

Tuesday – October 22, 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

Mr. Diego Adams led City Council in the Pledge of Allegiance. Mr. Austin Grainer, Executive Director of Mentoring Matters briefly explained the Program.

INVOCATION

Councilman Pelly gave the invocation.

I. PROCLAMATIONS:

Mayor Bellamy was pleased to recognize Boy Scout Troop 91 who are working on their Citizenship in the Community Merit Badge.

A. PROCLAMATION PROCLAIMING OCTOBER 24, 2013, AS "FOOD DAY"

Councilman Smith read the proclamation proclaiming October 24, 2013, as "Food Day" in the City of Asheville. He presented the proclamation to Ms. Karen McSwain, Farm Services Director at Carolina Farm Stewardship, on behalf of the Asheville/Buncombe Food Policy Council; and Ms. Olufemi Lewis, Hillcrest resident, part owner of the Ujaama Freedom Market, and co-founder of the Asheville/Buncombe Food Policy Council; who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING NOVEMBER 2013 AS "CRIMESTOPPERS MONTH"

Councilman Pelly read the proclamation proclaiming November, 2013, as "CrimeStoppers Month" in the City of Asheville. He presented the proclamation to CrimeStoppers Board of Directors Chairman Karl Katterjohn, and Police Chief William Anderson, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING NOVEMBER 2013 AS "RECYCLE IT!" MONTH

Councilman Hunt read the proclamation proclaiming November, 2013, as "Recycle It!" month in the City of Asheville. He presented the proclamation to Chief Sustainability Manager Maggie Ullman, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Mayor Bellamy, Consent Agenda Item "O", a resolution amending the 2013 City Council Meeting schedule to cancel the November 26, 2013, City Council meeting, was added to the Consent Agenda.

At the request of Vice-Mayor Manheimer, Consent Agenda Items "N" was removed from the Consent Agenda for discussion and/or individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 23, 2013**
- B. RESOLUTION NO. 13-214 - RESOLUTION ACCEPTING GROVEPOINT WAY, GROVE COVE DRIVE AND SPRING COVE ROAD EXTENSION, IN THE GROVE PARK COVE SUBDIVISION AS CITY MAINTAINED STREETS**

Summary: The consideration of a resolution to accept Grovepoint Way, Grove Cove Drive and Spring Cove Road extension, in the Grove Park Cove Subdivision, as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail dated April 12, 2013 asking the City to accept the subject streets as city-maintained streets.

Grovepoint Way from Grove Cove Road to its dead-end (at the cul-de-sac) is a developer-constructed street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.13 mile, and a right-of-way width of 45 feet.

Grove Cove Drive from Patton Mountain Road to Spring Cove Road is a developer-constructed street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.45 mile, and a right-of-way width of 45 feet.

Spring Cove Road from the end of Spring Cove Road to its dead-end is a developer-constructed extension of an existing city-maintained street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.02 mile, and a right-of-way width of 45 feet.

Transportation Department staff and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject streets were constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Grovepoint Way, Grove Cove Drive, and Spring Cove Road extension as city-maintained streets.

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- C. RESOLUTION NO. 13-215 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE HENDERSONVILLE ROAD SIDEWALK PROJECT**

Summary: The consideration of a resolution authorizing the Mayor to sign a locally administered project agreement with the N.C. Dept. of Transportation (NCDOT) for a project (identified as U-5189) to construct a sidewalk along both sides of US 25 (Hendersonville Road) from NC 146 (Long Shoals Road) to I-40.

Project U-5189 is listed in the current North Carolina Department of Transportation's State Transportation Improvement Program (STIP) as a project to construct sidewalks and make crossing improvements from NC 146 (Long Shoals Road) to I-40 within the city limits of Asheville in Buncombe

County. Specifically, the work includes constructing sidewalk along both sides of US 25 (Hendersonville Road) as well as including multi-modal amenities such as pedestrian crosswalks, ADA upgrades, bus shelters, trash receptacles, and bicycle racks.

The subject agreement is needed because the project will be funded with Federal Funds and a local match. According to the terms of the agreement, the NCDOT has agreed to administer the disbursement of the funds on behalf of the Federal Highway Administration (FHWA) and they have programmed funding in the current State Transportation Improvement Program (STIP). The City has agreed to be responsible for administering all work performed and for certifying to the NCDOT that all terms of the agreement are met and adhered to by the city and/or its contractors. In addition, the City shall complete all pre-construction activities including environmental documentation, right-of-way certification, and final PS&E package (design plans and construction documents) by September 1, 2014. The project will be completed (project completion is defined as completion of all construction activities, acceptance of the project, and submission of a final disbursement package) by December 31, 2015

The Federal Funds are coming from a program known as the Surface Transportation Program - Directly Attributable (STP-DA), commonly referred to as DA Funds. The French Broad River Metropolitan Planning Organization (FBRMPO) has the option to select projects to be constructed with these funds through the Technical Coordinating Committee (TCC) and the Technical Advisory Committee (TAC). Previously, these funds were used on the NC 146 (Long Shoals Road) widening project. Funds for the Hendersonville Road sidewalk project were approved in 2009.

The total estimated cost of the subject project is \$4,125,000 with Federal STP-DA funds providing \$3,300,000 (80%) and the City providing \$825,000 (20%). The City's local match is included in the approved Capital Improvement Program for FY 2013-14.

Staff recommends that City Council approve a resolution authorizing the Mayor to sign a locally administered project agreement with the North Carolina Department of Transportation (NCDOT) for a project (identified as U-5189) to construct a sidewalk along both sides of US 25 (Hendersonville Road) from NC 146 (Long Shoals Road) to I-40.

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D. RESOLUTION NO. 13-216 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO THE 2012 MUNICIPAL RECORDS RETENTION & DISPOSITION SCHEDULE

Summary: The consideration of a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

On October 9, 2012, City Council adopted Resolution No. 12-228 approving the 2012 Municipal Records Retention and Disposition Schedule issued September 10, 2012, by the N.C. Dept. of Cultural Resources, Division of Archives and History.

The N.C. Dept. of Cultural Resources has now amended said Schedule as follows:

- Adds Accreditation Records to the schedule
- Clarifies language for retention period of employee eligibility records to match U.S. Code
- Consolidates 3 different types of leave records

Staff recommends City Council adopt a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

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E. RESOLUTION NO. 13-217 - RESOLUTION AUTHORIZING THE CONVEYANCE OF THE FOLLOWING TWO PARCELS OF CITY-OWNED PROPERTY KNOWN AS (1) DEAVER STREET TO JUDD LEFEBER AND JENNIFER KIECKER; AND (2) MILLBROOK ROAD TO JUDD LEFEBER; AND WITHDRAWING THE CURVE STREET LOT FROM THE SEALED BID SALE

Summary: The consideration of a resolution authorizing the conveyance of two parcels of City owned property, known as the Deaver Street lot, and the Millbrook Road Lot, and withdrawing the Curve Street lot from the sealed bid sale.

The City of Asheville owns three properties that are currently designated as surplus, residential, vacant lots – the Curve Street lot (0.25 acres, PIN 9648-68-0689-00000), Deaver Street lot (0.19 acre, PIN 9638-76-4002-00000) and Millbrook Road lot (0.25 acres, PIN 9638-66-3884-00000). On August 27, Council authorized staff to proceed in marketing the properties for sale under the sealed bid process. In the period that followed, the properties were posted for sale, listed on the local Multiple Listing Service (MLS), and advertised in print and online. Staff received inquiries for each parcel.

On October 10, 2013, the bid opening was held and the results are as follows:

1. Deaver Street – Of the two bids received, the highest bidder was Judd Lefebber and Jennifer Kiecker at \$35,025.
2. Millbrook Road – Of the two bids received, the highest bidder was Judd Lefebber at \$22,500.
3. Curve Street – Of the two bids received, the highest bidder was Buncombe Land Holdings at \$10,000.

For the Deaver Street and Millbrook Road properties, the highest bids are consistent with the estimated fair market values for each property. The Curve Street parcel, however, did not generate a price point that reflects the value of the property. Based on the size of the parcel and the proximity to downtown, staff expected bids within the \$40,000 range. At this time, staff recommends that Council authorize the sale of the Deaver Street and Millbrook Road properties to the highest bidders as listed above. Staff recommends that Council withdraw the Curve Street parcel from this sale and refund the bid deposit to Buncombe Land Holdings.

The sale of both the Deaver Street and Millbrook Road parcels will benefit the General Fund and will be designated for future economic and community development projects.

City staff recommends adoption of the resolution authorizing the conveyance of two parcels of City owned property, known as the Deaver Street lot, and Millbrook Road lot, and withdrawing the Curve Street property from the sales process until further notice.

RESOLUTION BOOK NO. 35 - PAGE 476

F. RESOLUTION NO. 13-218 - RESOLUTION AUTHORIZING CITY STAFF TO APPLY FOR A FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REVERSE COMMUTE PROGRAM GRANT TO FUND THE BLACK MOUNTAIN ROUTE AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE DOCUMENTS TO ACCEPT THE GRANT, IF AWARDED

Summary: The consideration of a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

Since inception in 2002 the Black Mountain route has been funded with different funding sources. During the first 7 years, Intercity grant provided 45% Federal, 45% State and 10% match from the Town of Black Mountain, Buncombe County, and from the route's farebox revenue. The Intercity grant was

discontinued in November 2009; the North Carolina Department of Transportation funded the route with a Demonstration grant until December 2010. After that date the route was merged with route 29 and funded with City and Warren Wilson funds, for the segment from Downtown to the City limits, and Job Access and Reverse Commute program of the Federal Transit Administration for the segment between City limits and the Town of Black Mountain.

The Job Access and Reverse Commute (JARC) program was established to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment. Eligible activities are capital, planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects. Funding for this route expires in December 31, 2013 and the City is pursuing JARC funding made available by the French Broad River Metropolitan Planning Organization to continue funding this route.

This route is part of a partnership between Warren Wilson College and the City of Asheville. As proposed in the Transit Master Plan, this route was merged with route 29 that served the college and operates as a regular route with frequent stops. The route operates four times a day, Monday through Saturday, along US 70 (Tunnel Road) between downtown Asheville and Black Mountain. Mountain Mobility already has funding in place through JARC to operate the Black Mountain portion of the route. The service will continue connecting with the local Mountain Mobility deviated route service.

This route's ridership has been variable during the last three years, showing the impact of the route changes in FY2013. Staff has observed an increase in overall ridership for FY2014.

Year	Ridership	Change
FY2013	57797	-17%
FY2012	69641	25%
FY2011	51598	

The City is planning to apply for a two-year period. The total cost of providing this service is approximately \$240,000 per year; 50% or \$240,000 will be paid by the grant and the other 50% by the combined contribution of Warren Wilson College (approximately 14% or \$67,200) and the City of Asheville to the route (36% or \$172,800).

The application deadline is October 31, 2013.

The total cost of the subject project is approximately \$480,000. The City is required to fund 50% (\$240,000) of the subject project cost with the remaining 50% funded by the JARC grant. The City's required funding will be allocated from the Warren Wilson College and the City of Asheville's contribution to the current route 170. Warren Wilson contribution will total \$33,600 per year; therefore the City's cost is \$86,400 per year. The City's cost is included in the Transit Fund budget for FY 2013-14.

City staff recommends City Council adopt a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

RESOLUTION BOOK NO. 35 - PAGE 477

G. RESOLUTION NO. 13-219 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF JUSTICE FOR THE BALLISTIC VEST PARTNERSHIP GRANT 2013

ORDNANCE NO. 4325 - BUDGET AMENDMENT FOR THE BALLISTIC VEST PARTNERSHIP GRANT 2013

Summary: The consideration (1) a resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$15,378; and 2) a budget amendment in the amount of \$30,756 from US Department of Justice Ballistic Vest Partnership Program (BVP) funds.

The City of Asheville Police Department currently participates in the US Department of Justice BVP program. The funds allocated through this program are designed to offset departmental cost associated with purchasing ballistic vests. The City of Asheville has been awarded \$15,378 through this program, which requires the City to match this amount dollar-for-dollar. Expenditures for this program will be recorded in this City's Special Revenue Fund. The budget amendment is necessary to authorize the full project budget amount of \$30,756 in this fund. The City's match of \$15,378 will come from the Police Department's adopted FY 2013-14 operating budget. The funding will enable the purchase of 68 bulletproof vests over the next 2 years.

As noted above, this grant requires a match of \$15,378, which will come from the Police Department's existing General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept this grant award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$15,378; and (2) a budget amendment in the amount of \$30,756 from US Department of Justice BVP funds and previously approved City General Fund money to establish a project budget in the Special Revenue Fund for the 2013 BVP Program.

**RESOLUTION BOOK NO. 35 - PAGE 478
ORDINANCE BOOK NO. 28 - PAGE 340**

**H. RESOLUTION NO. 13-220 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S
HIGHWAY SAFETY PROGRAM FOR THE TRAFFIC SAFETY UNIT**

**ORDINANCE NO. 4236 - BUDGET AMENDMENT FOR THE TRAFFIC SAFETY
UNIT**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for highway safety grant funds to purchase equipment for the Traffic Safety Unit and costs related to the Regional liaison duties (2) a budget amendment in the amount of \$20,000.00 from the North Carolina Governor's Highway Safety Program.

The Asheville Police Department currently participates in the North Carolina Governor's Highway Safety Program Highway Safety campaigns. In order to facilitate better participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance communication and effectiveness. The Asheville Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for GHSP Region 10 covering Buncombe, Henderson, Madison, McDowell, Polk, Rutherford, and Yancey Counties.

Funding would also cover the costs for training and travel associated with the Regional Liaison position duties. The expenses created by the purchase of the equipment and the duty related travel are reimbursed by the Governor's Highway Safety Program through the National Highway Traffic Safety Administration. There is no local match of funds required for this grant.

This budget amendment is fully funded with grant revenue and there is no impact to the General Fund budget.

City staff requests City Council to adopt (1) resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program (2) and the associated budget amendment in the amount of \$20,000.

**RESOLUTION BOOK NO. 35 - PAGE 479
ORDINANCE BOOK NO. 28 - PAGE 342**

I. ORDINANCE NO. 4237 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of \$74,973.00 for a grant from the N.C. Dept. of Commerce for the WNC Nature Center.

Each year the State of North Carolina in the Department of Commerce allocates funds to 25 to 30 member museums, science centers and nature centers in North Carolina. The WNC Nature Center is a member of the collaborative. Funds will be used to make capital improvements to the facility and animal exhibits at the WNC Nature Center.

The grant is intended to support the first phase of the 20/20 vision master plan for the WNC Nature Center. The funding from this grant will go toward construction of a restroom located at the new Arachnid Adventure Playground which is identified as a high priority in the plan.

The project budget for one-time facility improvements at the WNC Nature Center will increase by \$74,973.00. This increase is funded by a grant from the State of North Carolina Department of Commerce. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to accept funds from the North Carolina Department of Commerce and establish a budget of \$74,973.00 for capital improvements at the WNC Nature Center.

ORDINANCE BOOK NO. 28 - PAGE 344

J. RESOLUTION NO. 13-221 - RESOLUTION WAIVING THE FEE FOR BLOCKING FOUR ON-STREET PARKING SPACES DURING THE CONSTRUCTION OF EAGLE MARKET PLACE

Summary: The consideration of a resolution waving the fee for blocking four on-street parking spaces during the construction of Eagle Market Place.

Mountain Housing Opportunities (MHO) has requested that four parking spaces on South Market Street be bagged during the construction of Eagle Market Place.

City of Asheville policy is to charge \$15 per day per space to block an on-street parking meter, excluding holidays and Sundays. MHO has requested the use of the spaces for one year starting November 1, 2013. The total fee for the use of the spaces during this period is \$21,600.

Pros:

- The City is partnering in this project and providing a financial contribution. Any savings in the cost of the project will direct in a savings to the City.

Cons:

- Reduction in revenue to the City of Asheville Parking Enterprise Fund.

Per the City's Fees and Charges Manual, the fee for blocking a parking space is \$15 per day. If the parking spaces were utilized during regulated hours 100% of the time, the daily revenue would be approximately \$12.50. The fee for blocking a parking space is \$15 per day in order to discourage

blocking parking spaces. The fee for blocking the spaces for one year, excluding holidays and weekends is \$21,600.

City staff recommends approving a resolution waving the fee for blocking four on-street parking spaces during the construction of Eagle Market Place in the amount of \$21,600.

RESOLUTION BOOK NO. 35 - PAGE 480

K. RESOLUTION NO. 13-222 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE FIRE FIGHTERS FUND RAISE ON NOVEMBER 7, 2013

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Fire Fighters Fund Raiser on November 7, 2013.

- Green Opportunities has requested through the City of Asheville Development Services Department that City Council permit them to serve beer and/or unfortified wine at the Fire Fighters Fund Raiser and allow for consumption at this event.

The Fire Fighters Fund Raiser will be held on Thursday, November 7, 2013, from 3:00 p.m. – 11:00 p.m. within the boundaries of Walnut Street between the intersections of Lexington Avenue and Carolina Lane, as referenced on the accompanying site map.

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Fire Fighters Fund Raiser.

RESOLUTION BOOK NO. 35 - PAGE 481

L. RESOLUTION NO. 13-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE AGREEMENT WITH BUNCOMBE COUNTY FOR THE JOB ACCESS AND REVERSE COMMUTE GRANT

ORDINANCE NO. 4238 - BUDGET AMENDMENT FOR THE JOB ACCESS AND REVERSE COMMUTE FEDERAL GRANT

Summary: The consideration of (1) a resolution authorizing the City Manager to amend the existing agreement with Buncombe County, the sub-recipient of the Job Access and Reverse Commute grant to incorporate additional budget; and (2) a budget ordinance amendment, in the amount of \$19,468, to increase the project budgets for the Job Access and Reverse Commute projects.

The City of Asheville is the designated recipient of the Job Access and Reverse Commute (JARC) grant funds, which is a program 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.

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 was selected as sub-recipient of the JARC grant. The original amount was increased by the MPO, due to additional funding availability; funding has been allocated to the JARC project as shown in the table below. The city will pass through the funds and will seek reimbursement directly from the FTA. The sub-recipient will be responsible for the match.

Sub-Recipient	Project	Program	Amount funded	Sub-Recipient's match
Buncombe County	Black Mountain Trailblazer	JARC	\$118,065	\$118,065
City of Asheville	Program Administration	JARC	\$26,290	N/A

The projects to be funded include: Black Mountain Trailblazer, bus service in the Town of Black Mountain, Buncombe County's project; and the City of Asheville's administrative costs. The budget amendment will increase the budget in the Transit Operating Fund by \$3,584 and increase the budget in the Transit Capital Fund by \$15,884.

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 \$26,290 JARC 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 amend the agreement with the sub-recipient (Buncombe County) of the Job Access and Reverse Commute grant; and 2) adopt a budget ordinance amendment in the amount of \$19,468 from federal grant funds and sub-recipient matches to increase the project budgets for the Job Access and Reverse Commute Federal grant.

**RESOLUTION BOOK NO. 35 - PAGE 484
ORDINANCE BOOK NO. 28 - PAGE 346**

M. ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED

This item was removed from the Consent Agenda for discussion and/or individual vote.

N. RESOLUTION NO. 13-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH YOUNG & MCQUEEN GRADING COMPANY INC. FOR THE CONSTRUCTIONS SERVICES NECESSARY TO COMPLETE PHASE I OF THE LAKE CRAIG/AZALEA ROAD IMPROVEMENT PROJECT

ORDINANCE NO. 4239- BUDGET AMENDMENT TO COMPLETE PHASE I OF THE LAKE CRAIG/AZALEA ROAD IMPROVEMENT PROJECT

Summary: The consideration of a (1) resolution authorizing the City Manager to enter a contract with Young & McQueen Grading Company, Inc. for the construction services necessary to complete Phase I of the Lake Craig/Azalea Road Improvements Project; and (2) a budget amendment in the amount of \$1,471,608 from the Water Resources Fund FY 2013-14 capital budget, Stormwater Fund reserves, and the General Fund Community and Economic Development CIP to fund the contract and a 10% contingency.

The City of Asheville has the opportunity to provide improved access to the Azalea Park along Azalea Road, provide a much needed water connection to the John B. Lewis Soccer Complex and to provide additional flood protection to Biltmore Village. Azalea Park is a regional attraction that hosts major soccer events at the John B. Lewis Soccer Complex. This complex draws a wide range of public participants which increases the traffic along Azalea Road. The City is proposing to widen and improve the roadway in this section which will include bike lanes and a pedestrian facility which will incorporate a new sidewalk connection from the soccer complex over to the WNC Nature Center. The City also plans to provide a much needed water supply connection to the Park. Currently, the pavilion does not provide a potable water source. The project will include connection to the City's water system.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The flood control features include stream relocation and restoration, removal of floodplain fill, re-establishment of the floodplain bench and improvement to the drainage structures within the project. Following a pre-qualification process for contractors, the bids were opened on September 5, 2013. The City of Asheville determined Young & McQueen Grading Company, Inc. to be the low responsive and responsible bidder. Following a value engineering process, the total cost of construction is \$3,749,191.75.

Within the scope of the project, Young & McQueen will perform the construction services necessary to provide improved transportation connections (including pedestrian, bike and vehicular) to the John B. Lewis Soccer Complex, provide a much needed connection to the City of Asheville water system, and remove flood plain fill and provide a stream restoration below the former Lake Craig Dam.

The flood mitigation/stream restoration portion of this project is expected to be fully funded through the State of North Carolina in compliance with the Hurricane Recovery Act of 2005 (Senate Bill 7); however staff is requesting Council approve an appropriation from Stormwater Fund reserves in the amount of \$62,893 to cover a portion of the contingency. The water line installation will be funded within the existing FY 2013-14 Water Resources Fund capital budget for neighborhood water line replacement. The transportation improvements were intended to be funded entirely by Sullivan Act proceeds; however the bids for the project came back higher than originally anticipated when the project was first budgeted three years ago. Since the City no longer has the ability to appropriate additional Sullivan Act funds for this project, funding to cover the higher costs will be taken from the City's Community and Economic Development CIP (EDCIP). The total amount of the budget amendment is \$1,471,608 with the components shown below:

Water Resources FY 2013-14 Budget:	\$371,127
General Fund FY 2013-14 EDCIP:	\$1,037,588
Stormwater Fund Reserves:	\$62,893

City staff recommends City Council (1) approve a resolution authorizing the City Manager to complete negotiations and sign a contract with Young & McQueen Grading Company, Inc. for the construction services necessary for completion the Lake Craig/Azalea Road Improvement Project for

\$3,749,191.75; (2) authorize the City Manager to enter into change orders to this contract not to exceed 10% of the original contract or \$374,919; and (3) approve a budget amendment in the amount of \$1,471,608 from the Water Resources Fund FY 2013-14 capital budget, Stormwater Fund reserves, and the General Fund Community and Economic Development CIP to fund the contract and the 10% contingency.

Mr. Kevin Mahoney, Board Member of the Asheville-Buncombe Youth Soccer Association, spoke in support of the resolution.

**RESOLUTION BOOK NO. 35 - PAGE 485
ORDINANCE BOOK NO 28 - PAGE 348**

O. RESOLUTION NO. 13-230 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE NOVEMBER 26, 2013, CITY COUNCIL REGULAR MEETING

RESOLUTION BOOK NO. 35 - PAGE 493

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

M. ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED

At the request of Vice-Mayor Manheimer, it was the consensus of Council to refer this matter back to the Public Safety Committee for further clarification. Councilman Smith asked that staff seek any clarification necessary from the School of Government or the Attorney General's Office.

III. PRESENTATIONS & REPORTS:

A. RESOLUTION NO. 13-225 - RESOLUTION UPDATING UNC-ASHEVILLE'S MEMORANDUM OF UNDERSTANDING

Mayor Bellamy said that this is the consideration of a resolution authorizing the Mayor to sign a renewal of a Memorandum of Understanding (MOU) with UNC-Asheville. She said that UNC-Asheville and the City signed the original MOU in 2009 setting forth a framework for collaborations in areas of mutual interest. The renewal of the MOU continues a long standing partnership between the City of Asheville and UNC-Asheville and sets forth a plan for future collaborations.

Through its annual strategic planning process, the City Council identified Economic Growth and Financial Sustainability as one of its 3 key focus areas for the 2013-14 fiscal year. One action item specific to growth and sustainability highlights continued partnerships with local institutions of higher learning. The MOU establishes a framework by which UNC-Asheville and the City of Asheville will work to exchange information, conduct cooperative research, and jointly explore projects for the sustainability for the Asheville community. Staffs from both organizations met this past September to identify areas of opportunity for collaboration and partnership. From those initial meeting, the following areas were identified. Environmental Sustainability; Public Safety, Diversity; Co-branding; Master Plan/Land Use; Crime and Technology; Health and Wellness; Economic Development; and Culture and Recreation.

City staff recommends City Council authorize the Mayor to sign the 2013-2015 Memorandum of Understanding with UNC-Asheville to further collaborative efforts in the focus areas identified above.

Chancellor Anne Ponder of UNC-Asheville said that over the last several years the partnership between the City of Asheville and UNC-Asheville has seen some amazing successes. She then highlighted a few of them, recognizing City and UNC-Asheville staff: (1) economic development and the Southern Conference Basketball Tournament; (2) infrastructure improvements; (3) public safety; and (4) internships and community service.

Mayor Bellamy was pleased that the UNC-Asheville and the City of Asheville partnership is a model for other universities to become more integrated in their communities. She thanked Chancellor Ponder and her staff for their commitment in working with her as Mayor and the City of Asheville staff.

When Mayor Bellamy asked for public comments, none were received.

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

Councilman Davis moved for the adoption of Resolution No. 13-225. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. ASHEVILLE CITY BOARD OF EDUCATION UPDATE

Ms. Jacquelyn Hallum, Chair of the Asheville City Board of Education, and Dr. Bobbie Short, Interim Superintendent, briefed Council on their activities of the past year and goals for the upcoming year.

On behalf of City Council, Mayor Bellamy thanked Ms. Hallum for her leadership and the entire Board for their dedication and welcomed Dr. Short.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF CAREFREE ASHEVILLE LOCATED AT 1903 HENDERSONVILLE ROAD TO INCLUDE A CHANGE IN HOUSING TYPE AND BUILDING FOOTPRINTS; A CHANGE IN THE INTERNAL ROAD NETWORK, AND AN INCREASE IN THE NUMBER OF RESIDENTIAL UNITS, INCLUDING MODIFICATIONS FOR SETBACK AND HEIGHT

ORDINANCE NO. 4240 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF CAREFREE ASHEVILLE LOCATED AT 1903 HENDERSONVILLE ROAD TO INCLUDE A CHANGE IN HOUSING TYPE AND BUILDING FOOTPRINTS; A CHANGE IN THE INTERNAL ROAD NETWORK, AND AN INCREASE IN THE NUMBER OF RESIDENTIAL UNITS, INCLUDING MODIFICATIONS FOR SETBACK AND HEIGHT

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the conditional zoning of Carefree Asheville located at 1903 Hendersonville Road to include a change in housing type and building footprints, a change in the internal road network, and an increase in the number of residential units, including modifications for setback and height. This public hearing was advertised on October 11 and 18, 2013.

Ms. Fields said that the subject property, 12.21 acres, is located within the city limits, off of Hendersonville Road, just south of Walden Ridge Road. The property currently contains a vacant single-family home and the infrastructure for what was designed to be an office/residential subdivision.

Properties to the north contain office buildings and those to the east (along Hendersonville Road) contain commercial operations. To the west and south are single family homes although the zoning to the south is largely Office Business.

The property in question was approved for a residential and office subdivision in 2006. Significant grading and infrastructure development took place based on that approval. Most utilities were installed and curbing and roadway construction was largely completed. The project was abandoned in 2007 and the property placed on the market.

In 2008, another developer submitted to the City a proposal for a 144 unit residential community and received conditional zoning approval for the site (to RM16CZ). This development also was never pursued post-approval. This proposal was for a mix of single-family, duplex, quadruplex, townhouse, and multi-family dwellings with a proposed residential density of 11.8 units per acre. Modifications for height and setbacks were granted along with a variance for grading (steep slope regulations).

A new developer, Evolve, LLC proposes to develop the property with five additional units (149 – 12.2 units/acre) and with revisions to the type and location of the dwelling units. This concept uses only multi-family units, which will reduce overall imperviousness on the site. The request is for an amendment to the previous conditional zoning approval to adopt the new concept.

The proposal for the community is a mix of one, two, and three bedroom apartments in six buildings with a clubhouse/pool amenity. Access will still be via the main drive off of Hendersonville Road. The previously approved secondary exit road will be removed as the buildings will have sprinkler systems. While much of the rest of the existing road system will be retained, the developer is planning to remove the cul-de-sacs at the western end of the property to better work with the slopes found in that area in the siting of one apartment building and parking. They plan to restore these areas that will be demolished to a natural state or design them to be utilized as open space amenities by the residents of the community. There is an existing home on the property that will be removed once construction begins.

The property is in an area protected under the City's steep slope regulations. The easternmost 6.36 acres is in Zone A of the regulations; the western 5.85 acres are in Zone B. Under the regulations, the allowable number of units in the Zone A portion is 85. In the Zone B portion, the allowable number of units is 24. The developer is proposing 24 units in Zone B in one building. The developer is proposing 125 units in Zone A (five buildings) for a total of 149 units.

They are requesting retention of the previously allowed development standard bonus to allow the additional 40 units (total is 137% of the base density allowed). Although this bonus provision is no longer in our ordinance, this can be extended to the amended development if the proposal meets the intent for such a bonus. Development bonus standards allow multi-family projects with less than 20% of the housing being affordable (per City standards) to have a maximum density of 150% of the allowed base density. The developer is proposing that 10% (14 units) be affordable. They have also provided a plan in their submittal which outlines other features that support the development bonus. These include:

- The preservation of mature natural woodlands (23% of site).
- The promotion of a socially interactive community through development of such amenities as a clubhouse/pool, walking path, dog park, and tot lot.
- The establishment of community raised gardens for the residents.
- Open space exceeding City standards (over 40,000 square feet additional).

The applicant is also committed to green/sustainable building practices including:

- Using high-efficiency fixtures and fittings above code required minimums.
- Use of Energy Star rated appliances.
- Use of HVAC units with SEER ratings higher than code required minimums.
- Using insulation values greater than required minimums.

- Using low VOC floor finishes and paints.

The applicant is seeking modifications to the height of building #300. The allowable height is 40 feet. The proposed elevation is 41'2 ¼". The needed modification is 1'2 ¼ ". They are also requesting modifications to the side setbacks as follows:

- North – a 17 foot modification from the required 40 foot setback. 23 feet provided.
- South – a 25 foot modification from the required 40 foot setback. 15 feet provided.

Staff is supportive of the height modification because the property abuts Office Business zoning at the location of the tallest building. Office Business zoning allows for buildings to be 60 feet in height. Staff is also supportive of setback modifications because of the adjacent Office Business Zoning which allows side setbacks of 10 feet, because of the limitations to development based on the existing infrastructure, and due to the topography of the site and surrounding area.

At a meeting on August 19, 2013, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Asheville Planning and Zoning Commission. The developer has modified the submittal since that time, addressing the bulk of the conditions in the report.

As previously noted, at a meeting on August 26, 2013, the City of Asheville Board of Adjustment reviewed the request for a variance to the steep slope regulations with respect to grading and voted unanimously to approve the requested variance. One adjoining property owner was present at that meeting and expressed concerns about lighting and traffic. He has a single-family home on the property although the property is zoned Office Business.

This conditional zoning request received a negative recommendation (1-3 with three commissioners absent) from the Planning & Zoning Commission at a meeting on September 4, 2013. Two adjoining property owners spoke at the hearing noting concern about the height of Building 600 (westernmost structure) and the desire to see more single family homes (as opposed to multi-family) on that part of the property. The Commissioners voted not to recommend this project to the Asheville City Council but encouraged the developer to meet with neighboring property owners and discuss ways to address their concerns.

Subsequent to the meeting, the developer met with the property owners and the site plan has been revised to address their concerns. The proposed walking path has been pulled in away from their properties and the plan now shows a wooden fence between Building 600 and the adjacent properties on the western end of the development. The developer indicates that letters of support from those concerned have been received. An adjoining property owner asked that she relay that he is concerned about traffic on Hendersonville Road but that he much prefers the new design that pulls the development away from his property.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The project, if approved, must meet all the technical standards set forth in the City's Unified Development Ordinance and Standards and specifications manual. The developer has been working closely with City staff to ensure compliance.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of

the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

In designing this project the developer has moved the majority of the development away from the steeper sloped areas where they propose to restore much of that section of the property to pervious land with reforestation. Restricted by the amount and design of the grading and development already done on the site, they are working to comply as much as possible with the City's steep slope regulations while still achieving higher density development in an area appropriate for such development. They sought, and obtained, a variance for the grading of the site.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The building location and site amenities shown on the development plan depict a project that should not injure the value of adjoining properties which are mostly zoned for office or commercial development. The proposal pulls most of the development away from the single-family zoned properties.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The design of the project is compatible with the commercial and office properties adjacent which are heavily developed. The project sits below the single-family homes that adjoin it and there should be substantial topographic and vegetative protection for these properties.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The proposed use supports the 2025 goals and Council vision as follows:

- a. Supports the goal of pursuing compatible infill development.
- b. Supports the goal of permitting and encouraging transit supportive density along and adjacent to major corridors and logical transit nodes.
- c. Supports the goal of promoting the use of green building techniques.
- d. Supports the goal of permitting more intense development in areas with appropriate infrastructure.
- e. Supports the goal of providing affordable housing.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed use is located off of a major (five lane) thoroughfare in the City. Transit is available along this corridor. Much infrastructure is already in place for this project.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The developer has submitted an update to the previously submitted traffic study for the development that has been analyzed and accepted by the City's Traffic Engineer.

Pros:

- The project supports the goal of pursuing compatible infill development.
- The project takes a property with significant infrastructure in place and proposes a sensitive residential development.
- The project proposes an affordable housing component.

Con:

- The project will add additional vehicular traffic to Hendersonville Road although the traffic study does not warrant any improvements.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modifications to height and setbacks and with the conditions set forth in the TRC report and the standard conditions listed below.

Although the Planning and Zoning Commission did not recommend this project (1-3 vote) due to adjoining property owner concerns, the developer has met with these property owners and addressed these issues.

Mayor Bellamy opened the public hearing at 6:13 p.m.

Mr. Derek Allen, attorney representing Evolve Development, LLC, reiterated the background of the project. He provided Council with information (and reviewed with Council) an area photo, currently approved sketch plan, proposed sketch plan, exceptional site development standards and goals, and neighbor support letters. He said there is only one entrance into the project because all the buildings will be sprinkled. He explained how they worked with the neighbors to make this a better project, which they now support. Modifications on the buildings are really geared towards not doing any more grading. They tried to cluster the development closest to the commercial development on Hendersonville Road. He said they have added in a workforce housing component. At the Planning & Zoning Commission they proposed that 5% of the units be affordable; however, they are now proposing 10% (14 units) be affordable. He urged Council to approve this infill development.

Mayor Bellamy closed the public hearing at 6:21 p.m.

Councilman Smith personally wanted to work with builders to make sure that everything we do in the City has an affordable housing component to it. He hoped that Council will have a more substantive policy discussion around how we can get to a much better place to meet our affordable housing needs.

Councilman Pelly noted that Council recently approved a contract with the N.C. Dept. of Transportation to bring sidewalks down Hendersonville Road, showing that we are trying to do our part to contribute to the quality of life of all our residents. Because there are 149 units in this project, he felt a true 10% affordable housing would be 15 units and he hoped the developer would consider adding at least 15 affordable units.

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

Councilman Hunt 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. 4240, to amend the conditional zoning of Carefree Asheville located at 1903 Hendersonville Road to include a change in housing type and building footprints, a change in the internal road network, and an increase in the number of residential units, including modifications for setback and height, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) That 10% of the project (14 units) be affordable. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT THE INTERSECTION OF CLINGMAN AVENUE EXTENSION AND

ROBERTS STREET FROM COMMERCIAL INDUSTRIAL DISTRICT AND RIVER DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO FACILITATE A MIXED USE DEVELOPMENT KNOWN AS RAD LOFTS, INCLUDING A MODIFICATION REQUEST ON THE BUILDING SIZE

ORDINANCE NO. 4241 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT THE INTERSECTION OF CLINGMAN AVENUE EXTENSION AND ROBERTS STREET FROM COMMERCIAL INDUSTRIAL DISTRICT AND RIVER DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO FACILITATE A MIXED USE DEVELOPMENT KNOWN AS RAD LOFTS, INCLUDING A MODIFICATION REQUEST ON THE BUILDING SIZE

Interim City Attorney McGlohon explained the conditional zoning process which is limited to site specific. The conditional zoning requires no specific findings. The decision should be based on sound land use guidance principles. The individual conditions and site specific standards that can be imposed are limited to those needed to bring a project into compliance with the City's ordinance, adopted plans, and those addressing the impacts reasonably expected to be generated from the development or use of the site. She said that this project is also being considered for a land use incentive grant; however, that process is different from what Council is considering at this time.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at the intersection of Clingman Avenue Extension and Roberts Street from Commercial Industrial District and River District to Urban Place District/Conditional Zoning to facilitate a mixed use development known as RAD Lofts, including a modification request on the building size. This public hearing was advertised on October 11 and 18, 2013.

Ms. Bernstein said that the applicant is requesting a Conditional Zoning for two parcels located at 146 Roberts Street from CI (Commercial Industrial) and River to UP (Urban Place District) – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development.

The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and is zoned Commercial Industrial (CI). The second parcel (0.379 acres) is located across Roberts Street to the south and is currently zoned River District. Adjacent parcels are similarly zoned.

The project area is currently vacant but was most recently the site of Dave Steel. The main building from that use was removed and all remaining structures (railroad tracks, walls and a small building) are to be removed.

The applicant is proposing the construction of a mixed-use development including residential, retail and office spaces and parking, both structured within the development as well as a small separate surface lot. A total of 209 residential units are proposed with 141 1-bedroom and 68 2-bedroom units. There are 26 retail spaces designated (42,776 square feet gross area) and 11,656 square feet of office space (13,116 square feet gross area) shown on submitted plans.

The design incorporates seven buildings with a shared base of structured parking. The buildings range from two to seven stories (no height exceeds 75 feet). Building A fronts on Roberts Street (5-levels); buildings B and C are more interior to the site with rear frontage on Park Avenue (up to 7-levels); Building D is almost fully interior to the site (6-levels); and buildings E, F and G front on Clingman Avenue (4, 2 and 3-levels).

There are to be two access points into the site, one two-way driveway into Building A from Roberts Street and another two-way driveway into the parking structure between buildings D and E on Clingman Avenue. The separate parking lot will have two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street as well as the project frontage on Clingman

Avenue and range from 6 to 12 feet in width. There is an existing 5 foot sidewalk along the Park Avenue frontage. Additionally, the project has been designed to incorporate ample areas of pedestrian amenities both at the corner of Clingman and Roberts as well as the public pedestrian promenade through the site.

This project incorporates parking in several locations. The largest is a 338-space parking structure within the development; the standalone parking lot on a separate parcel across Roberts Street to the south indicates 24 spaces (2 HC accessible) and approximately 15 other on-street spaces will be delineated through streetscape enhancements. Bike parking is also included throughout the site.

Landscaping is required on the site and includes street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area – almost 15% has been provided, mainly through the urban-style amenities in the pedestrian promenade.

Modifications:

1. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000 (unless a variance is requested). Technically according to the building code, because of the shared base of parking, A-F are all considered as one building, even though they are smaller separate and distinct above the shared base. “Building 1” has a gross floor area of approximately 223,882 square feet, however, the independent buildings above ground do not individually exceed the maximum. *This modification must be granted by City Council and is supported by staff.*
2. **Sidewalks** – There are three locations where the sidewalks do not meet the required 10 foot width: existing sidewalks along Park Avenue are only 5 feet; sidewalk proposed along the surface parking lot on Roberts Street is only 6 feet and there is a stretch along Clingman Avenue that is only 8 feet. Per the UDO, approval by the City Traffic Engineer is needed for the insufficient width and has been granted based on topography and site restrictions.

The Urban Place zoning district was created to foster “higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities...[and] intended in areas where the appearance of the built environment is important to the vitality of the area.” Additionally, the zoning district was created with areas along the French Broad River in mind. Staff believes that this location in the River Arts District is ideal for Urban Place zoning. Although the uses proposed would have been acceptable in the underlying zoning, Urban Place offers a greater residential density (64 units per acre versus 16 – or 209 units for the project rather than 38 units) appropriate for this location.

This project was approved with conditions by the Technical Review Committee on September 16, 2013. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit. An informational review by the River District Design Subcommittee was held on September 25, 2013, and the Asheville Area Riverfront Redevelopment Commission (AARRC) on October 10, 2013. Both groups were supportive of the project. The Planning & Zoning Commission reviewed this proposal at their meeting on October 2, 2013, and recommended unanimous approval.

Staff has received comments from the public relating to the elimination of on-street parking along Clingman Avenue, the increased traffic flow through existing traffic patterns and maintaining affordability of spaces for both living and working. At the Planning & Zoning Commission meeting, there was comment encouraging the applicant to use local artists as much as possible with site amenities (bike racks, planters, benches, signage, etc.) to fit in with the look and feel of the River Arts District.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in

Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

This site was previously developed and has a +/- 35 foot grade change from Park Avenue down to the Robert Street / Clingman Avenue intersection with a steep bank along the northern end. The proposal focuses development activity (retail spaces, pedestrian plaza and walkways, parking garage entrances) down towards the previously graded areas and leaves the rear bank intact, more or less, functioning as the “back” of the site. Working with the grade changes on the parcel, the structured parking is only “exposed” along the rear of the site where there is no public interaction, integrating the design into the natural and topographic features on the parcel.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The development is expected to complement the adjacent shops, studios and uses and add to the fabric of the River Arts District in a valuable way. Streetscape improvements will greatly improve the pedestrian experience along Roberts Street and Clingman Avenue and the addition of parking in several locations will be a benefit to the area. The design standards in Urban Place zoning are crafted to promote activity along the ground level and placing residential units on floors above is a positive addition to the area as a neighborhood. The mix of uses should fit well with the immediate area and is not expected to injure the value of abutting properties.

Concern has been expressed from several members of the public that the units (both residential and commercial) should be kept at affordable rates so that spaces for emerging artists in the district will not be priced out of reach.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

This type of mixed-use, high density development is ideal (and intended) for areas such as the River Arts District and while the buildings are taller than most in the immediate area, the scale of the structures is mitigated through façade planes, step-backs, balconies and material differentiations as well as ample pedestrian areas between and around the buildings. Many of the existing buildings along Roberts Street are two stories from the street (taller behind due to grade changes) but in the style of these old industrial buildings, they are much taller overall than typical two-story buildings constructed today, resulting in a feeling of a larger scale. Also, new development continuing south on Depot Street (Glen Rock) has set a precedent for taller construction in the area. The design incorporates a more “industrial” look which should complement the existing built environment and there are creative amenities incorporated into the site which are in harmony with the character of the area (community garden spaces for example).

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

Elements of the overall project are directly aligned with the City’s goals and objectives including mixed-use infill development, economic investment in an area of notable cultural activity, multi-

modal transportation elements that enhance walkability (new sidewalks and ample pedestrian areas, bike racks) and supporting residential uses in neighborhoods close to downtown.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This site in the River Arts District places the project in an easily accessible location by car, foot, bicycle and is proximate to two Asheville transit routes (W1 and W2). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

Based on a review of the Traffic Impact Study, prepared by JMT Engineering, the proposed use should not cause undue traffic congestion or create a traffic hazard if the recommendations of the TIS are complied with.

Pros:

- City goals support mixed-use development, especially providing residential uses in a walkable location proximate to transit and the Central Business District
- Streetscape improvements will greatly enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- Structured parking is integrated into the site design so that it is masked from the street by habitable and active uses.
- Urban Place zoning sets forth specific design and operational standards to ensure a development that will integrate into the area and enhance the activity at the street level.

Cons:

- A modification is needed to allow a building footprint size larger than the district allows (*staff is supportive of this request since other design characteristics mitigate the building size*).
- No designated affordable retail or residential units (*affordability is not a requirement*).

Staff recommends supporting the requested conditional zoning to Urban Place to support this development proposal, especially for the increased residential density. The streetscape enhancements, structured parking, thoughtful design and mix of uses should complement the activities already in the River Arts District.

Staff recommends the zoning map amendment from River and Commercial Industrial to Urban Place (Conditional Zoning) – including the request to increase the maximum building footprint - subject to the conditions recommended by staff and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 6:34 p.m.

Mr. Matt Sprouse, representing Sitework Studios, provided Council with several views of the property, along with detailing the conceptual drawings of the proposed site improvements, plan for the parking decks, street elevations, and views from the property. He said that there will be a total of 209 residential units that will fall within the workforce housing definition of Asheville. There is 223,882 square feet of total space, and of that 54,000 is commercial and office space. All of that together has a total of 377 new parking spaces, most of which are in the deck.

Ms. Robin Raines, representing Rowhouse Architects, briefly walked through the different levels of the buildings.

Mr. Tim Schaller, representing the River Arts District Business Association, expressed concern about parking, construction disruption of business, and need for crosswalks. He said the City had promised parking on Depot Street that hasn't happened yet, so he hopes this will spur that along. They would also like to see some affordable live/work studio space.

Mayor Bellamy closed the public hearing at 6:46 p.m.

Councilman Hunt felt this is a great transformational project for the River District and felt that the proposed land use incentive grant might alleviate some lingering concerns. He could support some reasonable investment by the City. He agreed that affordable units is a key goal of Council. Another concern is getting away from utility poles in the middle of sidewalks.

Mr. Harry Pilos, developer, understood that Duke Energy Progress has a program that will help contribute to putting utilities underground. If the loads are enough, Duke Energy Progress will pay for that work.

Mr. Jason Walls, Duke Energy Progress District Manager, explained that it's their practice that developments that use underground utilities should have the responsibility to pay for those underground utilities. However, if the load is sufficient (from various factors in a cost matrix) it might be that Duke Energy Progress would pick up that cost, because it would be an on-going stream revenue for the company.

Councilman Smith noted that Mr. Pilos would be making a \$43 Million investment in the River Arts District. He appreciated Mr. Pilos' willingness to be sensitive to the District and was pleased that he was continuing to work with staff to address affordability and environmental issues.

In response to Councilman Smith, Mr. Pilos said that there is a big gap between affordable housing for a 1-bedroom (\$650 including utilities) and the product they are producing with the parking structure. He simply cannot make the math work. But, what he would do is calculate what subsidy is required for 10 years to make the math work and then pass it onto staff and Council for consideration.

Councilman Bothwell suggested Mr. Pilos look at installing solar on the vast roof. Mr. Pilos said that he is already in the process of studying that, along with other options.

Vice-Mayor Manheimer said it's important for the City to meet its partners in the community in the transformation of the River District, noting that the City has a major redevelopment plan in that immediate area.

City Manager Jackson noted that the City has made significant commitments in the River District, some being, but are not limited to: restoration of the smoke stack and we deep into the River Arts District Transportation Improvement Plan planning process. In terms of Depot Street parking, Council has funded that in this year's paving budget and we are waiting for approval by the railroad for those 34 parking spaces on Depot. We hope to install those parking spaces later this spring. He also noted that Mr. Pilos will be making an application for a land use incentive grant.

Mayor Bellamy thanked the several organizations, artists, business owners, and individuals who have made investments in the River District.

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

Councilman Davis 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. 4241 to conditionally zone property located at the intersection of Clingman Avenue Extension and Roberts Street from Commercial Industrial District and River District to Urban Place District/Conditional Zoning to facilitate a mixed use development known as RAD Lofts, including a modification request on the building size, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development

Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (6) Existing granite curbs must be reused on site or turned over to the Public Works Department for use in the local historic districts. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 28 - PAGE

Closed Session

At 7:06 p.m., Councilman Pelly moved to go into closed session to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Smith and carried unanimously.

At 7:23 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 329 ROCKWOOD ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING, FOR A HOLIDAY INN EXPRESS AND SUITES, INCLUDING A MODIFICATION REQUEST TO THE BUILDING HEIGHT STANDARDS

ORDINANCE NO. 4242 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 329 ROCKWOOD ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING, FOR A HOLIDAY INN EXPRESS AND SUITES, INCLUDING A MODIFICATION REQUEST TO THE BUILDING HEIGHT STANDARDS

Councilman Davis moved to recuse Vice-Mayor Manheimer from voting on this matter due to a conflict of interest. This motion was seconded by Councilman Hunt and carried unanimously.

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone property located on 329 Rockwood Road, from Highway Business District to Highway Business District/Conditional Zoning, for a Holiday Inn Express and Suites, including a modification request to the building height standards. This public hearing was advertised on October 11 and 18, 2013.

Ms. Fields said that the project site of approximately 2 acres is located at 329 Rockwood Road (PIN 9643.75-1885) and is zoned Highway Business (HB) District. It is located adjacent to a major shopping area which has its main entrance off of Airport Road.

A seven-story, 100 room hotel (Holiday Inn and Suites) is proposed for the site. The proposed structure has a gross floor area of 60,474 square feet. The building, as designed is 82'8" in height necessitating a modification from the HB standards (60 feet height maximum; 22'8" modification). The reason for the conditional zoning is to request this modification. A request for a Determination of No Hazard to Air Navigation from the Federal Aviation Administration is pending. This must be granted regardless of zoning action by the City.

Access to the hotel will be via an access drive (30 to 24 feet in width) shared with the restaurant located on the adjoining property off of Rockwood Road. There is a traffic signal from Airport Road onto Rockwood Road. A sidewalk will be provided along Rockwood Road.

A total of ninety-seven vehicle parking spaces (4 handicapped) are provided. All spaces are surface parking. Parking for five bicycles is also planned.

Proposed landscaping meets the relevant standards for street trees, parking lot landscaping and building impact landscaping. The open space requirement of 15% (13,068 square feet) is exceeded. Plans are to provide 15,043 square feet in open space.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposal has been reviewed by the City of Asheville Technical Review Committee and meets, or can meet, all applicable regulations concerning health and safety. A required Determination of No Hazard to Air Navigation (FAA) is pending.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

There are no significant natural or topographic features on the site or in the vicinity needing mitigation.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposed use should not injure the value of adjoining or abutting property. The site is in an area heavily developed with large commercial and industrial uses. Another hotel is being constructed across Rockwood Road.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

While the proposed structure is taller than other existing structures in the area, the size and bulk are compatible with other development in the regional node found at the intersection of Airport Road and I-26. It is adjacent to Buncombe County zoning that allows a height of 90 feet and perhaps the City should reconsider the zoning of areas close to I-26 in the future.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The comprehensive plan depicts the Airport Road/I-26 area as a regional node. This project is supportive of that concept and of the objective of placing large commercial uses in appropriate areas adequately served by public utilities and transportation resources with easy access to the interstate highway system.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed use is located off of a high traffic corridor (Airport Road) with quick access to Interstate 26. The project has received approval from the City's Technical Review Committee concerning issues of water, fire, and police protection.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

A traffic impact analysis was not warranted for this development. No concern was raised at the Technical Review Committee Meeting concerning traffic.

The City of Asheville Technical Review Committee reviewed this project on September 16, 2013, and recommended it with conditions. Many of these conditions have been met in the revised plans submitted for review by the Planning and Zoning Commission and Asheville City Council.

This conditional zoning request was recommended for approval by a 5-0 vote of the Asheville Planning and Zoning Commission at a meeting on October 2, 2013. This approval included a recommendation that the height modification be granted. The only speakers at the hearing on this matter were City staff and the applicant. The Planning and Zoning Commission placed the following conditions on their approval:

1. The project shall comply with all conditions outlined in the TRC staff report.
2. The project shall comply with all standard conditions.
3. That an FAA Determination of No Hazard to Air Navigation be received before building permits are issued.
4. That staff and the developer explore constructing a sidewalk along the entrance drive connecting to the proposed sidewalk along Rockwood Road if such a walkway would be feasible and legally permissible.

Staff has looked into the feasibility of constructing such a sidewalk. Staff finds such a sidewalk to be problematic. The slope and existing retaining wall on the site would make compliance with ADA standards very challenging and costly. While this is not the safe egress from the building (which requires a fully accessible route), such a "convenience sidewalk" still must meet ADA standards. While in these situations this can include such things as stairs, the site does not lend itself to providing such a walkway and there still could be discrimination claims filed against the owner.

Pros:

- The proposal places a major service operation in an appropriate regional development node.
- The proposal supports the comprehensive planning goal of placing large commercial uses in areas adequately served for such uses.

Con:

- None noted.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modification to height and with the conditions set forth in the TRC report and the standard conditions listed below.

The Planning and Zoning Commission voted to recommend approval (5-0) on October 2, 2013, with the conditions as listed above, the modification, and the condition to explore a walkway along the entrance drive to the property.

City staff recommends approval of the zoning map amendment from HB (Highway Business) to Highway Business CZ (Conditional Zoning) with a height modification of 22'8", pending FAA approval, and subject to the conditions recommended by staff and all standard conditions.

Mayor Bellamy opened the public hearing at 7:30 p.m.

Mr. Justin Church, civil engineer for the project, said that staff did a good job in explaining the project and was available to answer questions.

Mayor Bellamy closed the public hearing at 7:31 p.m.

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

Councilman Pelly 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. 4242 to conditionally zone property located on 329 Rockwood Road, from Highway Business District to Highway Business District/Conditional Zoning, for a Holiday Inn Express and Suites, including a height modification of 22-8", pending FAA approval, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried unanimously (Vice-Mayor Manheimer recused).

ORDINANCE BOOK NO. 28 - PAGE

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 919 HAYWOOD ROAD FOR THE CONSTRUCTION OF HAYWOOD VILLAGE

ORDINANCE NO. 4243 - ORDINANCE TO AMEND THE CONDITIONALLY ZONING OF PROPERTY LOCATED AT 919 HAYWOOD ROAD FOR THE CONSTRUCTION OF HAYWOOD VILLAGE

Urban Planner Alan Glines said that this is the consideration of an ordinance to amend the conditionally zone property located at 919 Haywood Road for the construction of Haywood Village. This public hearing was advertised on October 11 and 18, 2013.

Mr. Glines said that the project that is currently on file was approved by City Council on August 14, 2007. That project was approved for 56 residential units and 10,000 square feet of commercial space. Work began and the first structure was constructed and addressed as 915 Haywood Road. The first phase of surface parking was also completed, but economic conditions held up further progress. In early 2011 the developer, F. Roger Page, died and family members have had the property for sale since then. After the construction stopped, staff began to receive many inquiries from west Asheville residents concerning the unfinished site and from potential developers evaluating the approved requirements for taking the project to completion. The current proposal is the first to begin the process for an amendment to allow completion of the project. Its modifications reflect the changed market conditions of 2013.

Approved Site Plans 2006 and 2007 - As noted previously, the overall concept and layout for the site were developed during a design charette held at the site over a four or five day period in early 2006. During the charette over 100 west Asheville residents, including many from the surrounding neighborhood, participated in the process. A proposal was developed and approved in May of 2006 (see the *Special Zoning Considerations* section above). The 2006 plan was not ultimately built due to complications with the offer to purchase with the Diocese of Charlotte (property owners at the time) and later that year, the high cost estimates that came in for the structured parking areas under the proposed commercial buildings.

The project was revamped and scaled back and returned in 2007 proposing 56 residential units and 10,000 square feet of commercial space. The project was similar to the earlier plan in that the mixed-use commercial structures faced Haywood Road and featured three, three-story buildings with commercial space on the ground floors and residential units on upper floors. Behind these large buildings, residential buildings were proposed ranging in size from three-story buildings (6 of this type) and smaller-scaled residential scale buildings surrounding the perimeter of the property. The placement

of the smaller residential buildings was an important component of the plan because it allows the development to transition back to the scale of the surrounding residential area. The approval for this plan by City Council was unanimous.

Current Proposal 2013 - The current proposal increases the number of residential units and reduces the amount of commercial space over the 2007 approval. It proposes 75 residential units and up to 4,800 square feet of commercial space. The residential component (about 26 units/ acre) is up from 56 units approved (19 units per acre). The commercial space is reduced from the 10,000 square feet approved in 2007 to now include 2,800 s.f. in the existing building and 2,000 s.f. proposed in the new building along Haywood Road. The commercial space will be at the ground-floor corner of the new building proposed at Mitchell Avenue and Haywood Road and within five ground floor live/work units in that structure. Fifteen residential units are proposed on the upper two floors of the new mixed-use building and seven residential units are already built on the upper floors of the existing building.

Behind Haywood Road, the plan will follow the same general layout for circulation using the two existing driveways along Mitchell and Blue Ridge Avenues. On-site parking will be provided along a one-way private drive that circles the interior of the property. The parking plan proposes 107 spaces on the interior to augment the 10 existing spaces located on Haywood Road. This proposal is well within the approved range of required parking for a project of this size in the Urban Place District. There are three larger footprint three-story buildings in the center of the site that will include a total of 36 residential units (12 in each building). Twelve smaller residential units (4 duplexes and 4 single-family) will line the edge of the property and are designed to face the two streets that lead into the neighborhood beyond. The integration of the smaller scale residential units into the neighborhood fabric has been a consistent element of all of the plans for this site. The building elevations provided with the current submittal are similar in style and scale to the buildings approved in 2006 and 2007. The scale of the structures and building heights are all within the allowances for the Urban Place district.

At the Technical Review Committee meeting on September 16, 2013, the Transportation Department asked that the project engineer formally request a reduction in the sidewalk width along Haywood Road if it will not meet the 10' district standard for Urban Place. The project engineer noted the width of the sidewalk at the existing building (slightly less than 10 feet) and the existing on-street parking along the length of Haywood street. Since the on-street spaces and the front half of the sidewalk is constructed, the back portion in front of the new building could comply with the standard width. The project architect noted that the new building will provide variations in the façade to break up the scale of the building and that in places it will comply. He also noted that they would prefer the new building be aligned with the existing building on the block. Staff from Public Works and Transportation noted that the existing raised-curb planters could be re-worked to remove the curbing and that those areas would better comply with the sidewalk requirement. Transportation will consider the request when it is received from the project engineer.

VariANCES Previously Approved To Carry Forward:

- Property line buffer reduction- approved at 15 feet wide without a fence but planted with trees and shrubs maintaining the majority of the existing white pine trees, requested by neighborhood.
- Sidewalk width along Mitchell and Blue Ridge will be constructed at 6 feet wide due to existing trees and right of way constraints.
- Residential setbacks expanded in places to protect existing vegetation and to reflect the topographic changes from the residential side streets.
- Building Orientation- Approval for structures along the periphery of the site to be oriented to their public street frontage and structures internal to the site to be oriented towards their internal driveway access.
- Reductions in the percent of window openings for the residential buildings located within the interior of the site because the standard is intended to apply to mixed-use buildings.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in

Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The project will meet City and State building code requirements and will not endanger public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The largest structures are focused along Haywood Road. The other large residential buildings will be internal to the site. Single-family scaled houses will be located along Mitchell Avenue and Blue Ridge Avenue. Some of the existing trees will be protected and retained on the property such as several white oaks, a large sycamore, white pines and maples.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The completion of this project even with the addition of more residential units is expected to be a benefit to the area and act as a positive catalyst for this portion of Haywood Road.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The largest structures will front along Haywood Road. Other residential buildings will be placed behind Haywood and internal to the property. Smaller scale single-family style residential buildings will face the neighborhood streets, larger multi-family structures will be on the interior of the site. This layout is similar to the original proposal which was created after an inclusive community design charette for the site. This proposal is substantially similar to the original plan.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The plan meets City Council adopted goals of higher density mixed-use development located on multi-modal transit corridors in areas of the city that are compatible with that growth and where there is infrastructure to support it. This is an in-fill site that has remained unfinished throughout this economic downturn and it will be a positive catalyst to have it completed.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

One transit line passes directly by this section of Haywood Road and two other connectors run nearby. Based on the approval in 2007, the project will provide a transit shelter along Haywood Road. Fire and police stations are located within a few hundred feet of the property. There is sufficient infrastructure to provide adequate facilities for the proposed development. A neighborhood park is located behind the Fire station.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposal has been reviewed by the City traffic Engineer and no concerns were raised about the amount of traffic generated. The project will not create undo congestion or create a hazard. Residents of and visitors to this site will have several transportation options available to them including transit, biking and walking so that should mitigate some of the traffic concerns.

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

This amendment to the conditional zoning project was recommended for approval by a 5-0 vote by the Planning and Zoning Commission. No concerns were noted. Three people spoke at the Planning & Zoning Commission meeting, not opposed to the development but concerned about cut-through traffic and on-street parking along neighborhood streets.

Pros:

- A key distressed project will be completed with an amended development plan
- Higher density residential infill development will be added to a corridor designated for density bonus projects
- Neighbors and the community were involved in the creation of the plan in 2006

Con:

- Some concern has been expressed about additional traffic on neighborhood streets for each iteration of this proposal

Staff recommends approval of the project because it meets the goals of the Comprehensive Plan and other adopted plans and because the request is reasonable.

Mayor Bellamy opened the public hearing at 7:40 p.m.

Mr. Robert Todd, designer for the project, was excited to be a part of resuscitating the project and felt this was a good collaborative process. He asked for Council's support.

An area property owner hoped that this development (installing sidewalks) would not make it harder to put in bike lanes in the future. He also questioned the amount of commercial space being decreased fronting Haywood Street.

Ms. Jenn Swearington, owner of a business in the current building, spoke in support of seeing the development re-start.

Mayor Bellamy closed the public hearing at 7:47 p.m.

Mr. Todd explained that they will take a remaining of the prior approved commercial space and turn it into a live/work space in the transition period, so someone might have a home office on the commercial corridor where they can actually live upstairs or within that unit.

When Councilman Smith asked if the owner would be willing to include an affordable housing component in the development, Mr. Todd explained that the owner would have to make that decision and he is not present at the meeting.

When Councilman Smith asked if Council would be willing to postpone action to have a conversation with the owner about affordability, all of Council agreed that affordable housing is very important, however, it was the consensus of Council to move forward since there is no policy for developers to include affordable housing in their projects and to hold up a project at the very end of the process would not be fair.

Councilman Pelly supported Councilman Smith's earlier suggestion that Council have a more substantive policy discussion around how we can get to a much better place to meet our affordable housing needs.

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

Councilman Hunt 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. 4243 to amend the conditionally zone property located at 919 Haywood Road for the construction of Haywood Village, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape, utility and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Smith voting "no".

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E. PUBLIC HEARING TO AMEND SECTION 7-11-4 (C) OF THE CODE OF ORDINANCES TO REVIEW OPEN SPACE REQUIREMENTS FOR INDUSTRIAL PROJECTS IN THE INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 4244 - ORDINANCE TO AMEND SECTION 7-11-4 (C) OF THE CODE OF ORDINANCES TO REVIEW OPEN SPACE REQUIREMENTS FOR INDUSTRIAL PROJECTS IN THE INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT

Director of Planning and Development Judy Daniel said that this is the consideration of an ordinance to amend Section 7-11-4 (c) of the Unified Development Ordinance to review open space requirements for industrial projects in the Industrial District and the Commercial Industrial District. This public hearing was advertised on October 11 and 18, 2013.

She said that currently all nonresidential projects must reserve 15% of a lot area for open space. While that standard is not unusual for an office park, a school or church, a multi-family development, or a shopping center; after recent consideration staff believes that this is an unusually high standard for industrial uses in zoning districts designated to promote this type of economic activity. Like the CBD zone, where this requirement is also exempted, the purpose of industrial zones is more specialized in intent and the primary economic development purpose may be compromised by standards primarily intended for suburban style commercial and residential development.

Further, this change will resolve a conflict between the development standards in the Industrial District and the Open Space Standards in Article 11. The Industrial District (Sec. 7-8-22(f)(12)) indicates that there are no "recreational or open space" development requirements; whereas the Open Space standards only exempt the CBD from the requirements and differentiate requirements between "urban" and "suburban" style development.

The impetus for the proposed change, and other recent changes related to the processes for approval of industrial projects, came from recent questions regarding potential industrial sites. Staff came to believe that the process review for site plans for industrial uses were confusing and the open space requirements were too restrictive for industrial uses in the industrially related zones and they should be differentiated from the open space requirements for suburban style office and commercial development.

The proposed amendment pertains only to industrial development and would eliminate the open space requirement in the Industrial zone and reduce it from 15% of the lot area to 5% of lot area in the Commercial Industrial District. This change would impact only the approximately 648 acres zoned Industrial (comprised of 54 properties), which is less than 1% of land in the city; and on 1,850 acres

zoned Commercial Industrial (comprised of 755 properties), which is around 6% of land in the city. (Asheville contains approximately 29, 270 acres.)

A significant portion of those properties already have existing businesses, and this relatively small fraction of land (and some properties have been lost in recent years to general commercial rezoning) offers good potential locations for industrial development that provides higher paying jobs. The open space requirement adds to the financial burden of those companies considering Asheville for their businesses. That reality is a primary reason staff proposes reducing open space requirements in the industrially zoned areas.

This amendment should not raise a concern that open space is not sufficiently valued or recognized for its benefits. Open space requirements are an important requirement in most places, but the economic development benefits in the limited amount of land allowed for industrial development should be considered in weighing where and how much of it is needed. In addition, an offset or "in-lieu" for elements such as green roofs, permeable pavement, or extra parking lot landscaping was considered; but these concepts retain the factor of added expense for this sought after type of business development. Also, it is useful to remember the other UDO requirements for all types of development, which also pertain to industrial projects, satisfy many of the same goals as the open space requirement, and have a better defined impact or benefit, including:

- Parking lot landscaping (cooling and shading parking areas)
- Street tree requirements (establishing a streetscape at the street-side of the property)
- Landscaped property line buffers (screening residential areas from commercial use areas)
- Building impact landscaping (additional plantings required based on the scale of the building)
- Stream buffers (where applicable – providing protection from siltation, runoff, and flooding)
- Stormwater runoff requirements (water quality improvement and protection)

Staff has also observed that areas allotted for open space in industrial development are often on the least buildable portion of residual space on the property. Further, staff believes that the public (and on-site workers) do not generally look to industrial development to realistically fulfill open space needs, so these areas are largely unused (unlike open space in residential developments). Because of these other requirements and because of the intent of the industrial zones is to primarily be job generators (thus meeting other important community goals), staff recommends approval of the modifications to this section.

The staff introduced both the industrial process and open space proposals to the Planning and Zoning Commission at the June 5, 2013, meeting and the Commission recommended approval for the process changes. Subsequently, the City Council approved the process change recommendations at the June 25, 2013, meeting.

The Commission was generally supportive of the intent for the changes to the open space requirements, but requested that staff first present the amendment to the Sustainability Advisory Committee for Energy and the Environment (SACEE) and get their thoughts regarding whether the reductions proposed for the industrial uses should be related to environmental offsets such as green roofs or environmentally sustainable parking lot standards. The Commissioners who requested this process were concerned about issues such as heat island impacts of industrial uses due to their large flat roofs and large surface parking lots.

Staff attended the SACEE Committee on June 19 for a discussion of these environmental concerns balanced against the economic development concerns. Like the Commission, members of SACEE were somewhat divided in their thoughts on this issue and provided a range of comments; but no specific recommendations. Although they did not comment specifically on the thoughts expressed by the Commission, staff who attended the meeting indicated that their thoughts included:

- They reinforced the clear benefit for the landscaping and planting requirements that projects must meet, but shared a concern that open space requirements could have the unintended consequence of expanding or encouraging sprawl due to the additional land area it requires.
- Noting that while open space can have a clear purpose for residential projects or may be beneficial as passive green space for offices or retail area; open space has a less defined purpose for large scale industrial uses.
- Noting that denser infill development patterns and job creation are identified as Council goals.
- Noting that open space can sometimes become a security issue when placed on the rear of a parcel (a not unusual situation), hidden from view; and could thus create unintended problems.
- Noting that the open space requirement for industrial businesses, which are especially valued as job creators, adds to the cost of doing business in Asheville.
- General support (but not a vote) for reducing the requirement to 5%, and retaining the use of a fee-in-lieu option for developments that cannot reach that standard on their site.
- They seemed to feel that because of these concerns, the requirements for other types of commercial development should also be reconsidered and asked for additional information at a later meeting.

The staff returned to the Planning and Zoning Commission at their September 4, 2013, meeting and presented the thoughts from SACEE. After discussion, the Commissioners present voted 2-2 (with 3 absent) on a motion of support for the proposal, and because of the tie vote, did not support the amendment. Concerns cited by the two Commissioners voting against the proposal related to the overall need for open space, regardless of use. One Commissioner was concerned that SACEE had not voted on the proposal; and one Commissioner requested additional information on the amount of property zoned Industrial in the city to be presented to City Council, which is included in this report. Staff also volunteered to return to SACEE to see if they would want to finalize a position on the proposal.

Staff returned to the SACEE Committee at their September 18 meeting for a subsequent discussion on the issue. While again expressing general support for the idea, they again deferred a vote on the issue until their October meeting due to having several members absent. The SACEE reconsidered the open space UDO change at their meeting on October 16. They unanimously supported the UDO change but asked that the Council consider asking staff to continue to research the options for further modifications that would address concerns such as loss of tree cover and impervious coverage without undue financial burden to potential industrial employers.

City staff recommends City Council approve the UDO amendment for changes to the regulations related to open space requirements for industrial uses as outlined in the staff report and find that the amendment is reasonable and are 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 8:06 p.m. and when no one spoke, she closed the public hearing at 8:06 p.m.

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

Vice-Mayor Manheimer 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. 4244. This motion was seconded by Councilman Davis and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONFIRMATION OF MARVIN ROSEN AS CHAIR OF THE CIVIL SERVICE BOARD

Councilman Marc Hunt said that this is the consideration of a motion to confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first

On June 25, 2013, City Council adopted Resolution No. 13-146, appointing Marvin Rosen as Chair to serve a full year, or until his successor was duly and annually appointed by the City Council.

On July 12, 2013, Civil Service Board members expressed concern that City Council appointed Mr. Rosen (an appointed member) to serve as Chair beyond his current term of office. On August 27, 2013, City Council adopted Resolution No. 13-179 which appointed Mr. Rosen to serve as Chair for one year or until his successor was duly appointed by Council, whichever occurred first.

Councilman Marc Hunt worked with Civil Service Board members to develop a process for future appointments to the chair role of the Civil Service Board.

On October 4, 2013, the Civil Service Board re-appointed Mr. Rosen as a member to the Civil Service Board.

Because Mr. Rosen has expressed continued interest in serving as Chair of the Civil Service Board, and because no other member of the Civil Service Board expressed interest in the Chair role, it is the recommendation that City Council confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first.

When Mayor Bellamy asked for comments, no one spoke.

Vice-Mayor Manheimer moved to confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first. This motion was seconded by Councilman Hunt and carried unanimously.

VI. NEW BUSINESS:

A. ORDINANCE NO. 4245 - ORDINANCE REPEALING SECTION 16-39 OF THE CODE OF ORDINANCES WHICH EXCLUDES CERTAIN ACTIVITIES PERFORMED IN THE PUBLIC RIGHT-OF-WAY FROM OBTAINING A STREET CUT PERMIT

Deputy Director of Public Works David Foster said that this is the consideration of an ordinance repealing Section 16-39, of Chapter 16 of the Code of Ordinances, which excludes certain activities performed in the public right-of-way from obtaining a street cut permit.

N. C. Gen. Stat. sec. 160A-296(6) allows municipalities to regulate digging in City streets. Previous ordinance revisions instituted certain permit exclusions that would allow for a reduction in construction costs and a more expedient restoration of services by excluding certain activities from having to obtain a street cut permit. While well intended, these exclusion have resulted in some unintended consequences, such as ADA compliance issues in City sidewalks, abuse of the intended aspect of the exclusion, and occasional misinterpretation of the ordinance caused some to skip the permitting process entirely. In case of emergencies, Utilities will be allowed to call for and be issued an emergency permit while proceeding with emergency repairs.

Mr. Foster said that the ordinance is to be effective in 90 days, which will allow them time to notify utilities of this change.

Since no permits are currently issued, the number of new permits this change will create is unknown; however, a conservative estimate of 200 instances at the minimum cut size would net an additional \$20,000 in permit revenues in the Street Cut Fund.

City staff recommends City Council adoption of the ordinance repealing Section 16-39 of Chapter 16 of the Code of Ordinance, to eliminate exclusions to the street cut permit requirements for cutting into the City's rights of way.

When Mayor Bellamy asked for public comments, none were received.

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

Vice-Mayor Manheimer moved for the adoption of Ordinance No. 4245. This motion was seconded by Councilman Hunt and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

B. RESOLUTION NO. 13-226 - RESOLUTION GRANTING A WAIVER OF THE SIDEWALK REQUIREMENT INCLUDING THE "FEE-IN-LIEU-OF" CONSTRUCTION OPTION FOR THE GAIA CONDOMINIUM PROJECT LOCATED AT 141 SHELburne ROAD

Director of Transportation Ken Putnam said that this is the consideration of a resolution granting a waiver of the sidewalk requirement including the "fee-in-lieu-of" construction option for the Gaia Condominium project that is located at 141 Shelburne Road.

Sidewalk requirements are included in the City's Unified Development Ordinance under Section 7-11-8 and sidewalks are required for all new construction that falls into one or more listed categories including all new multi-family residential development projects with 10 or more units. If the frontage street is not identified as a needed pedestrian linkage, a "fee-in-lieu-of" construction can be considered.

Staff is not authorized to grant a waiver of the sidewalk requirement and/or the payment of the "fee-in-lieu-of" construction option.

The project which began moving through the city's review process in 2006 consists of a total of 15 residential units (duplexes and cottages) and 32 on-site parking spaces. The approved site plan shows a 6-foot back of curb sidewalk and 24-inch curb and gutter along the Shelburne Road street frontage. During the construction phase, the developer contacted city staff to inquire about paying a "fee-in-lieu-of" construction and that approval was granted during July 2009. The total fee was \$10,772.40 and it was based on 188 linear feet of street frontage at a cost of \$57.30 per linear foot (\$40.00 per linear foot for the sidewalk and \$17.30 per linear foot for the curb and gutter).

Unfortunately, the developer filed for bankruptcy during the construction phase and now the homeowner's association is responsible for the outstanding infra-structure improvements. Staff has been working closely with the homeowner's association to accomplish the outstanding issues and in January 2013, they asked about a payment plan for the "fee-in-lieu-of" construction option. Although, we typically do not offer payment plans, staff suggested a 5-year payment plan with semi-annual payments that would begin in November 2013.

The homeowner's association is now asking that the sidewalk requirement be completely waived because it creates a financial burden on the individual homeowners especially since the actual cost of the sidewalk was probably included in the purchase price of their homes. All units are currently occupied.

The subject issue was first discussed at the PED Committee meeting on August 20, 2013 and the committee members asked for additional information from the City Attorney's Office.

These questions were discussed at the PED Committee meeting on September 17, 2013 and the committee members agreed to move the request to City Council for discussion and consideration without a recommendation. The PED Committee asked staff to identify other projects (including cost implications) that might have similar issues. Transportation Department staff and Development Services Department staff are only aware of one active project with similar issues. At this time, this project (Calvary Chapel) is willing to actually construct the sidewalk but they want to delay the construction for a period up to three years.

If the waiver is granted, the fiscal impact would be a loss of additional revenue to the city for new sidewalk construction in the amount of \$10,772.40.

Staff recommends Council consider the additional information provided in rendering a decision on whether to grant the waiver request of the condominium association. Council may also wish to obtain the advice and counsel of the City Attorney before making a final decision.

When Mayor Bellamy asked for public comments, none were received.

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

Councilman Bothwell moved for the adoption of Resolution No. 13-226, granting the waiver of the sidewalk requirement including the "fee-in-lieu-of" option. This motion was seconded by Vice-Mayor Manheimer and carried on a 5-2 vote, with Mayor Bellamy and Councilman Pelly voting "no".

RESOLUTION BOOK NO. 35 - PAGE 487

C. RESOLUTION NO. 13-227 - RESOLUTION ENDORSING THE PROTECTION OF CIVIL LIBERTIES OF ALL CITIZENS

Councilman Bothwell said that this is the consideration of a resolution endorsing the protection of civil liberties of all citizens.

Since 2010, Councilman Bothwell has worked with various organizations to develop a resolution endorsing the protection of civil liberties of all citizens. The resolution seeks to ensure that all citizens are treated equal, regardless of their race, skin color, national or ethnic origin, gender, sexual orientation, mental or physical disability, immigration status, religious or political opinion or activity, or homed or homeless status.

City staff reviewed the resolution to ensure consistency with City and Asheville Police Department policies.

Mayor Bellamy read the resolution.

Four individuals spoke in support of adoption of the resolution and one resident supported the resolution in theory only.

Interim City Attorney McGlohon said that this resolution is consistent with Asheville Police Department policy and in no way does it violate any state law. In fact, it is consistent with the operation of the Asheville Police Department as it currently exists.

Councilman Bothwell moved for the adoption of Resolution No. 13-227. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 488

D. RESOLUTION NO. 13-228 - RESOLUTION SUPPORTING CLEAN ENERGY ECONOMY

Chief Sustainability Officer Maggie Ullman said that since the inception of the Sustainability Advisory Committee on Energy and the Environment (SACEE), this Committee has been committed to providing policy guidance to City Council on a variety of sustainability topics with a consistent focus on energy. The current committee recommendation to establish a clean energy partnership with Duke Energy Progress is an outgrowth of this committee's long standing commitment to energy focused policy. Below is background information on the clean energy resolution currently being proposed:

- July 2013: The Sierra Club Beyond Coal Campaign and the Western North Carolina Alliance proposed the concept of a clean energy resolution between the City and Duke Energy Progress to SACEE leadership.
- August 13th, 2013: Asheville City Council reviewed and approved a resolution encouraging the NC Department of Environment and Natural Resources Duke Energy Progress to take expedient and appropriate action to deal with the impact of coal ash leachate at the Duke Energy Progress power plant.
- August 21st 2013: The Sierra Club Beyond Coal Campaign gave a presentation to the full SACEE committee about coal ash leachate pollution concerns, air pollution resulting from coal fired power plants, global climate change, and expanded opportunities for local government leadership in addressing these concerns. A draft clean energy resolution was presented to the committee. The resolution proposed creating a strategic partnership with Duke Energy Progress to work towards a clean energy future. The committee voted 7-1 to support the resolution with Lawrence Pittman voting against and Tim Ballard recusing himself due to conflict of interest. There were no Duke Energy Progress representatives directly engaged in the conversation as of this point in time.
- September 2013: A SACEE subcommittee hosted a meeting to discuss the language of the clean energy resolution with Duke Energy Progress, Sierra Club, the Western North Carolina Alliance, and staff. This full group shared thoughts and concerns about certain language in the resolution and worked together to create language the group agreed upon and finalized a resolution to recommend for Council approval.
- October 16th, 2013: The full SACEE committee reviewed the updated resolution and voted 8-0 in support of recommending City Council adopt the resolution.

Mr. Duncan McPherson, Chair of SACEE, said there are two primary goals of the resolution (1) establish a long-term plan and vision for our community that addresses climate change and clean air and clean water; and (2) to create a partnership with our electricity provider and work together to begin to transition from coal to clean energy. This is only the beginning of a long and complicated process; however, this resolution can serve as a catalyst to help move the economy and our environment to a clean energy future. We are tied to our coal burning power plant and there are significant technical realities of how they're going to make the transition from coal to clean energy. In order to achieve the goal we need to align our common interests of clean air and clean water and work in a true collaborative partnership with all stakeholders involved. We need to bring our electricity providers to the table and along in this process to reach our ultimate goal. Duke Energy will be a part of the solution. This resolution will help build the partnership with our utility provider and help align the goals and values of our community.

Mr. Jason Walls, Duke Energy Progress District Manager, viewed the resolution as a positive step in creating a partnership with the City around energy-related issues to reduce the City's carbon footprint. However, if Council sees this resolution as a "game changer ... to start planning a transition off

of the Asheville Coal Plant," then they don't support the resolution. It is Duke Energy's obligation alone to keep lights on 24 hours a day, 7 days a week and they have a state-maintained responsibility to provide reliable electricity at the lowest reasonable cost and from proven technology. By the end of this year, his company will have retired 7 of the 14 coal plants in the state, and while they are reducing coal in the Carolinas, they can't close a plant without a practical way to replace the electricity residents and businesses depend on. Duke Energy supports solar energy and recognizes the vital role it plays in our energy future. They are committed to work with partners, like the City of Asheville, to provide these options. They see this resolution as an important next step in the long-term two-way partnership between Duke Energy and the City on ways to reduce the region's carbon footprint and advance clean energy and energy efficiency within the City. Success will only happen by working together. They view efforts like expanding LED lighting across the City, providing technical assistance to efforts like Solarize, looking at ways to increase energy-smart education for customers, and expanding recycling efforts as likely opportunities for partnership. They are excited to be a part of this journey with the City and look forward to finding and executing "wins" throughout Asheville and the region.

Ms. Kelly Martin, representing Asheville Beyond Coal Campaign, said that this resolution takes a further step towards addressing climate change. Asheville is home to the biggest source of carbon pollution in western North Carolina - Duke Energy's Asheville Coal Plant. Having a coal plant that is the largest source of greenhouse gas emissions in the region is not unique to Asheville. Burning coal for electricity is the number one source - the single largest source of climate pollution in this county and around the world. Cities all across America are moving off of coal and towards a clean energy future. The cost of coal is rising and the cost of clean energy is decreasing. By burning less coal we open up market space for clean energy solutions. This resolution won't retire the Asheville Coal Plant but it will recommit the City on it's carbon footprint reductions. It also acknowledges that without Duke Energy's partnership and without a transition away from burning fossil fuels for electricity, we won't be able to meet our carbon reduction goals. She urged Council to vote in favor of the resolution and do all that you can to take bold action on climate change to protect our air, our water and our future.

The following individuals spoke in support of the resolution:

Ms. Ashley Brown, Asheville resident
Ms. Julie Mayfield, Co-Director of WNC Alliance
Ms. Kathy Scott, member of Transition Asheville
A man who spoke on behalf of the Sierra Club members

Ms. Patty Beaver, representing the Council of Business Owners, urged City Council to remember that the business community must have reliable and affordable electricity. They believe that it is the responsibility of the City Council to make policy that ensures that reliable and affordable electricity is available in order that businesses can exist, thrive and grow in the City of Asheville.

Councilman Hunt moved for the adoption of Resolution No. 13-228. This motion was seconded by Councilman Bothwell.

Councilman Bothwell spoke in support of the resolution, noting that citizens can play a part in reducing our need for coal power, simply by cutting lights off in rooms that no one is in or by shutting off your television set when no one is watching it.

Mayor Bellamy read the following directives in the resolution: (1) The City of Asheville supports a local clean energy future for the city and the region; (2) The City of Asheville calls on Duke Energy Progress to partner with the City to help meet its carbon reduction goals by decreasing its reliance on fossil fuels, including transitioning from coal to electricity provided by clean renewable energy sources; while continuing to meet the company's obligation to provide affordable and reliable electricity to all customers 24-hour/day 7-days/week; (3) The City of Asheville further calls on Duke Energy Progress to continue and expand its investments in and programs supporting renewable energy, energy efficiency, and energy conservation; (4) The City of Asheville further calls on Duke Energy Progress to stop the spread of new coal ash pollution, and remediate existing coal ash pollution; and (5) The City of Asheville

develops a Clean Energy Partnership Progress Report to be delivered in one year to City Council that documents the achievements of this new partnership with Duke Energy Progress. She asked for an amendment to the resolution to add an additional directive since the directives mainly speak to Duke Energy Progress and the City. We have a strong environmental group who has worked on this issue and she felt that group is missing from the table. She asked that a committee be formed, or SACEE, to make sure that we have a collaboration of community members at the table.

Councilman Hunt and Councilman Bothwell were agreeable to amend the motion by asking for SACEE's leadership to seek input from a variety of stakeholders when identifying collaboration opportunities for this partnership.

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

The amended Resolution No. 13-228 carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 490

E. BOARDS & COMMISSIONS

Regarding the Citizens-Police Advisory Committee, it was the consensus of Council to re-advertise for the vacancy since no candidates from the central area applied.

Regarding the Recreation Board, the following individuals applied for the vacancy: Kimberly Reed and Mary Michael. At the request of the Recreation Board, it was the consensus of the Boards & Commissions Committee and City Council to re-advertise.

Regarding the Historic Resources Commission the following individuals applied for the vacancies: William S. Eakins, Stephens Smith Farrell, Richard Fast, Tom Hartwell and Keaton Edwards. It was the consensus of Council to interview Stephens Smith Farrell and Richard Fast, since they both had architecture or design experience requested by the Historic Resources Commission.

RESOLUTION NO. 13-229 - RESOLUTION APPOINTING MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund.

The term of Leesa Gibbs, as a member on the Firemen's Relief Fund, expired on January 1, 2013. Due to a clerical error in not , the reappointment of Ms. Gibbs was not considered during that vacancy timeframe.

No one is on the current resource list.

On October, 22, 2013, the Boards & Commission Committee recommended reappointing Ms. Gibbs to serve until January 1, 2015.

Councilman Bothwell moved to reappoint Ms. Leesa Gibbs, to serve an additional two-year term, term to expire January 1, 2015, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 492

RESOLUTION NO. 13-231 - RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

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

The terms of Scott Rogers, David Nash and Hilliard Carlisle, as members on the Homeless Initiative Advisory Committee, expire on November 1, 2013.

The following individuals have applied for this vacancy: Sabrah n'haRaven and Matthew Shepley.

On October 22, 2013, the Boards & Commission Committee recommended reappointing Mr. Rogers, Mr. Nash and Mr. Carlisle.

Councilman Hunt moved to reappoint Mr. Scott Rogers, Mr. David Nash and Mr. Hilliard Carlisle to each serve an additional three-year term respectively, terms to expire November 1, 2016, or until their successors have been appointed. The motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 494

RESOLUTION NO. 13-232 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

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

The term of Pattiy Torno, as a member on the Asheville Area Riverfront Redevelopment Commission, expired on January 1, 2013. Due to a clerical error, the reappointment of Ms. Torno was not considered during that vacancy timeframe.

No one is on the current resource list.

On October, 22, 2013, the Boards & Commission Committee recommended reappointing Ms. Torno to serve until January 1, 2016.

Councilman Davis moved to reappoint Ms. Pattiy Torno, to serve an additional three-year term, term to expire January 1, 2016, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 495

RESOLUTION NO. 13-233 - RESOLUTION APPOINTING MEMBERS TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Soil Erosion/Stormwater Review Committee.

The terms of Pete Hildebrand and Ter McSpinner, as members on the Soil Erosion/Stormwater Review Committee, expire on November 1, 2013.

No one is on the current resource list.

On October 22, 2013, the Boards & Commission Committee recommended reappointing Mr. Hildebrand and Ms. McSpinner.

Councilman Bothwell moved to reappoint Mr. Pete Hildebrand and Ms. Ter McSpinner to each serve an additional three-year term respectively, terms to expire November 1, 2016, or until their

successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 496

RESOLUTION NO. 13-234 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Buncombe County Tourism Development Authority.

The term of Ron Storto (must be an owner or operator of a hotel, motel or other taxable tourist accommodation with less than 100 rental units) expired on August 30, 2013.

The following individuals have applied for this vacancy: John McKibbon, Pratik Bhakta, John Winkenwerder, Satis D. Patel and James Muth.

Councilman Hunt moved to appoint James Muth as a member of the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel or other taxable tourist accommodation with less than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2016, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 497

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Lisa Landis commented on the need to help the homeless.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:17 p.m.

CITY CLERK

MAYOR