

Tuesday – January 14, 2014- 5:00 p.m.

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager recognized (1) from the Women's Pipe Tapping Team Michelle Smith, Brenna Cook, Virginia Pardo, and Myrriah Ringgenberg; (2) Timothy Burdine Jr. as the Water Distribution Operator of the Year Award and the Operators Meritorious Service Award; (3) Barb Mee, Sgt Scott Pruett, Officer Jon Derrick, Scott Barnwell, Alan Glines and Marsha Stickford for their work on the Asheville Silver Walk Friendly Community Award; (4) Mark Case, Joe Chennault, Abigail Riley, Jay Eichhorn, Susannah Carver, Alec Arthur, Alisha Carrol, Eric Evans, Heather Rhinehart, Steve Bothelo, Jamie Fortner, Gary Sanders, Sheila Salyer, Garrett Gates, Misty Lipe, Jim Hayes, Amy Tesner, Anne Graham, Diane Meek, Chris Rossi, Kim Levi, Jerry Reese, Ron Evans, Gary Stamey, Scott Metcalf, and Mark Matheny for their work on achieving the ISO Building Code Effectiveness Grading Classification 2; (5) ACEC Excellence in Engineering - RADTIP Design Project - Dan Baechtold, Stephanie Monson-Dahl, Ken Putnam, and Cathy Ball; (6) ACEC Excellence in Engineering - Cherokee Retaining Wall - Greg Shuler, John Gavin, Brian Estes, Lee Morrison and Stacy Merten; (7) Asheville Police Department employees for their response to a discharged weapon on Max Street; and (8) Asheville Fire Department, Asheville Police Department, Water Resources Department, and Public Works Department for their assistance with the gas line rupture beneath Sand Hill Road.

On behalf of City Council, Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

II. CONSENT AGENDA:

At the request of City Manager Jackson, Consent Agenda Item "H" was removed from the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE ORGANIZATION MEETING AND FORMAL MEETING HELD ON DECEMBER, 10, 2013

B. RESOLUTION NO. 14-1 - RESOLUTION ACCEPTING A 6,000 GALLON ABOVE GROUND FUEL STORAGE TANK AS A GIFT FROM THE NATIONAL GUARD ARMORY IN SYLVA, N.C.

ORDINANCE NO. 4259 - BUDGET AMENDMENT IN ORDER TO RELOCATE THE TANK AND GET IT READY FOR USE

Summary: The consideration of a resolution to accept a 6,000 gallon above ground fuel storage tank as a gift from the National Guard Armory in Sylva, N.C.; and an associated budget amendment in the amount of \$75,000 from general capital reserves to setup a budget in the Transit Services Fund in order to relocate the tank and get it ready for use.

The National Guard Armory in Sylva, North Carolina, has a used 6,000 gallon above ground fuel storage tank that is no longer needed and through the efforts of Mr. Jerry VeHaun, who is the Director of Emergency Services for Buncombe County, it is being offered to the City of Asheville as a gift. City staff is requesting that the gift be accepted with gratitude to Mr. VeHaun and the National Guard Armory in Sylva.

With the arrival of the new transit buses, an unintended consequence has occurred. The buses have smaller fuel tanks and as a result, they have to be refueled more often especially the buses that are used for both the daytime and nighttime shifts. The normal refueling time is between 6:00 pm and 9:00 pm. It is critical to be able to "top-off" the buses that come in after 9:00 pm so that they will be ready for the next day.

Public Works, Fleet Management, and First Transit staff went to Sylva to look at the tank and they verified that it is in excellent condition. Our challenge is to get it moved and setup at the transit garage complex since the tank weighs 59,000 pounds empty. The estimated cost to accomplish the work including the fuelmaster card reader system is about \$75,000 (the estimated cost includes 13% for contingencies).

In addition to resolving a refueling need for the transit buses, the tank would be available for use by other departments especially during emergency times or when the primary fueling station is closed for maintenance activities. The City of Asheville has a fuel conservation plan that recognizes the need for a fuel supply in order to conduct city business as a progressive service delivery organization. The fuel conservation plan is grounded on the need to practice responsible conservation whenever possible. The plan applies to all city departments and it implements measures in three stages (levels) dictated by the availability of fuel in the community. Under Level 1, the City is uncertain about fuel supply sources and is generally operating with less than 15 days of fuel storage. Under Level 2, the City does not anticipate fuel deliveries in the immediate future and is generally operating with less than 10 days of fuel storage. Under Level 3, the fuel supply is very limited and the City is generally operating with less than 5 days of fuel storage. The tank would increase the City's fuel storage capacity thereby enabling the City to gain an additional 5 to 7 days of independent emergency operation during fuel conservation directives.

The total estimated project cost is \$75,000 which includes 13% for contingencies. The project will be paid for out of the Transit Services Fund, but funding for the project will come from general capital reserves. As reported in the 1st Quarter Financial Report, there is currently \$130,000 available in unspent general capital reserves. After this \$75,000 appropriation, there will be a remaining balance of \$55,000.

City staff recommends that City Council approve a resolution to accept a 6,000 gallon above ground fuel storage tank as a gift and approve an associated budget amendment in the amount of \$75,000 from general capital reserves to setup a budget in the Transit Services Fund in order to relocate the tank and get it ready for use.

In response to Councilman Bothwell, Interim Public Works Director Ken Putnam said that the net savings to the City is approximately \$27,000 compared to the cost of a new tank.

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C. RESOLUTION NO. 14-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ALLOW PUBLIC PARKING UNDER A SECTION OF BRIDGE # 322 AND # 323 IN THE RIVER ARTS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to execute a special maintenance agreement between the N.C. Dept. of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 in the River Arts District.

Bridge # 322 and # 323 are known as the Capt. Jeffrey Bowen Bridges and they provide access for I-26, I-240, US 19-23, and US 74-A across the French Broad River. In addition, the bridges provide a critical connection between downtown Asheville and West Asheville. As a part of the infrastructure improvements for the New Belgium project, a low impact development (LID) surface parking area will be constructed that will accommodate about 68 parking spaces. This parking area, which will be located adjacent to the French Broad River and a greenway trailhead, will enable citizens to park their vehicles and enjoy the scenery.

The City and the N.C. Dept. of Transportation have similar agreements at other locations including the public parking under the I-240 bridge adjacent to North Lexington Avenue, the public parking under the US 25 (McDowell Street) bridge adjacent to SR 3556 (Meadow Road), the public parking under the SR 3548 (Haywood Road) bridge adjacent to Riverside Drive, and the public parking adjacent to Cherry Street.

The parking area will be constructed as a part of the infra-structure improvements for the New Belgium project at an estimated cost of \$260,000. Staff anticipates bringing a construction contract and budget amendment to fund construction to Council for approval in early 2014.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a special maintenance agreement between the N.C. Dept. of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 in the River Arts District.

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D. RESOLUTION NO. 14-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO PERFORM THE FEE SIMPLE ACQUISITION OF REAL PROPERTY FOR THE PURPOSE OF INSTALLING SIDEWALK ALONG AZALEA ROAD AND NC 81 AS PART OF THE LAKE CRAIG/AZALEA ROAD PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute all necessary documents to perform the fee simple acquisition of a portion of real property located along NC 81 and a portion of real property located at the intersection of NC 81 and Azalea Road, for the purposes of installing sidewalk along Azalea Road and NC 81 as part of the Lake Craig/Azalea Road Project.

The Lake Craig/Azalea Road Improvement Project has the opportunity to provide improved access to the Azalea Park along Azalea Road, to provide a much needed water connection to the John B. Lewis Soccer Complex and to provide additional flood protection to Biltmore Village. A majority of the work will be performed within the existing right-of-way owned by the city. The remaining work will require the acquisition of the two private properties to include but not limited to: easements for sidewalks and roadway improvements. Staff has been in contact with the property owners impacted by the improvements, and anticipates the total cost for both easements to be approximately \$10,500. This pricing is consistent with the tax-appraised value of the impacted areas. To streamline the process, staff is requesting that City Council

authorize the City Manager to negotiate the final cost associated with this fee simple acquisition and to accept all legal interest in real property associated with this project.

The City's staff will be responsible for obtaining all legal interest in real property associated with this project. Modest costs for the value of the fee simple easement, deed recording fees, surveys, etc. have been budgeted within the existing project budget for the Lake Craig/Azalea Road Improvements Project.

City staff recommends that City Council adopt the resolution authorizing the City Manager to negotiate the final cost associated with this fee simple acquisition of an 0.013 acre portion of property on NC 81 (portion of PIN # 9668-15-1194) and an 0.051 acre portion of property located at the intersection of NC 81 and Azalea Road (portion of PIN #9668-15-2008), and to accept all legal interest in real property associated with this project.

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E. RESOLUTION NO. 14-4 - RESOLUTION ADOPTING THE 2012 LOCAL WATER SUPPLY PLAN

Summary: The consideration of a resolution adopting the 2012 Local Water Supply Plan as required by N.C. Dept. of Environment & Natural Resources.

Every year, the Water Resources Department is required to complete a Local Water Supply Plan (LWSP) update. On November 20, 2013, the N.C. Dept. of Environment and Natural Resources (NCDENR) issued a letter stating that the department's 2012 LWSP is complete and must be adopted by the water system's governing board. The LWSP contains a variety of information about the City of Asheville's water system, including:

- The distribution system (i.e. types/sizes of water lines);
- Water conservation programs;
- Water use (i.e. number of metered connections and average use by customer type);
- Water sales to wholesale customers;
- Monthly withdrawals from reservoirs;
- Surface water sources (i.e. locations and average monthly withdrawals);
- Wastewater discharge by the Metropolitan Sewerage District (MSD);
- Present and projected population;
- Present and future water supplies; and
- Other relevant information as NCDENR may require.

In order for the 2012 LWSP to be compliant with N.C.G.S. §143-355(l), City Council must formally adopt the plan. Once the City Council adopts the 2012 LWSP NC DENR will change the status of the report from "Provisional" to "Compliant".

City staff recommends City Council adopt the 2012 Local Water Supply Plan.

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F. RESOLUTION NO. 14-5 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO ADD THE CITY COUNCIL ANNUAL RETREAT ON FEBRUARY 7-8, 2014, BEGINNING AT 9:00 A.M. AT THE U.S. CELLULAR CENTER

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G. RESOLUTION NO. 14-6 - RESOLUTION ACCEPTING A U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT CONTINUUM OF CARE PLANNING GRANT

ORDINANCE NO. 4260 - BUDGET AMENDMENT FOR A CONTINUUM OF CARE PLANNING GRANT

Summary: The consideration of a resolution to accept HUD 2012 Continuum of Care Grant Planning funds to provide staff support for the Homeless Initiative; and the associated budget amendment in the amount of \$13,180.

The City of Asheville is the Collaborative Applicant for the Asheville-Buncombe Continuum of Care (NC-501 as designated by HUD). In this past year's Continuum of Care Grant Competition, Collaborative Applicants were eligible to apply for Planning Project funds to assist with staff support. Funding recommendations were made by the Homeless Initiative Advisory Committee for each project application, including the City's application. These recommendations followed a process that included review and preliminary selection by a funding Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee. The City submitted a timely application to the Department of Housing and Urban Development, Special Needs Assistance Projects office for Planning Project funds in the FY2012 Continuum of Care Competition. We have been informed that our application has been approved, for \$13,180.

These funds will be used to support the part-time Continuum of Care Coordinator position, within the Community Development Division. The position supports Asheville and Buncombe County agencies providing services to the homeless, ensuring that the HUD-required databases are accurately maintained; that funding flowing through the City to those agencies is distributed on a timely basis; and supporting the Homeless Initiative Coordinator in other administrative tasks.

Program funding is entirely from the US Department of Housing and Urban Development. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution and budget amendment in the amount of \$13,180 authorizing the City to accept HUD Continuum of Care funding, and to provide those funds to the Community Development Division to support the Homeless Initiative staff, approved by the Department of Housing and Urban Development, Special Needs Assistance Projects office.

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H. RESOLUTION DELEGATING THE CITY MANAGER TO EXEMPT (IN WRITING) PROJECTS FROM THE FORMAL BIDDING PROCESS WHEN THE ESTIMATE FOR THE PROFESSIONAL SERVICES ARE LESS THAN \$50,000 IN ACCORDANCE WITH N.C. GEN. STAT. SEC. 143-64.32

This item was removed from consideration.

I. ORDINANCE NO. 4261 - BUDGET AMENDMENT IN EACH OF THE CITY'S ANNUAL OPERATING FUNDS TO APPROPRIATE FROM RESERVED FUND BALANCE THE REQUIRED BUDGET AUTHORIZATION FOR PRIOR YEAR CONTRACTS, PURCHASE ORDERS, AND OTHER CARRY-OVER APPROPRIATIONS THAT ROLLED FORWARD TO FISCAL YEAR 2013-14

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from reserved fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2013-14.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the FY 2012-13 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2013-14, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2013-14 budget for each of the City's annual operating funds.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's FY 2012-13 financial statements. There is no impact on available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from reserved fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2013-14.

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J. ORDINANCE NO. 4262 - BUDGET AMENDMENT FOR THE TERRAZZO FLOOR ARTWORK AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment in the amount of \$16,800 to transfer funding from the public art maintenance project to the public art acquisition project for the cost to develop the terrazzo floor artwork in the US Cellular Center.

In October 2013, the terrazzo floor artwork in the US Cellular Center was completed as part of the center renovations. Total cost for artwork floor was \$16,800 for project proposal, design and fabrication. The project was funded by the budget for the Public Art Program, which the City maintains in two separate projects in its financial system, one for maintenance of existing artwork and one for art acquisition. In order to fund the terrazzo floor artwork planned for FY 2013-14, staff is requesting Council approve a technical budget amendment moving \$16,800 from the public art maintenance project to the public art acquisition project

The technical budget amendment is a one-time reallocation of previously approved public art funding from maintenance to acquisition.

Staff recommends City Council approve the technical budget amendment authorizing the City Manager to transfer budget in the amount of \$16,800 from the public art maintenance project to the public art acquisition project for the cost to develop the terrazzo floor artwork in the US Cellular Center.

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

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

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE EXTERNAL AUDIT OF THE FISCAL YEAR 2013 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Barbara Whitehorn, Director of Finance and Management Services, said that this is the consideration of a motion to accept the FY 2013 Comprehensive Annual Financial Report (CAFR).

Mr. Collin Hill, CPA, Audit Partner with Cherry Bekaert LLP, delivered the City's Comprehensive Annual Financial Report (CAFR) and provided City Council with a review of the audit. He reviewed the different audit areas of focus.

Their result on financial statements resulted in (1) their opinion was unmodified; (2) there are no significant deficiencies or material weaknesses noted in internal control; and (2) no instances of noncompliance noted in statutory compliance.

The results on the OMB A-133 Audit resulted in (1) their opinion was unmodified; (2) there were no significant deficiencies or material weaknesses noted in internal control; and (3) regarding statutory compliance, there are three instances of nonmaterial noncompliance: (1) one related to Davis-Bacon Act, questioned costs below required reported amount; (2) one related to Allowable Cost/Cost Principles, questioned costs determined to be immaterial; and (3) one related to Subrecipient Monitoring, questioned costs not applicable.

The results of state single audit resulted in (1) their opinion was unmodified; (2) there are no significant deficiencies or material weaknesses noted in internal control; and (2) no instances of noncompliance noted in statutory compliance.

When Councilwoman Wisler asked about the information technology recommendations noted in the audit, Mr. Hill stated that they only noted those because they are best practices and that in an ideal world all of those would be implemented. City Manager Jackson said that he would provide City Council with a written response.

In response to Vice-Mayor Hunt, Ms. Whitehorn said that the City has a policy of maintain a 15% General Fund Fund Balance. In 2012, the City ended with a 15.9% Fund Balance and in 2013, the City ended with a 17.6% Fund Balance. She was glad that the City is beginning to see economic recovery.

Vice-Mayor Hunt moved to accept the 2014 Comprehensive Annual Financial Report. This motion was seconded by Councilman Smith and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE THE EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES

RESOLUTION NO. 14-8 - RESOLUTION PERMANENTLY CLOSING THE EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES

Interim Public Works Director Ken Putnam said that this is the consideration of a resolution to permanent close the Summit Avenue right-of-way. This public hearing was advertised on December 20, 2013; December 27, 2013; January 3, 2014; and January 10, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville to permanently close a portion of the excess right-of-way adjacent to Summit Avenue and an unopened right-of-way between Summit and Allen Avenues.

City staff has reviewed the request and concur that the right-of-way closings will not have a negative impact on City services or active City transportations systems. The developer will maintain a minimum of 50 feet to remain open as right-of-way for Summit Avenue.

The Multimodal Transportation Commission met on December 4, 2013, and voted to unanimously support the right-of-way closures on condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

Mr. Putnam noted that the resolution will be amended to include the Multimodal Transportation Commission's condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use. The Strategic Plan Goals most closely aligned with this closure request is the Job Growth and Community Development Goal in that it will provide infill growth to make efficient use of existing resources.

City staff recommends City Council adopt the resolution to permanently close portions of excessive Summit Avenue right of way and an unopened right-of-way between Summit and Allen Avenues.

Mayor Manheimer noted that the property description will be amended to include a metes and bounds description.

Mayor Manheimer opened the public hearing at 5:40 p.m. and when no one spoke, she closed the public hearing at 5:40 p.m.

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

Councilman Bothwell moved for the adoption of Resolution No. 14-8, including the condition by the Multimodal Transportation Commission and the revised property description. This motion was seconded by Councilman Pelly and carried unanimously.

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- B. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AMENDMENT TO THE 2011-12 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO ALLOW THE ASHEVILLE HOUSING AUTHORITY TO REPURPOSE CDBG FUNDS**

RESOLUTION NO. 14-9 - RESOLUTION TO SUBSTANTIALLY AMENDED THE 2011-12 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO ALLOW THE ASHEVILLE HOUSING AUTHORITY TO REPURPOSE CDBG FUNDS

Director of Community Development Jeff Staudinger said that this is the consideration of a resolution to substantially amended the 2011-2012 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME funds to allow the Asheville Housing Authority to repurpose CDBG Funds. This public hearing was advertised on January 3 and 10, 2014.

In 2011, the Housing Authority requested and was awarded \$40,037 in CDBG funds to support resident engagement, education and participation in a possible HOPE VI or Choice Neighborhoods redevelopment process for Lee Walker Heights. Although the Housing Authority is still investigating long-term options for Lee Walker Heights, their efforts (in partnership with the City of Asheville) to obtain Choice Neighborhood funding from HUD were unsuccessful. However, the Housing Authority's application to HUD in support of the creation of a green jobs training center at the Reid Center was successful.

In support of that project, the Housing Authority is requesting that the funds originally programmed for Lee Walker Heights instead be made available for infrastructure including high speed Internet connectivity at the W.C. Reid Center, or if that can be funded through donation or other grants, for other improvements to the Center. The specific use can be determined at the time of the development of the grant contract.

The Housing Authority estimates that 275 persons will benefit from the training activities supported by the facility.

The Housing and Community Development Committee considered this request in November of 2013, and supports this request.

The proposed use of funds would grant federal funds already allocated to the City. No City general funds are affected.

Staff recommends City Council amend the 2011-2012 Annual Action Plan to repurpose \$40,037 allocated to the Asheville Housing Authority to support infrastructure development at the Reid Center.

Mayor Manheimer opened the public hearing at 5:43 p.m. and when no one spoke, she closed the public hearing at 5:43 p.m.

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

Councilman Davis moved for the adoption of Resolution No. 14-9. This motion was seconded by Councilman Smith and carried unanimously.

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C. PUBLIC HEARING REGARDING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S MERGER WITH THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4263 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES MERGING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA

RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4264 - ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES MERGING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4265 - ORDINANCE DISSOLVING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

RESOLUTION NO. 14-10 - RESOLUTION ADOPTING A REVISION TO THE RIVER DISTRICT DESIGN GUIDELINES

On December 10, 2013, at the request of City staff, Councilman Davis moved to continue this public hearing until January 14, 2014. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

Urban Planner Stephanie Monson-Dahl said that this is the consideration of (1) an ordinance to dissolve the River District Design Review Committee and reassign the river district design review function to the Asheville Area Riverfront Redevelopment Commission; (2) two ordinances to amend the Asheville City Code to effect this aforementioned change; and (3) a resolution to revise the River District Review Guidelines to include a River District Design Review Area Map which expands the area for performing river district design review beyond the current River District zoned parcels.

The River District Design Review Committee (RDDRC) was formed in November of 1997 to promote Asheville's riverfront as a vital economic development area for Asheville and western North Carolina and to perform design review for major works projects located within the River District zoned areas of the city. It has been staffed by the Office of Economic Development since March 2013.

In 2009 Asheville City Council chartered a new board - The Asheville Area Riverfront Redevelopment Commission (AARRC) that serves a similar, yet expanded purpose of promoting riverfront revitalization through an explicit partnership with Buncombe County, the Town of Woodfin, RiverLink, the Asheville Area Chamber of Commerce, and the Council of Independent Business Owners. The AARRC charter, though modeled after the Downtown Commission (which performs Downtown Design Review), did not include the River District Design Review function. The AARRC has been staffed by the Office of Economic Development since its creation.

On August 28, 2013, the River District Design Review Committee unanimously recommended to the AARRC and City Council that staff pursue changes to the Code of Ordinances that would: dissolve the RDDRC; maintain river district design review as a development review requirement and reassign the function of river district design review/major works review to the AARRC; and realign the geography of the river district design review function so that it no longer is based on River District zoning, but aligns with the geography of the City's redevelopment efforts by using an adopted map area.

The City Council Planning and Economic Development, at their September 17, 2013, meeting, voiced support for staff to work on the RDDRC proposal, and to bring the Code of Ordinance changes forward for Council consideration when appropriate.

The Planning and Zoning Commission, at their November 6, 2013, meeting, voted unanimously to recommend that Council to amend sections 7-3-10 (Decision Making Bodies, River District Design Review Committee) and 7-5-18 (Development Review Procedures, River District Design Review) of the Code of Ordinances; and for Council to revise the river district

review guidelines by adopting a new map that expands the design review area to parcels that are not zoned River District but are located within the riverfront area.

The Asheville Riverfront Redevelopment Commission reviewed this item at their November 2013 meeting and unanimously voted to support Planning and Zoning's recommendation and to recommend that Council amend section 2-185.20 (Asheville Area Riverfront Redevelopment Commission).

City staff recommends City Council (1) adopt an ordinance dissolving the River District Design Review Committee and re-assigning the river district design review function to the Asheville Area Riverfront Redevelopment Commission; (2) to adopt an ordinance amending sections 7-3-10 and 7-5-18 of the City Unified Development Ordinance to effect the change described in (1); (3) adopt an ordinance amending the section 2-185.20 of the Asheville Code of Ordinances to effect the change described in (1); and (4) adopt a resolution to revise the River District Design Guidelines to include a new River District Design Review Area Map that will serve as the basis for performing river district design review.

Mayor Manheimer opened the public hearing at 5:49 p.m. on the amendments to Chapter 7 at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

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

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4263. This motion was seconded by Councilman Davis and carried unanimously.

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Mayor Manheimer opened the public hearing at 5:50 p.m. on the amendments to Chapter 2 at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4264. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

Mayor Manheimer opened the public hearing at 5:50 p.m. on the dissolution of the River District Design Review Committee at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4265. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

Mayor Manheimer opened the public hearing at 5:50 p.m. on the revision to the River District Design Guidelines at 5:51 p.m., and when no one spoke, she closed the public hearing at 5:51 p.m.

Councilman Smith moved to adopt Resolution No. 14-10, adopting a revision to the River District Design Guidelines. This motion was seconded by Councilman Davis and carried unanimously.

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Ms. Pattiy Torno, Chair of the Asheville Area Riverfront Redevelopment Commission, spoke in support of the amendments.

On behalf of City Council, Councilman Smith thanked those who served on the River District Design Review Committee over the years.

D. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF PROPERTY FRONTING ROBINHOOD ROAD, BEAVERBROOK ROAD AND BEAVERBROOK COURT FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4266 - ORDINANCE REZONING A PORTION OF PROPERTY FRONTING ROBINHOOD ROAD, BEAVERBROOK ROAD AND BEAVERBROOK COURT FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of property fronting Robinhood Road, Beaverbrook Road and Beaverbrook Court from RS-2 Residential Single-Family Low Density District to RS-4 Residential Single-Family Medium Density District. This public hearing was advertised on January 3 and 10, 2014.

Mr. Esselstyn said that the subject property is approximately 13 acres (of which approximately 11 are in the City's jurisdiction) of vacant, wooded land. The parcel overall has an average natural slope of about 42%, with elevations from 2,390 to 2,550 feet above sea level, putting it in the most restrictive category of the UDO's steep slope development regulations. The lot has frontage on Beaverbrook Court, Beaverbrook Road, and Robinhood Road. Several small streams run through the property.

The applicant has requested a standard rezoning from RS-2 (Residential Single-Family Low Density) district to RS-4 (Residential Single-Family Medium Density) district, which is the predominant zoning classification to the south and east of the subject property, in order to achieve marginally higher density.

As mentioned above, a majority of the subject parcel's area is in the City's corporate limits; however, the northern and western tips are in the Town of Woodfin. Other nearby properties to the north and west are either zoned by the Town of Woodfin, or not zoned at all, in the case of former City of Asheville ETJ area at the terminus of Beaverbrook Road.

At their December 4, 2013, meeting, the Planning and Zoning Commission voted unanimously (6-0) to recommend approval of the request. Several citizens spoke in opposition to the rezoning or to voice concerns about stormwater runoff and disturbance of the land.

Along the southern and eastern boundaries of the subject property, most of the adjacent zoning is RS-4, and the adjacent lots are developed with single-family homes on lots averaging roughly 0.8 acres in size. At the northeast corner, there is an area of RS-2 zoning.

To the north and west, there is a large vacant property owned by the same corporation that owns the subject parcel, and a single-family home on a four-acre lot, owned by the president

of said corporation. Part of the single-family house lot is zoned RS-2, but most of the zoning in this area is the Town of Woodfin's "Mountain Village" zoning district. To the southwest, there are seven single-family residential lots (six are developed) that are in unincorporated Buncombe County and are unzoned.

Owing to the steep slope classification mentioned above, the currently allowed residential density is much lower than the two units per acre one might expect in a flatter, lower elevation setting of RS-2 zoning. The regulations limit density to 0.1 units per acre, meaning that the minimum average lot size in a new subdivision would be 10 acres. As such, the applicant can't currently subdivide the 13-acre parcel.

The allowed density in RS-4 zoning at this slope and elevation, by contrast, is 0.2 units per acre, which would allow for a new subdivision with minimum average lot sizes of 5 acres, and in this case, would permit the 13-acre parcel to be divided into two single-family house lots.

It is important to note that the amount of grading allowed would remain substantially unchanged, regardless of the zoning district. Only 15% of the site would be allowed to be graded; in other words, at least 85% of the land area would need to remain undisturbed, whether the property is developed as one lot or two. Further, the steepness of the terrain would require that development applications be accompanied by geotechnical analysis to address the higher risk of slope failure in this setting.

Since the adoption of the revisions to the steep slope ordinance in 2007, staff has not typically been supportive of requests to "up-zone" properties in sensitive steep slope areas, especially those that are "Zone B" and in the steepest slope category. Staff has some concern that such action could be viewed as a precedent inviting other such requests or as a perceived weakening of the City's stance on such environmental protections.

This particular parcel, however, does stand out as unlike many of the other steep slope properties in RS-2 zoning. The majority of its boundary is adjacent to higher-density zoning, and there is established higher-density development on two of the roads on which the parcel has frontage. The rezoning, if it were approved, would still require the applicant to create parcels significantly larger than the existing house lots on two sides. Much of the area to the west and north is in different jurisdictions, where the zoning (or lack thereof) would even allow high-density multifamily development.

Were the zoning change to be approved, a narrow sliver of RS-2 zoning would remain on an adjacent parcel on Robinhood Road (lot 1371), but this split-zoning situation has existed on the neighbor's lot for at least eight years. Were it to become problematic for the property owners, staff feels it would not be difficult to resolve, as the vast majority of that lot is already zoned RS-4.

Staff has been contacted by several neighboring property owners, and several neighboring residents spoke at the Planning and Zoning Commission public hearing in opposition to the proposal. While two phone calls were solely seeking more information, the dominant concern recurring through these communications was disturbance of fragile land and the potential for problematic erosion and increased runoff.

The Asheville City Development Plan 2025 supports special treatment for sensitive areas and steep slopes that should be treated with caution during development, which could be viewed as contrary to the applicant's request. A different perspective, however, would cite the plan's recommendation that "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure" to support the rezoning as compatible with the higher-density surroundings.

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

Considerations:

- Rezoning a steeply sloped property to a higher-intensity zoning district is in conflict with past staff actions and Council direction.
- In this particular instance, RS-4 zoning can be viewed as more compatible with the surrounding zoning and development context than the currently assigned zoning district.

Staff is reluctant to support a change to higher-impact zoning in high-elevation areas with over 40% slope. This rezoning, however, would not increase the amount of land disturbance allowed. Since the property in question is flanked by almost twenty parcels developed with single family homes, all but one of which is less than two acres in size, staff feels an argument can be made for allowing two house lots averaging 6.5 acres in size – in the name of compatibility.

In response to Vice-Mayor Hunt, Mr. Esselstyn explained how the proposed rezoning would not increase the amount of land disturbance allowed.

In response to Vice-Mayor Hunt, Stormwater Services Manager McCray Coates said that there is no requirement for stormwater for single-family properties; however, they still have to comply with erosion control measures.

Mayor Manheimer opened the public hearing at 6:01 p.m. and when no one spoke, she closed the public hearing at 6:01 p.m.

In response to Councilman Smith, Mr. Scott Best, attorney representing Sherwood Heights Development Inc., said that they hope to sell the two lots to individual users and what kind of lot configuration will depend on those users. His sense is that there will be a building site on the lower area and then one higher up. He felt the fairest and easiest would divide the 15% based upon the amount of acreage and how the acreage is split. At this time, they can't market and sell the lots because it is one big lot.

Councilman Smith understood the conformity of the surrounding area, but wondered if we leave the property as is are we likely to see less land disturbed in a very sensitive area than to divide it and get closer to the 15% land disturbance. That uncertainty leaves him uncomfortable.

Mr. Best said that if rezoned, this would be two of the largest lots within miles around. He felt it's reasonable to have more than one home on 13 acres. He understood Councilman Smith's concern; however, under the statute, 15% of land disturbance is allowed.

Councilman Pelly felt that the City enacted the steep slope ordinance to protect surrounding properties and given that the developer intends to comply with the standards, he would support the rezoning.

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

Councilman Bothwell moved to deny the proposed rezoning due to the steep slope. This motion was seconded by Councilman Smith and failed on a 2-5 vote, with Mayor Manheimer, Vice-Mayor Hunt, Councilman Davis, Councilman Pelly and Councilwoman Wisler voting "no."

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. 4266. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no".

ORDINANCE BOOK NO. 28 – PAGE

E. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4267 - ORDINANCE REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RM-16 Residential Multi-Family High Density District. This public hearing was advertised on January 3 and 10, 2014.

On September 10, 2013, staff presented a Council requested zoning analysis of the properties that are the subject of this rezoning proposal (and others in the vicinity). After the presentation the Council voted to direct staff to pursue a rezoning of these properties, and to contact the owner of these properties to request that he consider a rezoning of the adjacent property with the Institutional Conditional Zoning to an RM-16 Conditional Zoning. This report proposes a rezoning from Institutional to RM-16 for the Kenilworth Inn property (PIN:9648722062 / 5.81 acres) and a small adjoining property owned by Caledonia Development LLC (PIN:9648714812 /.61 acre).

As noted in prior reports to Council, the staff believes that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues. The Institutional Zone is a relic of a time when the Kenilworth Inn operated as a medical facility. When comprehensive rezoning was implemented in this area in 1980 a zone was chosen to reflect the existing use on the property (a common practice at the time) rather than appropriate zoning for future potential uses taking into consideration the steepness of residual parts of the property. Later, when the structure was renovated and turned from a medical facility into apartments no rezoning was required as multi-family housing is a use allowed in the Institutional zone. Further, there does not seem to have been any thought at that time that the remaining properties (primarily steep wooded slopes) owned by Caledonia LLC might later be proposed for additional development.

The proposed change to the RM-16 district for the Kenilworth Inn Apartments and the small (.61 acre) property adjoining it that fronts on Caledonia Road) would retain the existing residential density potential, so the Kenilworth Inn would remain a conforming use, but would eliminate the potential for a range of nonresidential uses allowed in the Institutional zone that the staff believes could be problematic at this location. Any reduced density zone for the Kenilworth Inn property would render the property non-compliant for density, so that was not considered.

It should be noted that the small (.61 acre) property just to the south of the Kenilworth Inn property, does have some limited development potential; as the Inn property is large enough to support the 16 dwelling units per acre density alone. Although, the 2010 subdivision plat creating this separate property has a note indicating intent to recombine it with the larger Kenilworth Inn property.

As of this writing, staff has received no communications from the property owner or the public regarding the proposed rezoning.

The Planning Commission considered this application at their November 6 meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. After a brief

discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change meets a smart-growth goal of the comprehensive plan better than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal to be reasonable and recommends approval.

Mayor Manheimer opened the public hearing at 6:16 p.m.

Ms. Valerie Hoh, resident on Finalee Avenue, was pleased to see this coming to fruition after 3.5 years. She felt this proposed rezoning is more compatible with the Kenilworth neighborhood, and was pleased that City Council is stopping inappropriate development on the Caledonia Road steep slopes.

Mayor Manheimer closed the public hearing at 6:19 p.m.

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

Councilwoman Wisler 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. 4267. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

F. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4268 - ORDINANCE REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on January 3 and 10, 2014.

On September 10, 2013, staff presented a Council-requested zoning analysis of the properties that are the subject of this rezoning proposal (and others). After the presentation the Council voted to direct staff to pursue a rezoning of these properties. This report is the request for rezoning on five properties from the Institutional zoning district to the RS-8 zoning district.

This proposed rezoning to RS-8 will affect three properties owned by Caledonia Development LLC, the one property owned by Riverlink Inc., and a portion of one property that is

currently split zoned between Institutional and RS-8. All of these properties have substantially steep topography. The 3.24 acre property to the east of the Kenilworth Inn property bifurcated by Caledonia Road (PIN: 9648726180) and the 3.36 acre Riverlink property (PIN: 9658714686) take access from a steep and winding segment of Caledonia Road. The two small recently created lots (PINs: 9648718624, and 9648718648) owned by Caledonia Development LLC (.16 acre each), take access from the lower portion of Caledonia Road, and the proposed zoning replicates recently requested and approved zoning for the other four small lots created along this road segment. All affected property owners have been notified of this pending action and to date staff has received no communications from them regarding the proposed rezoning.

These changes would substantially impact development potential of the larger properties, reducing the potential density by approximately 50%, but would bring the development potential closer to an appropriate level given the location, topography, other limiting site conditions, and current community expectations. The 3.24 acre property has an average slope of 35%, and the 3.36 acre property has an average slope of 44%.

The small lot located in the lower curve of Caledonia Road (PIN 9648727364) is included in this zoning action because it is split between Institutional and RS-8 zoning; and in the context of a general zoning evaluation of this area, staff believes this situation should be resolved. A single family home was built on the property (owned by Arthur Trupp and Nancy Headley) within the past few years, so a rezoning to single family zoning for the portion zoned Institutional (.34 acre) is appropriate. The owners have been notified, and as of the date of this report they have not responded regarding the proposed rezoning.

The Planning Commission considered this application at their November 6, 2013 meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. No comments were received from Riverlink or the owners of the residential property. After a brief discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change better meets smart-growth goals of the comprehensive plan than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development on these properties, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal reasonable and recommends approval.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Ms. Patsy Brison, attorney representing the Kenilworth Residents Association, recommended City Council approve the rezonings based on slope data. She showed (1) a map of the average slope; (2) a slope stability index; (3) a map showing the high and moderate hazard areas; and (4) a map of the debris flow path.

Ms. Teddy Jordon, resident in the Kenilworth area, stated that the neighborhood is not anti-development and previously presented the developer with multiple alternatives for development. She noted there are many compelling reasons why the property should be rezoned from Institutional which ultimately is for the best interest of all Kenilworth residents.

Mayor Manheimer closed the public hearing at 6:22 p.m.

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

Councilman Bothwell 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. 4268, to rezone the following properties: PIN 9648726180, PIN 9648714686, PIN 9648718648, PIN 9648718624, and the pertinent .16 acre portion of the .34 acre PIN 9648727364 from Institutional to RS-8 (Residential Single-Family Medium Density). This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

**G. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES
LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-
8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT**

**ORDINANCE NO. 4269 - ORDINANCE REZONING PROPERTIES LOCATED
ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-8
RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT**

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on January 3 and 10, 2014.

She said that September 10, 2013, staff presented a Council requested zoning analysis of the properties that are the subject of this rezoning proposal (and other adjoining properties). After the presentation the Council voted to direct staff to pursue a rezoning of these properties. This report is the request for rezoning on two properties from the Institutional zoning district to the RM-8 zoning district. The staff believes that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues.

This proposed rezoning to RS-8 will affect the 1.74 acre residual portion of property owned by Caledonia Apartments LLC (PIN: 9648710317) that was the subject of a subdivision along the Finalee Avenue frontage earlier this year (a 50 unit multi-family development was approved on this property in 2012 but later voided by the creation of the subdivided lots); and the majority (3 acres) of a 3.05 acre property owned by Caledonia Development LLC (PIN 9648713307). This recommendation includes the remaining 1.74 acre portion of the parcel on Finalee property (owned by Caledonia Apartments LLC). A small portion of that property (.05 acre) fronts on Swannanoa River Road and is zoned River, and no change to it is proposed.

The two properties that are the subject of this report are quite steep (both over 40% average slopes) but have the advantage of access directly from a lower segment of Caledonia Road and from Swannanoa River Road. Because of that access these two properties are recommended for the RM-8 zoning (rather than the RS-8 single-family zone). That designation will allow development at a reduced density reflecting the steep slopes of these properties, and would eliminate the potential for problematic non-residential uses allowed in the Institutional zone; while still allowing clustered multi-family development potential. The change would substantially

impact development potential, reducing the potential density by approximately 50%, but it reflects a more realistic development potential given the site constraints.

The Planning Commission considered this application at their November 6, 2013, meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. After a brief discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change meets a smart-growth goal of the comprehensive plan better than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal to be reasonable and recommends approval.

Councilman Pelly thanked the Kenilworth Residents Association for their perseverance on trying to give area residents peace of mind.

Mayor Manheimer opened the public hearing at 6:23 p.m., and when no one spoke, she closed the public hearing at 6:23 p.m.

Mayor Manheimer 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. 4269. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-11 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CDM-SMITH TO PERFORM ENGINEERING SERVICES FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

ORDINANCE NO. 4270 - BUDGET AMENDMENT FO THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Transportation Planner Dan Baechtold said that this is the consideration of (1) a resolution authorizing the City Manager to enter into a contract with CDM-Smith to perform engineering services and provide 100% complete construction documents for the River Arts District Transportation Improvement Project (RADTIP), and to conduct other necessary pre-development activities for a budget not to exceed \$2,186,000; and (2) a budget amendment in the amount of \$2,208,000 from debt proceeds to formally establish a project budget for this contract and previously incurred legal costs.

The RADTIP is a multi-modal transportation project that will construct roadway improvements, sidewalks, bike lanes and greenways along Lyman Street and part of Riverside Drive adjacent to the French Broad River. The preliminary cost estimate is \$25 Million. After the next phase, the cost estimate will be refined.

The RADTIP is one of the projects identified in the City's Economic Development Capital Improvements Program (EDCIP). In order to implement the project, the City must complete four major steps in the project development process. They are: 1) Preliminary Engineering and Environmental Studies; 2) Detailed Design and Engineering; 3) Right of Way Acquisition; and 4) Construction.

Step one is complete. The City's consultant, CDM Smith led an extensive process which included public involvement, design, and technical documentation to complete the required environmental document and bring the project design to a level of 30% complete.

This contract will complete step two. Staff issued a Request for Qualifications seeking professional firms that could provide 100% complete construction documents, permits and flood studies, and right-of-way plans for the RADTIP. After thorough review and evaluation, a review panel recommended CDM Smith as the most qualified to perform this next phase of engineering.

In addition to the major deliverables listed above, the contract will also include tasks such as detailed surveying, soil testing, streetscape plans, bridge and culvert design, utility relocation plans, and additional public involvement. At the completion of the contract the City will have 100% complete construction documents, which will put the City in a position to begin acquiring right-of-way and seeking funding for construction.

One of the first products for this phase of engineering will be an analysis of the Craven Street intersection and the Norfolk Southern railroad bridge in order to explore ways to accommodate truck traffic associated with New Belgium.

Implementation of the RADTIP is identified as an investment initiative in the focus area of Economic Growth and Financial Sustainability. In addition the project supports implementation of numerous master plans including the Wilma Dykeman Riverway Plan, Greenway Master Plan, and the 2025 City Development Plan.

As noted above, this project is funded through the Economic Development Capital Improvements Program (EDCIP) that was approved by City Council as part of the FY 2013-14 budget adoption. The budget amendment in the amount of \$2,208,000 from debt proceeds will formally establish a project budget for the contract with CDM Smith and previously incurred legal costs associated with the project. Expenditures to CDM Smith will occur in FY14 and FY15.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract with CDM Smith to perform engineering and design services for the RADTIP for an amount not to exceed \$2,186,000; and (2) a budget amendment in the amount of \$2,208,000 from debt proceeds to formally establish a project budget for this contract and previously incurred legal costs.

Mr. Baechtold responded to Vice-Mayor Hunt when he asked if the cost estimating is part of the analysis to be provided to the City, and if the engineering for the greenway is included in this step.

Ms. Pattiy Torno, Chair of the Asheville Area Riverfront Redevelopment Commission felt this is the way to move forward on our riverfront. They have been working closely with CDM-Smith and are pleased with their work.

Mayor Manheimer and Councilman Davis each spoke about the careful planning and decision-making of City Council on this incredible project. This is an area of the City that will really grow and become an exuberant place for the City.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-11. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE

Councilman Bothwell moved for the adoption of Ordinance No. 4270. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-12 - RESOLUTION ESTABLISHING A JOINT CITY-COUNTY AFRICAN AMERICAN HERITAGE COMMISSION

Mr. Marvin Chambers encouraged City Council to vote in support of establishing this City-County African American Heritage Commission. Many years ago there was an E.W. Pearson, Isaac Dickson, Floyd McKissick, James Ferguson, Dr. John Holt, Ruben Dailey, and many others who made their mark in the City. Unfortunately there are few people who know how Asheville transpired and the many African Americans who worked to make Asheville what it is today. Asheville used to be a road to Tennessee from South Carolina to where African Americans were sold on the County Courthouse steps. We are trying to find what has been contributed by the African American community. I-40 came right through the African American community, along with other projects that have destroyed or separated the African American community. He hoped Council will see that the African American community has had a part in developing Asheville.

Ms. Deirdre Wiggins provided Council with a brief overview of the project. So many organizations and individuals over the years have worked to bring the narrative of the African American community to light. This was prompted, mostly in part, from the 2006 discovery of photos, taken by Andrea Clark of the East End Neighborhood, just prior to the coming of Urban Renewal in the late 1960's to mid-1970's. Clark's photographs became the basis of an educational project, with the help of the Buncombe County Library, about the necessity of the social fabric of neighborhoods and included a lecture by Dr. Mindy Fullilove in 2008. She shared her research from her book "Root Shock: How Tearing up City Neighborhoods Hurts America and What We Can Do About It". As she said, such "root shock" brings with it special disastrous consequences for both the aged and the young.

After the program and exhibits ended, Dr. Fullilove encouraged the committee not merely to document the loss but also to work to rebuild the social fabric of the communities impacted by Urban Renewal. At her encouragement, the committee raised funds and invited authors to contribute to a special addition of "Crossroads" from the NC Humanities Council. She hoped Council has seen a copy of this extensive feature article on Asheville's African American neighborhoods. Dr. Fullilove felt, along with Harlan Gradin of the Humanities Council, that Asheville has a unique story and because of the amount of visitors who come here each year, these stories could be told in a way that promote health – including physical, emotional, and economic well-being. These stories are enlightening, and beneficial for local citizens and visitors alike. "Crossroads" tells a part of the story and is a platform for further opportunities.

At that City Council meeting three years ago, former Mayor Bellamy told the committee members if there was anything that the Council could do to help to please let members know.

Sowe're back! The founding of an African American Heritage Commission is an avenue that gives enough collaborated effort between representatives of many different organizations, with the authority of a government sponsored citizens committee, to attract the interest of larger supporters. This is important as "collaboration" is the name of the game these days when it comes to fundraising.

The aesthetic beauty of our mountains is unquestionable. However, equally important is the bigger issue of ensuring that the promotion of being a culturally diverse city and county does indeed give credence to this effort. This would be a collaborative effort, rather than a new organization, that would harness the power of non-profits, neighborhoods, individuals, educational, and governmental agencies to talk about our shared history, and love, for our mountain home.

As stated in the resolution, the goals of the project are to discover, develop, promote, and implement projects and programs to recognize African American history in Buncombe County.

Our young people especially need to hear the stories. Without a dedicated way to tell the story to youth, both black and white, we miss the opportunity for them to understand and enlighten their heritage.

This is also about economic development and there are many ways that the City and Council can benefit, including: (1) Education through schools, universities, fraternities, and sororities, and mentoring programs; (2) Economic stimulation by increasing revenue through cultural attractions, tours, symposiums, national meetings, and social engagements; and (3) Retention of African American professionals.

Mr. James Lee said that this is about economic development and preparing our community for the 21st Century and an economy that values diversity. As America becomes more and more diverse, the importance of a diverse work force becomes greater and greater. By uplifting stories we will not only broaden and strengthen our community's self-understanding but demonstrate to our community how to meet our commitment to diverse challenges.

Over the last two years, members of this committee have been meeting with other organizations to enlist their support of this idea and the application for the 9 positions. We have already received encouragement for the project from leaders of the YMI, the NAACP, the WNC Historical Association, and other community leaders, including the African American churches, which he provided to Council.

He believed that by building strong initial connections with other local, state, and national organizations this collaboration will have greater success of achieving the goals. A strategic plan would include the examination of what are the cultural resources that are here along with how to build an infrastructure that with marketing for pride of place, cultural tourism, and economic development.

It is important and imperative that we create a Commission that honors our legacy within this community.

Councilman Smith thanked all the people who worked on the creation of this Commission. This is an opportunity to recognize and discover and acknowledge and preserve pieces of history that might be lost otherwise and to help us understand who we are as a community. He was pleased to be partnering with the Buncombe County Commissioners and perhaps the Culture & Recreation Authority in the future on making sure that the mission can be fulfilled.

Councilman Pelly knows that the African American community has been challenged over the years, but with its rich history, he looked forward to them getting the stories out.

Mayor Manheimer said that she chaired the City Council Boards & Commissions Committee when they met with several organizers of this Commission on this exciting project. There are a lot of functions of this Commission that many envision. The Committee also discussed the hope that this Commission might be able to be a sounding-board for projects or planning that might take place in historically African American communities and provide a forum for community input and collaboration. She felt this is a great way to be able to constructively engage the community.

The following individuals spoke in support of the resolution establishing the Commission:

Dr. Lamar Hilton, member of the Board of Directors of the YMI Cultural Center
Mr. Maceo Z. Keeling, representing Asheville Business Accelerators
Ms. CC Weston, Asheville native
Ms. Carmen Ramos-Kennedy
Mr. Timothy Sadler
Mr. Richard Grant, representing the WNC Historical Association

Mayor Manheimer 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. 14-12. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 52

B. BOARDS & COMMISSIONS

Regarding the Asheville-Buncombe Community Relations Council, the following individuals applied for the vacancy: Sandra Houts, Brandee Boggs and Fyffe Aschenbrenner. It was the consensus of City Council to delay appointment until February in order to give Councilman Smith (liaison to the Community Relations Council) the opportunity to meet with the board to gather their input on the criteria they seek in a new board member.

Regarding the Homeless Initiative Advisory Committee, the following individuals have applied for the vacancy: Sabrah n'haRaven, Matthew Shepley, Allison Bond, Heather Smith, Carrie Pettler and Kristi Case. It was the consensus of City Council to delay appointment until March in order for the Homeless Initiative Advisory Committee to make a recommendation.

Regarding the Sustainable Advisory Committee on Energy & the Environment, the following individuals applied for the vacancies: Thomas Bryan Tompkins, Joyce Brown, Sonia Marcus, Parker Sloan, Mindy Fisher, Leslee Thornton, Philip Pritchard, Mary Ann Garwood, Sabrina Wells and Ulla Reeves. A motion was made by Councilman Bothwell and seconded by Councilwoman Wisler to reappoint Duncan McPherson. It was the consensus of City Council to interview Sonia Marcus, Mindy Fisher and Mary Ann Garwood.

RESOLUTION NO. 14-7 – RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

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

The terms of Douglas Hattaway (Regular), Mac Swicegood (Alternate) and David Brown (Regular) as members on the Board of Adjustment expire January 21, 2014.

The following individuals applied for the vacancies: Keaton Edwards, Amy Kemp and Gary Herndon.

It was the consensus of the Boards & Commissions Committee to (1) reappoint Douglas Hattaway (Regular) to serve a full three-year term, term to expire January 21, 2017; (2) reappoint Mac Swicegood (Alternate) to serve a full three-year term, term to expire January 21, 2017; and (3) reappoint David Brown (Regular) to serve an additional three-year term, term to expire January 21, 2017. All appointments are until their successors have been appointed.

Councilman Pelly moved to (1) reappoint Douglas Hattaway (Regular) to serve a full three-year term, term to expire January 21, 2017; (2) reappoint Mac Swicegood (Alternate) to serve a full three-year term, term to expire January 21, 2017; and (3) reappoint David Brown (Regular) to serve an additional three-year term, term to expire January 21, 2017. All appointments are until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 45

RESOLUTION NO. 14-13 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Hunt, 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 Pat Leckey expired on January 1, 2014.

The following individual has applied for the vacancy: Gary Herndon.

Councilman Pelly moved to reappoint Pat Leckey to serve an additional two-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. 36- PAGE 56

RESOLUTION NO. 14-14 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE RIVERFRONT REDEVELOPMENT COMMISSION

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

The terms of Joe Ferikes (representing the riverfront property or business owner), and Cindy Weeks expired on January 1, 2014.

No one applied for the vacancies.

The Boards & Commissions Committee recommended reappointment of Joe Ferikes (representing the riverfront property or business owner), and Cindy Weeks.

In addition, due to merging of Asheville Area Riverfront Redevelopment Commission and River District Design Review Committee, the Asheville Area Riverfront Redevelopment Commission requested City Council to appoint Carleton Collins (currently member of the River District Design Review Committee) to serve as a design professional on the Asheville Area

Riverfront Redevelopment Commission, whose term would expire January 1, 2017. It was the consensus of the Boards & Commission Committee to appoint Mr. Collins.

Councilman Smith moved to (1) reappoint Joe Ferikes (representing the riverfront property or business owner) to serve an additional three-year term, term to expire January 1, 2017; (2) reappoint Cindy Weeks to serve a three-year term, term to expire January 1, 2017; and (3) appoint Carleton Collins (design professional) to serve a three-year term, term to expire January 1, 2017. All appointments are until their successors are appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 57

RESOLUTION NO. 14-15 – RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

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

The terms of Debbie Emmons and Mike Keaton expired on December 31, 2013.

The following individuals applied for the vacancies: Mike Dale.

The Boards & Commissions Committee recommended reappointing Debbie Emmons and Mike Keaton.

Councilman Bothwell moved to reappoint Debbie Emmons and Mike Keaton to each serve a three-year term respectively, term to expire December 31, 2016, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 58

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler was concerned that the City of Asheville puts fluoride in its water supply since science now finds that medicating the water is not a good thing for people's health. Mayor Manheimer responded that she has spent a lot of time on this issue. In 1967 Asheville voters voted to add fluoride to the water system; however, we have reduced the amount per the CDC's recommendation. To remove fluoride in our water system will require a vote of the people. Councilman Bothwell supported a referendum on this issue since science and public opinion has changed.

Ms. Jeanie Rosenthal was concerned that low-income apartments, specifically mentioning The Griffin Apartment Complex, now allows electronic cigarettes and urged Council to help ban the smoking to the outside.

Dr. Milton Byrd asked to be placed on an agenda for Council to consider a resolution in support of legalizing medical cannabis.

Mr. Todd Stimson asked to be placed on an agenda for Council to consider a resolution in support of the renewal of industrial hemp as an agricultural crop in North Carolina.

Councilman Smith said that due to the protocols and dedication of our service providers, Code Purple was successful and no lives were lost when we had sub-zero temperatures.

Lawsuit Report

The City was served with a civil action on December 27, 2013, from Juanita L. Jones a/k/a Juanita L. Owens vs. J. Calvin Hill, Julie M. Kepple, Patric K. Young, City of Asheville and State of North Carolina. The lawsuit involves eminent domain without just compensation. This matter will be handled by an attorney outside the City Attorney's Office.

Closed Session

At 7:30 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) 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, including a lawsuit involving the following parties: City of Asheville; Wilcox, Mary Ann; and Henderson County and Cane Creek Water and Sewer District. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:12 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:12 p.m.

CITY CLERK

MAYOR