council's direction to relocate the Brewgrass Festival. It is the last event of this scale in MLK Park. The City has systematically tried to relocate or discontinue any other events of this size in MLK Park. He asked for (and recommended) Council policy direction that events of this size this will not be acceptable in MLK Park. In terms of alternative locations, there are many other factors that go into that, but if there is any Council direction to eliminate the range of options, that would be helpful. The City has evaluated Memorial Stadium from a technical standpoint.

Vice-Mayor Manheimer agreed that the festival should not be held in MLK Park in 2014, but was concerned we are telling them we don't like their next location.

Interim City Attorney McGlohon cautioned Council about not singling out the Brewgrass Festival vs. any other festival of a similar nature. Mayor Bellamy noted that City Manager Jackson stated that the City has systematically tried to relocate or discontinue any other events of this size in MLK Park.

The motion made by Councilman Pelly was seconded by Councilman Hunt.

City Manager Jackson said it's the scale of the event and not the issue of whether or not the event sells alcohol. There is the potential that the large population will damage the field and change the character and nature of the neighborhood. He suggested there be policy that you have a preferred use for this park and it's not for events of this scale.

When Councilman Bothwell asked how we would define the scale, Interim City Attorney McGlohon said that may need further investigation into the issue into the type of festivals that you want and do not want at MLK Park.

Mayor Bellamy said that this issue will come back to Council at their August 13, 2013, meeting with the issues addressed, but wanted to be clear that the Brewgrass Festival is an incompatible use for MLK Park and the neighborhood had asked Council to address this over a year ago.

B. GREATER ASHEVILLE AIRPORT REGIONAL AUTHORITY UPDATE

Mr. Lew Bleiweis, Executive Director of the Greater Asheville Airport Regional Authority, briefed Council on their activities of the past year and goals for the upcoming year.

On behalf of City Council, Mayor Bellamy thanked Mr. Bleiweis for his update.

C. STORM DAMAGE/INFRASTRUCTURE UPDATE

Streets & Engineering Manager Greg Shuler provided Council with the background of some events that were a result of record rain for our area: (1) From January 1 through July 8, we've received 41.67 inches; (2) That exceeds our annual normal rainfall by 4.68 inches; (3) this is the earliest our annual total has been surpassed (by two month); and (4) we're well on our way to surpassing the record annual amount of 64.91 inches set in 1973. He then provided a timeline of events from July 3, 2013 - July 23, 2013, noting that from July 3 - 17, 2013, a total of 11.08 inches of rain hit the Asheville area, while areas like Town Mountain, and Beaverdam Valley received even more. Major storm damage repairs are underway in Beaverdam Valley by Public Works crews. On July 12, the City contacted local contractors to evaluate repair options for each slide. On July 22, bids were received on repair work for Spooks Branch and Sunset/Skyview Place slides. On July 23, work began on Spooks Branch and Sunset/Skyview Place slides. He outlined several streets they have contracted out, and then outlined the several streets they plan to repair in-house.

Mr. McCray Coates responded to Mayor Bellamy when she asked about the different areas in town that have stormwater drainage issues.

At the request of Mayor Bellamy, City Manager Jackson said that he would add information on the City's website regarding our drainage system, who to contact with questions and concerns, and what the City manages.

D. LEGISLATIVE UPDATE

Budget Manager Tony McDowell highlighted for Council the following legislative issues of interest: Senate Bill 402 - Appropriations Act of 2013; House Bill 998 - Tax Simplifications and Reduction Act; House Bill 418 - Park Authority; House Bill 568 - Asheville Deannexation; House Bill 708 - Study Public Enterprise Systems/Use of Funds; and House Bill 94/Senate Bill 112 - Amendment to Environmental Laws 2013.

Interim City Attorney McGlohon responded to various questions from Mayor Bellamy regarding several of the bills.

Mayor Bellamy asked for a memo that provides Council with a detailed analysis of this impact of House Bill 94 regarding the requirement that penalty proceeds collected by local governments be remitted to the Civil Penalty and Forfeiture Fund instead of the local government's general fund and what it would look like financially for the City of Asheville.

Councilman Smith asked for information regarding the regulatory reform omnibus that one of the pieces of that bill would bar municipalities from requiring contractors to use living wage requirements.

In response to Councilman Bothwell, City Manager Jackson said that he will follow-up with Council on the annexation bill.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING 86 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE PARCELS LOCATED AT 86 ASHELAND AVENUE IN THE OFFICIAL DOWNTOWN HEIGHT ZONE MAP AND KEY PEDESTRIAN STREET MAP

ORDINANCE NO. 4218 - ORDINANCE TO REZONE 86 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4219 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ARTICLE 7-8-18) TO INCLUDE PARCELS LOCATED AT 86 ASHELAND AVENUE IN THE OFFICIAL DOWNTOWN HEIGHT ZONE MAP AND KEY PEDESTRIAN STREET MAP

Due to the conflict of interest that Councilman Pelly leases property at 86 Asheland Avenue, Councilman Smith moved to recuse him from voting in this matter. This motion was seconded by Councilman Davis and carried unanimously.

Mayor Bellamy said that since the following two public hearings are related, she asked Mr. Glines to combine his presentation and that public comment would be taken on each item with two separate votes being taken.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone 86 Asheland Avenue from Regional Business District to Central Business District. This public hearing was advertised on July 12 and 19, 2013.

He said the 3 properties are located at the intersection of Asheland Avenue and Hilliard Avenue. The properties are adjacent to the southern and western border of the Central Business District zone (CBD). The parcels slope away from Asheland Avenue and have access to a small right of way called Federal Alley at the east side of the property.

Hilliard Avenue was traditionally the southern border of the downtown area but in 2001 the CBD zoning was extended to include land between Coxe Avenue and Biltmore Avenue down to Southside Avenue. At the time it was felt that the greatest potential for growth was in this section adjacent to the traditional downtown core. The area around Ashland Avenue was left out of that rezoning effort because the development was newer and strongly followed suburban development patterns with greater building setbacks and parking in front of the buildings. If rezoning had been pursued, most of the existing buildings would have been *non-conforming* to CBD standards. With the addition of over ten years these buildings are now older and redevelopment energy is extending in this direction to this area.

When the request was reviewed at the Downtown Commission meeting, The Commissioners were interested in looking into expanding the CBD along the entire Asheland Avenue corridor down to Southside Avenue. This is a project that the Downtown Commission would like to explore later in the year. Members of the Planning and Zoning Commission also commented that it would be beneficial to consider the corridor comprehensively since the existing zoning seems to be out of alignment with current trends in the area. Although a process for considering a rezoning the corridor has not been determined, it is expected to include community meetings with affected property owners and the South French Broad neighborhood.

The Central Business District allows a wide range of residential and commercial uses with regulations in place for designing new structures so that new construction will be compatible with the urban context of downtown. Most of the regulations for downtown development were identified in the Downtown Master Plan completed in 2009 and later adopted with some amendments into the UDO in 2010. Building heights are defined by the Height Zone map and a recommendation to include these parcels on the map is associated with this application. There is also a Key Pedestrian Streets map (KPS) and certain streets that are primary pedestrian corridors are included in the map. Hilliard Avenue and Asheland Avenue north of Hilliard are both on the KPS map. The Downtown Commission is recommending the extension of the KPS map to include these properties.

The Regional Business District allows a large array of commercial uses and permits large structures (greater than 100,000 square feet). Building height is limited to 80 feet. The development zone is more common in suburban areas along busy highways, interchanges and thoroughfares. There is little character defining regulations in the ordinance and parking is allowed in front of buildings and at the sidewalk edge in regional business zones.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The zoning change is compatible with other parcels in the neighboring downtown area.
- Supports the goals of the Downtown Master Plan and the Strategic Operating Plan
- Supports the redevelopment of the south area of downtown

Cons:

- None noted.

The Planning and Zoning Commission voted unanimously to support the request to rezone the subject properties at their meeting on June 5, 2013. The Downtown Commission reviewed the request as a policy discussion at their meeting on May 10, 2013, and voted 8-0 to support it. Staff feels that the proposed zoning change supports adopted City goals and plans for the downtown area and is also supportive of it. A neighboring property owner called to support the zoning change, but no additional comments from the public were heard at that meeting or after.

Mr. Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance (Article 7-8-18) to include parcels located at 86 Asheland Avenue in the official Downtown Height Zone Map and Key Pedestrian Street Map. This public hearing was advertised on July 12 and 19, 2013.

He said that the Planning and Development Department has received an application to rezone three parcels at 86 Asheland Avenue. The Downtown Central Business District (CBD) properties are subject to height regulations that are based on their specific location in the downtown area. Also, some streets in downtown are designated as Key Pedestrian Streets which have additional development regulations designed to enhance the pedestrian relationship for new construction. If the rezoning is approved, these maps should be reviewed and adjusted to consider the rezoned parcels.

Height Zone Map - The height zone map is adopted as a part of the Central Business district (7-8-18 of the UDO). The map identifies areas for the *tallest height zone* (265 feet) and the *intermediate height zone* (145 feet) and *buffer height* that moderates the tallest height zone along view shed corridors. The Planning and Zoning Commission and the Downtown Commission recommended that the intermediate height zone be extended for these three parcels along Asheland Avenue. The intermediate height zone has been used at other locations that have served as the edge of the downtown CBD. If the study proceeds later this year to expand the CBD further south along Asheland Avenue, the height zone will be reviewed again.

Key Pedestrian Streets - The Key Pedestrian Streets map (KPS) is a designation along specific streets that serve as primary pedestrian linkages throughout the downtown area. When a street is designated a KPS, there are several development regulations in place that are designed to enhance the pedestrian experience at the sidewalk level. For example, on a KPS, buildings must provide 70% windows, doors or other openings at pedestrian level and parking garages must provide either an occupiable space for the first 20 feet of depth or provide fenestration details meeting regulations. Asheland Avenue is a KPS north of Hilliard Avenue already. The Downtown Commission recommends that the KPS designation extend as far as the three

properties seeking rezoning. If Asheland Avenue is studied for further CBD expansion the issue of extending the KPS map will also receive discussion then.

The Planning and Zoning Commission reviewed the map amendments and unanimously recommended the placement of the intermediate height zone on and the extension of the key pedestrian streets map to the subject properties at their meeting on June 5, 2013. The Downtown Commission also supported a similar recommendation at their meeting on May 10, 2013, with a vote of 8-0. Staff concurs with this recommendation because it supports the goals of the Comprehensive Plan and is conformance with the adopted Downtown Master Plan.

Based on the above findings and the analysis in the report, staff finds the map amendment to be reasonable and conforming to the Comprehensive Plan.

Pros:

- Adjusts development maps in accordance with land use changes
- Implements portions of the *Downtown Master Plan and supports City Council's Goals and Vision Plan*
- Removes incongruous development patterns from an area suitable for more sustainable models

Con:

- None noted

City staff recommends City Council approve the amendment to the Height Zone map to include the intermediate height for the subject properties and also the amendment to the Key Pedestrian Streets map to extend this designation to the subject area and find that the amendment is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 6:22 p.m. on both items and when no one spoke, she closed the public hearing at 6:22 p.m.

In response to Councilman Smith on why Southside was not on the Key Pedestrian Map, Mr. Glines said that when the Downtown Master Plan was adopted, the development pattern was not moving in that direction yet, but there is interest in studying areas further south along Asheland Avenue and bringing them in on the Key Pedestrian Map.

Mayor Bellamy said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4218. This motion was seconded by Councilman Davis and carried unanimously (Councilman Pelly recused).

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Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4219. This motion was seconded by Councilman Davis and carried unanimously (Councilman Pelly recused).

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C. PUBLIC HEARING TO SUPPORT A SECTION 108 LOAN FOR THE EAGLE MARKET STREET DEVELOPMENT

This item has been pulled from the agenda.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-156 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Public Art & Cultural Commission.

Ms. Jennifer Gordon resigned from the Commission, thus leaving an unexpired term until June 30, 2014.

The following individuals have applied for the vacancy: Charley Akers, Amy Huntsman, Wayne Wheeler, Jared Gold, Bryan Andrews, Victor Palomino, Kara Warren, Denise Drury, Anthony Johnson and Constance Richards.

After hearing the recommendations by the Public Art & Cultural Commission and noting the need for diversity, Councilman Smith moved to appoint Victor Palomino as a member of the Public Art & Cultural Commission, to serve the unexpired term of Ms. Gordon, term to expire June 30, 2014, or until his successor has been appointed. This motion was seconded by Councilman Hunt and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Vicky Ballard, Executive Director of the Colburn Museum at Pack Place, and Ms. Dora Nelson, teacher, explained the importance of science education and felt it needed assistance in maintaining its visibility and viability due to changes in Pack Place. Councilman Hunt, member on the Pack Place Board, updated Council on the concerns expressed about the Art Museum expansion and recommended that Council continue to look at the Pack Place Board of Directors to continue to work with the partners to resolve the issues. Mayor Bellamy suggested that when the process is complete, that the Pack Place Board and the Art Museum update City Council.

Mr. Ken Michalove provided City Council with an memorandum dated July 23, 2013, in which he raised questions regarding the integrity of Vice-Mayor Manheimer, Councilman Hunt and City Manager Jackson in that he felt that they have violated the principle of "conflict of interest" regarding the \$2 Million Asheville Art Museum "tax" that the Asheville City Council adopted in the 2013-14 budget.

Mr. Wally Lee, Vice-President of the Buncombe County Republican Men's Club, asked for adoption of the following resolution: "At this 60th Anniversary of the cessation of hostilities of the Korean War, no words can properly convey to the brave men and women who fought so nobly our heartfelt thanks for their selfless service. Therefore, we hereby resolve to convey such thanks to those who fought to preserve the freedoms that we enjoy today as American citizens. Many gave some, some gave all. For this, we do humbly offer this sincere tribute."

Mayor Bellamy said that Council has recognized veterans in the past and said that a formal resolution will be prepared for City Council consideration.

Closed Session

At 6:50 p.m., Councilman Pelly moved to go into closed session for the following reason: To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:10 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:10 p.m.

CITY CLERK

MAYOR