

Tuesday – May 27, 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; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

When Brother Christopher Chiaromonte raised a point of order regarding City Council not allowing prayer at the beginning of the meeting, Mayor Manheimer said that she has taken the invocation off the agenda, but that does not mean that prayer is not allowed.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 27, 2014, AS "USS ASHEVILLE SSN 759 DAY"

Mayor Manheimer read the proclamation proclaiming May 27, 2014, as "USS ASHEVILLE SSN 759 Day" in the City of Asheville. She presented the proclamation to Commander Douglas Bradley, who thanked City Council for this recognition and presented Mayor Manheimer with gifts to refresh the USS ASHEVILLE exhibit on the First Floor of City Hall.

B. PROCLAMATION PROCLAIMING JUNE 2-8, 2014, AS "HEMP HISTORY WEEK"

Mayor Manheimer read the proclamation proclaiming June 2-8, 2014, as "Hemp History Week" in the City of Asheville. She presented the proclamation to Mr. Timothy Sadler, and others, who explained some activities that would take place over the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 13, 2014

B. RESOLUTION NO. 14-109 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW ANCHOR EVENTS AND PRITCHARD PARK CULTURAL ARTS PROGRAM THROUGH REDESIGNED EVENT PARTNERSHIP AGREEMENTS, AND CONTINUATION OF FEE DISCOUNTS TO NON-PROFIT ORGANIZATIONS

Summary: The consideration of a resolution authorizing the City Manager to renew anchor events and Pritchard Park Cultural Arts Program through redesigned event partnership agreements, and continuation of fee discounts to non-profit organizations.

The City of Asheville charges everyone a fee to permit and have priority use of parks, permitted amenities, or public facilities. These fees cover extra operational expenses associated with events and guarantee space for the permittee. At the same time, some events produced by non-profit agencies or other sister organizations - such as concerts, art shows, cultural

celebrations, theater performances, health fairs, sports events, and others – can also directly further the City’s core programs. Consequently, reducing or waiving permit fees and considering in-kind support from city operational departments (i.e., Public Works, Asheville Police Department, Asheville Fire Department) can be an opportunity to leverage the City’s ability to provide these programs while reaching a wider and more diverse audience, thus serving a public purpose. As a result, in recognition of the value these events bring the city of Asheville and the broader community, the city has historically offered support to events that meet certain criteria.

In March 2010, City Council authorized staff to enter into three-year agreements to sponsor five anchor events (Asheville Drum Circle, Asheville Holiday Parade, Downtown After 5, Goombay, and Shindig on the Green) in the form of full permit fee waivers and in-kind labor support (police, sanitation, etc.) valued at \$102,211. In November 2012 City Council authorized staff to extend the existing agreements with the anchor event organizations using the same terms for an additional year, FY13-14 while an evaluation was conducted on the City’s overall event programming strategy. A summary of the annual support approved for the anchor events is provided in Table A, below.

TABLE A

Anchor Events	Fee Waivers	Labor Support	Total Support
Asheville Drum Circle	\$3,875	\$0	\$3,875
Asheville Holiday Parade	\$1,562	\$39,462	\$41,024
Downtown After 5	\$2,143	\$14,780	\$16,923
Goombay Festival	\$2,942	\$26,869	\$29,811
Shindig on the Green	\$7,414	\$3,164	\$10,578
Anchor Event Support			\$102,211

In addition to the anchor events, City Council approved a discount for property use and permit fees, which amounted to a 75% reduction, for events that were produced by a registered 501c non-profit verified through documentation; open to the general public; and remained responsible for general liability insurance and other related event costs including police coverage, barricades, parking meter closures, etc. Staff has executed those agreements with FY 13-14 as the concluding year.

In May 2011, City Council unanimously voted to provide public support for a period of three years for cultural art programs at Pritchard Park produced by the Asheville Downtown Association at a maximum estimated value of \$18,775 not included in the above table. Referenced as the Pritchard Park Cultural Arts Program (PPCAP), the events have included a weekly exercise program, weekly music performances, and have helped foster additional community partnerships. The programming has been successful in adding positive experiences to a challenged public space and serves a public purpose through promoting economic and community development. The combined support value provided to the anchor events and the Pritchard Park Cultural Arts Program is shown in Table B, below.

TABLE B

Anchor Events & PPCAP	Fee Waivers	Labor Support	Total Support
Pritchard Park Cultural Arts Program	\$18,775	\$0	\$18,775
Anchor Event Support (Table A)			\$102,211
Total Combined Event Support			\$120,986

Current State: In October 2013, outdoor special event programming was transitioned to the Office of Economic Development. Staff was tasked with cultivating strategic partnerships to capitalize on the benefits of special events, leverage city resources to help achieve City Council goals in a manner that is both fiscally responsible and achieves maximum economic and community development returns, and that helps chart a long term course for outdoor special events to move towards fiscal self sustainability.

There is significant community standing, cultural benefit and value leveraged through the City's investment in anchor events (Asheville Drum Circle, Asheville Holiday Parade, Downtown After 5, Goombay, Shindig on the Green) and in the Pritchard Park Cultural Arts Program. Staff recommends continued support of these events through consolidated partnership agreements with three non-profit organizations. This revised agreement structure will continue to ask the partner organizations, in the form of an annual application, to outline their performance objectives for each anchor event; to define any significant variances expected in the anchor event programming goals set for each organization, and to submit an annual report which the city and the partner organization can use as a shared tool to gauge and track the effectiveness of mutual investments. The partnership structure also encourages reinvestment in additional mutually agreed programming opportunity achieved as a result of high output achieved by reducing barriers specific to an event, increasing flexibility while compounding the overall benefits provided through synergistic opportunities.

The total event support value for partner organizations for conducting anchor events and Pritchard Park Programming, as referenced in Table B, has been rounded at a minimal increase to accommodate programming enhancements, event growth and fee increases. A summary of the proposed structure for calendar years 2014-2016 is provided in Table C, below.

TABLE C

2014 – 2016 Cultural Event Partnership Agreements	Maximum Annual In-Kind Support Value
Asheville Downtown Association	\$82,000
FHC via Community Betterment Foundation (or future 501c non-profit designee)	\$13,000
YMI Cultural Center	\$30,000
Total Support	\$125,000

This item was presented to the Planning & Economic Development Committee for consideration on May 20, 2014, and they voted unanimously to recommend approval of the resolution to City Council, with modifications that added provisions for an annual application process and annual report as outlined in this staff report.

Pros:

- Allows the city to leverage programming and events to reach a wider and more diverse audience
- Converts prior event sponsorships into goal-driven organizational partnerships that encourage higher output by reducing barriers
- Meets strategic operating plan goals of leveraging investment in special event partnerships
- Supports non-profit organizations
- Stimulates the local economy while providing quality cultural programming and diversity
- Provides multi-year consistency

Cons:

- Events produced under partnerships result in department staff costs for the utilization of in-kind services including Police, Fire and Public Works
- Events produced under partnerships result in lost revenue for permits, parking fees and rentals
- The 75% reduction in permit fees for non-profit organizations results in lost revenue for the city; however, the city does not budget for this revenue since it tends to fluctuate from year to year.

Partnership agreements and fee discounts result in lost revenue, and labor support results in increased personnel expenses (as summarized in Table A). In-kind labor costs for anchor events have been included in the City's budget during the agreement period. If these agreements are extended for calendar years 2014-2016, associated expense and revenue impacts will be included in the City's budget.

City staff recommends a three-year continuation of a 75% reduction in property use and event permit fees for outdoor special events that are open to the public and produced on public property by a registered 501c non-profit organization under the criteria as described herein.

City staff recommends that City Council pass a resolution authorizing the city manager or his designee to allow the Office of Economic Development to establish three-year partnership agreements with the Asheville Downtown Association, the YMI Cultural Center, and a non-profit organization supporting Shindig on the Green under the criteria as described herein.

RESOLUTION BOOK NO. 36 - PAGE 210

C. RESOLUTION NO. 14-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A RENEWAL OF THE ADOPT-A-PARK AGREEMENT WITH JUST FOLKS INCLUDING A WAIVER FOR PARK USE FEES FOR TRIANGLE PARK FOR FISCAL YEAR 2014-15

Summary: The consideration of a resolution authorizing the City Manager to sign a renewal of the Adopt-a-Park Agreement with Just Folks including a waiver for park use fees for Triangle Park for FY 2014-2015.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area known as "The Block". The members of the Board of Directors are residents who grew up in the area and are actively engaged in efforts to improve the environment in the area by supporting more positive uses of the park. Their focus on Triangle Park began eight (8) years ago and for the past three (3) years City Council has authorized the City Manager to sign an Adopt-a-Park agreement with Just Folks that included a waiver of park use and permit fees for up to \$2,500. This amount is based on the group receiving the 75% non-profit discount for event permitting fees. The waiver has made it possible for them to produce events that activate Triangle Park by providing a variety of positive activities including music festivals, community cookouts and other community-building events in the Park May to December on Saturdays and Sundays.

During FY 2013-2014, Just Folks has fulfilled the terms of their Adopt-a-Park agreement with the following accomplishments:

- Conducting regular clean-ups;
- Partnering with community members and the Asheville Design Center to complete installation of a mural depicting the history of "The Block";
- Weeding and maintaining the planted beds;
- Mulching paths and planting beds;
- Providing volunteers to participate in these and other projects;

- Providing the tools and materials to carry out regular maintenance and special approved projects;
- Conducting fund raising activities to support programs and maintenance of the park;
- Holding a minimum of two (2) events each weekend during the months of May through December. Events included approximately 145 hours of concerts, programs, and community cookouts that were free and open to all members of the community.

The presence of Just Folks members and their programming in the park continues to contribute to the reduction of nuisance behaviors in and around the park and an improved appearance for the park. Over the past three (3) years their efforts have made the park safer and more attractive to downtown visitors and community members and helped the city meet specific City Council goals for economic and community development.

Just Folks is requesting that their Adopt-a-Park agreement with the city be renewed for FY 2014-2015, to include a continuance of waivers for park usage and event permitting fees at the same level of \$2,500 approved for FY 2013-2014.

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee waiver requests related to this group's events.
- This action is consistent with other partnerships the City has entered into for park programming in key community development areas.

Con:

- The reduction in permit fees result in lost revenue for the city; however, the city has not budgeted for this revenue in FY 2013-2014.

The estimated value of the waived park usage fees is \$2,500; however, this revenue has not been included in the FY 2014-2015 budget.

Staff recommends that City Council authorize the City Manager to sign an Adopt-a-Park Agreement with Just Folks including a fee waiver for park usage fees associated with programming in Triangle Park.

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D. RESOLUTION NO. 14-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO INCREASE THE CONTRACT AMOUNT FOR THE AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF HELP TREATMENT INC. FOR TEMPORARY LABOR SERVICES

Summary: The consideration of a resolution to increase the contract amount for master service contract number 91400113 with Forsyth Initiative for Residential Self Help Treatment Inc., (F.I.R.S.T.), authorized by Resolution Number 13-386, dated August 27, 2013

The City of Asheville uses temporary workers to perform a variety of tasks including unskilled work in concrete, asphalt, drainage, traffic control, building maintenance, trash and brush collection, event preparation and other like work in the Public Works and U.S. Cellular Center Departments. Master service contract number 91400113 was issued to F.I.R.S.T. in the amount not to exceed \$155,000.

F.I.R.S.T. is a local non-profit organization operating from 32 Knox Road in Ridgecrest, NC. F.I.R.S.T. offers a combination of therapeutic treatment, vocational training and life skills

development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized F.I.R.S.T. participants for the past 10 years with excellent results.

The Sanitation Division has experienced a higher need for temporary workers due to lengthy staff vacancies and higher than anticipated spring brush volumes. The U.S. Cellular Center has also experienced a higher need for temporary workers due to an increase of events booked FY14. The Sanitation Division is requesting an additional \$10,000 and the U.S. Cellular Center is requesting an additional \$50,000 totaling \$60,000, increasing the master service contract number 91400113, from \$155,000 to \$215,000 for FY14. Funds have been identified in existing FY14 accounts to cover this increase, without any adverse effects to existing programs.

Pros:

- Supports employment opportunities for at risk youth and adults
- Reduced expenses for recruiting, hiring and benefits for full-time employees
- Reduced expense for temporary labor as opposed to traditional temporary labor agencies
- Carpooling will reduce the negative impact to the environment
- Supports diversified job growth and business development
- Enhances diversity in the City as an organization so that the workforce more closely resembles the community

Con:

- None

The requested increase of \$60,000 to master service contact number 91400113 has been identified in the U.S. Cellular Center Department and the Sanitation Division's FY14 budgets accounts to cover this increase, without any adverse effects to existing programs.

Staff recommends City Council adopt a resolution to increase the contract amount for master service contract number 91400113 with Forsyth Initiative for Residential Self Help Treatment Inc., from \$155,000 to \$215,000 for FY14

RESOLUTION BOOK NO. 36 - PAGE 212

E. RESOLUTION NO. 14-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TRAFFIC AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING A PROJECT FOR THE FABRICATION AND INSTALLATION OF A DIRECTIONAL SIGN FOR THE RIVER ARTS DISTRICT ALONG I-240 EASTBOUND IN ADVANCE OF THE AMBOY ROAD EXIT IN WEST ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to execute a traffic agreement with the N.C. Dept. of Transportation approving a project for the fabrication and installation of a directional sign for the River Arts District along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

Through the efforts of the Asheville Area Riverfront Redevelopment Commission (AARRC), the N.C. Dept. of Transportation (NCDOT) has agreed to install a directional sign bearing the message "River Arts District" along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

The City of Asheville has agreed to provide the funds for the fabrication and installation of the sign and after the sign is installed, the NCDOT will be responsible for general maintenance

activities including cleaning and vegetation removal. The City will be responsible to provide funds for the re-fabrication and installation of a replacement sign if the original sign loses its reflectivity, is stolen, destroyed or otherwise damaged.

Pros:

- A directional sign for the River Arts District will be installed along I-240 Eastbound.
- The NCDOT and the City of Asheville are partnering to accomplish the subject project.

Cons:

- The City is responsible to fund the fabrication and installation of the sign.
- The City is responsible to fund the re-fabrication and installation of any replacement signs.

The total estimated cost of the subject project is \$1,500 and the funds will come from the current Transportation Department operating budget.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a traffic agreement with the NCDOT approving a project for the fabrication and installation of a directional sign for the River Arts District along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

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F. RESOLUTION NO. 14-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO INCREASE THE CONSTRUCTION CONTRACT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE HENDERSONVILLE ROAD WATER LINE CONSOLIDATION PROJECT

ORDINANCE NO. 4310 - BUDGET AMENDMENT FOR THE HENDERSONVILLE ROAD WATER LINE CONSOLIDATION PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to execute a change order in the amount of \$88,771.54 to increase the construction contract with Cooper Construction Company, Inc., from \$441,266.00 to \$530,037.54 for the Hendersonville Road Water Line Consolidation Project; and a budget amendment in the amount of \$44,645.00 from savings in another capital project.

On January 28, 2014, City Council awarded the construction contract to Cooper Construction Company, Inc., for the Hendersonville Road Water Line Consolidation Project. The project consists of abandonment of a problematic 6-inch cast iron water line located on the east side of Hendersonville Road. Water services attached to the 6-inch water line will be transferred to the 24-inch ductile iron water line located on the west side of Hendersonville Road. Abandonment and removal of existing vacant services are also a part of the project scope.

In order to complete the construction and close out the project, a change order is needed to increase the contract amount by an additional \$88,771.54 for a total contract amount of \$530,037.54. The change order is needed because of overruns to the original quantities estimated and the addition of areas to be patched in preparation for paving.

Pro:

- Approval of the change order will allow the City to complete construction of the water system and close out the project, which replaces old, undersized failing lines with new lines to improve service, reduce maintenance cost and provide better fire protection.

Con:

- If the change order is not approved, then the project cannot be finished in time to meet NCDOT's paving schedule.

The Water Resources Department currently has \$485,393.00 budgeted for this project. The remaining funds of \$44,645.00 needed for the change order will be transferred from the Monte Vista / Sand Hill Road Master Plan capital project. The Monte Vista project has been reduced in scope, allowing funds to be transferred out to other projects as needed. In order to use the funds in the Monte Vista project, a budget amendment is necessary.

Original Construction Amount	\$485,393.00
<u>Amount Needed for Change Order</u>	<u>\$ 44,645.00</u>
Total Amount for Project	\$530,038.00

The amount remaining in the Monte Vista / Sand Hill Road Master Plan capital project will remain in the project budget to complete the project.

City staff recommends City Council approval of the City Manager to execute a change order in the amount of \$88,771.54 to increase the construction contract with Cooper Construction Company, Inc., from a total in the amount of \$441,266.00 to \$530,037.54 for the Hendersonville Road Water Line Consolidation Project; and a budget amendment in the amount of \$44,645.00 from savings in another capital project.

**RESOLUTION BOOK NO. 36 - PAGE 214
ORDINANCE BOOK NO. 29 - PAGE 70**

G. RESOLUTION NO. 14-114 - RESOLUTION SUPPORTING THE N.C. DEPT. OF TRANSPORTATION IN DESIGNING AND CONSTRUCTING A PROJECT TO MAKE STORM DRAINAGE IMPROVEMENTS ALONG THE NORTH SIDE OF US 70 (TUNNEL ROAD) BETWEEN KENILWORTH ROAD AND BUCKSTONE PLACE

Summary: The consideration of a resolution supporting the N.C. Dept. of Transportation in designing and constructing a project to make storm drainage improvements along the north side of US 70 (Tunnel Road) between Kenilworth Road and Buckstone Place.

The North Carolina Department of Transportation (NCDOT) has prepared plans to construct a project making much needed storm drainage improvements along the north side of US 70 (Tunnel Road) including resurfacing all four travel lanes using Small Construction Funds. The total estimated cost of the project is \$248,000 and it is anticipated that the Board of Transportation will approve the project at its regularly scheduled meeting during June 2014.

Since Small Construction Funds are involved, a resolution of support from the affected city is required or the funds might be "lost". All of the work will be contained within the public right-of-way for US 70 (Tunnel Road) and it will be accomplished by the NCDOT and/or its contractor.

Pros:

- Much needed storm drainage improvements will be made along a section of US 70 (Tunnel Road).
- The NCDOT will fully fund and construct the project.
- After completion of the project, the NCDOT will maintain the improvements.
- The NCDOT and the City of Asheville are partnering to accomplish the subject project.

Con:

- None

There is no fiscal impact to the City of Asheville.

Staff recommends that City Council approve a resolution supporting the NCDOT in designing and constructing a project to make storm drainage improvements along the north side of US 70 (Tunnel Road) between Kenilworth Road and Buckstone Place.

RESOLUTION BOOK NO. 36 - PAGE 215

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.

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

III. PRESENTATIONS & REPORTS:

A. DOWNTOWN POLICE ENHANCEMENT PLAN

Police Chief William Anderson gave a brief review of the background of the Downtown Police Enhancement Plan: (1) During the months of July and August 2013, the Central Business District (CBD) saw a significant increase in crime as compared to the same period in 2012; (2) Violent crime increased 52%; (3) Property crime increased 34%; and (4) Complaints related to nuisance behaviors also increased.

The APD implemented the "Downtown Enhancement Plan" to address increased criminal behavior. The Downtown Unit (DTU) took a more proactive enforcement approach through physical arrests, citations and additional staffing. The mission of the Downtown Unit remained one based on Community Oriented Policing; however, enforcement of criminal violations took precedent.

The goal of the Downtown Enhancement Plan was to reduce crime and increase public safety. The pros were (1) Increased law enforcement presence in the Central Business District; and (2) Reduction in crime and nuisance behavior in the Central Business District. The cost of increased enforcement and APD presence was absorbed within the Police Department's existing budget.

The 90-day evaluation period of 09/08/13 – 12/07/13 was compared against the same time frame for 2012. Crime Statistics include: Robbery decreased by 22%; Aggravated assault decreased by 36%; Overall violent crime decreased by 24%; and Burglary decreased by 36%. The overall property crime decreased by 23%. The DTU officers issued 185 citations and made 249 arrests during the evaluation period. The DTU increased their business checks by 236%, increasing the number of self-initiated "check business" calls from 187 to 628. The DTU increased their crime prevention efforts by 77%, evaluating and acting on recognized issues in the CBD. Through self-initiation, crime prevention calls for service increased from 95 to 168.

Strategies currently utilized by the APD in an effort to continue to reduce criminal activity and improve public safety throughout the Central Business District of Asheville include: (1) Homeless / Transient Outreach Program (a) Program designed to provide written outline of available resources and strategies to ensure these populations are made aware of the Police Department's strategy in dealing with criminal behavior; (b) Roll Call training (conducted in April 2014); (c) CIT training for all officers; and (d) Continued partnership with Resource Providers; (2)

APD Policy on Homeless Persons (a) Purpose of directive is to outline standard operating procedures to be used in the interaction with homeless individuals, homeless camp protocols, and information on outreach assistance to social service resources; (3) Ongoing Meetings with the ABC/ALE and Establishments Who Serve Alcohol (a) Most recent one held March 31, 2014, which included drug-induced sexual assault training; (4) Volunteer Program at 29 Haywood Street (a) Hours are Wednesday – Friday from 12-4 p.m.; and (b) Duties: Greet walk-ins, answer phone, provide directions, provide information on community resources, contact district officers when needed for reports or other police related information; (5) Street Entertainer Ordinance (a) Reviewing ordinance with the COA Legal Dept.; (6) Park Wardens (a) Looking at schedules, responsibilities, etc.; (7) Updated Shoplifter and Graffiti Guide (a) Includes prevention tips as well as reporting information; (8) FTO Program (a) Trainees will now be assigned to the DTU during their field training phase; (9) Safe Cam Initiative (a) Program that encourages business and property owners in the CBD to utilize their surveillance camera systems to make areas safer for shoppers and the community while providing a public service to the citizens of Asheville; and (10) Augment Schedule (a) Frequent review of current patrol schedule to ensure both efficiency, effectiveness, and proper manning .

In summary, the mission of the Downtown Unit will remain one based on Community Oriented Policing; however, enforcement of criminal violations will continue to take precedent. Continued enforcement will consist of proactive enforcement of criminal violations, which includes proactive arrests verses citations for repeated nuisance and alcohol related crimes.

In response to Councilwoman Wisler, Chief Anderson said that we are also reaching out to other areas in the City regarding graffiti.

Councilman Davis, downtown business owner, said that he has seen benefits from implementation of the Plan.

B. QUARTERLY REPORTS

Strategic Operating Plan

A report submitted by City Manager Jackson was provided to Council on the short and long term goals at the 2013 strategic planning retreat, and staff is providing its 3rd Quarter progress of the three focus areas.

The 3rd Quarter report provides a comprehensive update to in all focus areas, to include quarterly progress over the past 6 months, as noted by the Q2 and Q3 designations, respectively. The summary document provides City Council the opportunity to review in detail operational efforts from all departments in city government.

This information is to update City Council on key operational initiatives specific to the Strategic Operating Plan. No action is necessary at this time.

Financial Report

A report by the Budget Manager Tony McDowell was provided to Council as follows:

"The following financial information reflects the City's overall financial position for the fiscal year through March 2014.

Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of \$95,861,764 along with eleven budget amendments approved by City Council. A summary of the budget amendments that were approved as of March 31, 2014, is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk. The total fund balance appropriation as of March 31 was \$600,453.

Adopted Budget	95,861,764
Budget Amendments:	
Technical: Move Changing Together to Grant Fund	(79,060)
Technical: Move Computer Purch. to Capital Fund	(350,000)
Add School Resource Officer	49,842
Senior Op Center/Harvest House Grant	7,786
Energy Efficiency Rebates	11,229
Norfolk Southern Haz Mat Gift	1,400
Lyman Street Quiet Zone Payment*	15,000
Moogfest Contribution*	40,000
Storm Control Expenses*	150,000
Outside Legal Expenses*	95,000
Release Water Contingency Funds*	<u>300,453</u>
3/31/2014 Budget	<u>\$96,103,414</u>

*Fund Balance Appropriation

"Revenues. Through March 31, 2014, the City has collected \$81.3 million in General Fund revenue, which represents approximately 85% of the total General Fund revenue budget. Revenue collections through the first three quarters of this fiscal year are running slightly ahead of where they were one year ago in terms of budget versus actual. The City has received eight months of sales tax revenue, and collections are up 3.3% compared to the prior year. Sales tax revenue growth in the current year has been slower than in the prior year and less than projected when the budget was developed last spring. As a result, staff is projecting that sales tax revenue will come in under budget by \$350,000. Development Services (DSD) revenue continues to perform well; as of the end of March, DSD revenues had already exceeded budget estimates. With the bulk of property tax revenue received in December and January, that revenue source is now at 97% of budget, which is typical for this point in the fiscal year. Overall, staff is currently projecting that *FY 2013-14 General Fund revenue will come in right on budget.*

"Expenditures. General Fund expenditures through March 31, 2014 totaled \$60.0 million or 61% of budget, which is slightly under where they were at this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are at budget through the first three quarters. Expenditures for fuel, fleet maintenance, health care, and utilities continue to perform better than budget through the first three quarters. ***Based on the trends noted above, staff is projecting that expenditures (excluding contract and purchase order commitments) will finish the year under budget by \$4.6 million (95% of budget).***

"Fund Balance. The City ended FY 2012-13 with available fund balance of \$15.4 million, which equated to 17.6% of FY 2012-13 expenditures. Based on *current revenue and expenditure projections for FY 2013-14, staff estimates that available fund balance at June 30, 2014 will be \$16.7 million or 17.7% of estimated expenditures.*"

C. PRESENTATION OF THE 2014-15 ANNUAL OPERATING BUDGET

Director of Finance Barbara Whitehorn said that the three budget goals are (1) Begin Implementation of the Police Strategic Plan; (2) Address Employee Compensation; and (3) Transit System Improvement. Other Council Strategic Goals include implementing Graffiti initiative and developing the Capital Improvement Plan.

Budget priority goals include (1) Police Strategic Plan, with *four key component* (a) Compensation; (b) Vehicle Replacement; (c) Take-Home Vehicle Program; and (d) Management Structure Changes; and (2) Employee Compensation (a) Budgeted 3% increase pool - \$1.5

million; and (b) Managed Savings in Current Fiscal Year - COLA Funded by Identified Savings in FY 2014-2015; and Fund Balance maintained at desired level.

Using a chart, Ms. Whitehorn then reviewed the General Fund Fund Balance.

Additional budget priority goals include (1) Transit Improvements (a) *Sunday Service* - Limited Sunday transit service will be added in January, 2015; and (b) *Route C* - A reengineering of Route C to address transfer wait times will be implemented in January, 2015; and (2) Graffiti Initiative (a) *Graffiti Ordinance* - Adopted in April, 2014; and (b) *90-Day graffiti removal initiative* (i) City assistance with removal; (ii) July 1-September 30, 2014; and (iii) General Fund Balance allocation of \$300,000.

Legislative assumptions include (1) Disposition of the City of Asheville's water system: The budget assumes continued operation and management of the system because the outcome of the legal challenge remains unknown; and (2) Privilege License Tax (PLT) Reform: The final outcome of tax reform is not yet determined. *Current Version of HB 1050 (5/23/2014)* PLT repealed entirely as of July 1, 2015. 2014-2015 PLT levied only on businesses with a physical location inside the City.

Using a chart, she reviewed the revenues and expenditures of the 2013-14 adopted budget, the 2013-14 revised budget, the 2013-14 estimated budget, and the 2014-15 proposed budget.

Enterprise Funds include (1) Water Fund (a) Continued Stable Performance; (b) Rate adjustment based on long-term model adopted April 8; and (c) \$10.1 million pay-go investment in water capital improvements; (2) Stormwater Fund (a) Stormwater fee structure - Proposed tiered approach; and (b) Additional funds to be used for capital improvements; (3) Transit Fund (a) Continued Financial Pressure; (b) Addition of Limited Sunday Service; (c) Reengineering of Route C; and (d) General Fund Support increasing \$534k; (4) Parking Fund (a) Strong revenue growth; (b) No adjustment to existing rates; and (c) Maintaining \$616k in support to Transit Fund; and (5) US Cellular Center Fund (a) Strong performance in FY 2013-2014 - High event load anticipated to continue; (b) Anticipated savings from outsourcing custodial operations; and (c) No increase in General Fund Support.

She then reviewed the 2014 adopted, 2014 revised and 2015 proposed employees and positions.

Regarding Capital Improvement Program, she reviewed the definitions. *Capital Improvement Program* - The overall program developed for City of Asheville capital improvement; *Capital Improvement Plan* - The five-year rolling project schedule; and *Capital (Improvement) Budget* - The single-year budget adopted annually.

She then explained the 2,2,2 - **2¢** - In the 2013-14 Budget City Council adopted a \$.02 tax increase to fund capital improvements (and \$.01 for capital maintenance); **\$2.2 million (additional tax per penny = \$1.1m)** - Staff worked with DEC Associates and Parker Poe to determine debt capacity and design a working model; and **2 Days** - Key staff and DEC Associates met to prioritize projects and develop the first draft of a five-year plan.

Ms. Whitehorn reviewed the following Capital Improvements for 2014: RADTIP Transportation Project (multimodal improvements) - \$2,208,000; Downtown Recycling & Trash Containers - \$175,000; Eagle/Market (Affordable/Workforce Housing) - \$2,249,500; Handy Park Demo - \$413,978; Park Street Bridge (multimodal improvements) - \$30,000; Park Place Capital Maintenance - \$2,000,000; Azalea/Lake Craig (multimodal improvements) - \$1,037,588; and Multimodal Transportation Plan (multimodal improvements) - \$86,000. Total is \$8,200,066.

She explained why to leverage the funds? Pay-Go only: \$2.2 million in additional projects can be funded annually; or \$2.2 million saved annually over time to fund one large project every 10-15 years. She then explained that we will do the Draw Program (1) Using Pay-Go, Installment Financing and Special Obligation Bonds - \$90 million capacity over 5 years; and (2) External Sources of Funds (a) Grants; and (b) Partnerships. Total Cost of Projects Planned for 2015-2019: \$132 million.

She explained the following project criteria for the Capital Improvement Program - (1) Safety; (2) Council Strategic Goals (a) Economic Growth and Sustainability; (b) Affordable Housing & Community Development; and (c) High Quality of Life; (3) Outside Funding Sources; and (4) Return on Investment (a) Social, Environmental and Financial.

The 2014-19 project summary for the Capital Improvement Program is as follows: Affordable Housing - \$8,949,500; Public Safety - \$15,751,000; Multimodal Transportation - \$49,051,623; Economic Development - \$7,696,050; Quality of Life - \$9,175,000; and Maintenance - \$41,899,193. The total of \$132,522,366 does not include anticipated revenue offsets of \$44,394,132. She then reviewed the 2015 capital budget reconciliation.

In summary: the 2014-15 budget is (1) Continuation Budget; (2) Meets Council Key Goals; (3) No Tax Rate Increase; and (4) Capital Improvement Program.

Ms. Whitehorn said that the public hearing on the budget will be on June 10, 2014, and adoption of the budget is scheduled for June 24, 2014.

When City Council requested additional information on the following items, City Manager Jackson said that for those questions not readily answerable, he would provide that information between now and the next meeting/public hearing: what is the status of the transit management contract that is up for renewal; unable to reconcile the new Economic Development budget by \$55,000; what is the plan to enforce short-term rentals; in non-departmental public safety where the City pays 50% of the costs of the Police ID Bureau and Crimestoppers Programs, do other municipalities in Buncombe County contribute and are those programs effective; need understanding in non-departmental community development of reduction of \$140,000; regarding employee raises, will 3% be built into the budget each year, or will Council look at this on an annual basis; Council consideration (between now and the fall) of where we want to be with the Housing Trust Fund and broader goals for affordable housing; regarding the proposed tiered rate structure for stormwater fees, how will the the square footage be determined; and, what is staff's analysis of the claim that changes in the state sales tax law will make up for the money the City will lose when the Bill to end privilege license fees takes effect.

D. LEGISLATIVE UPDATE

City Manager Jackson introduced Paul Fetherston, new Assistant City Manager.

Mr. Fetherston said that the legislative "Short Session" began on May 14, 2014, and is the extension of the regular session, which adjourned in July. Eligible bills in the short session include (1) Crossover bills; (2) Study bills; and (3) Local bills that meet certain requirements. He then highlighted the following bills: (1) Environmental Issues - S729 - Governor's Coal Ash Action Plan (Addresses notification requirements for discharges and dam repairs, impoundment water monitoring and inspections, emergency action plans, and establishes requirements for coal combustion products impoundment closure); (2) Environmental Issues - S786 - Energy Modernization Act (This drilling and hydraulic fracturing bill contained a provision to cap the amount property tax revenue could increase from year to year by 8%. That provision has been replaced with a study); (3) Local Governmental Authority - H150/S139 - Zoning Design & Aesthetic Controls (Restricts local governments' ability to institute design and aesthetic controls on 1 and 2 family dwellings); (4) Local Governmental Authority - S734/H1136 - Authority to Adopt Certain Ordinances (Repeals section of H74, passed in the "long session," limiting local

governments from enacting environmental ordinances); (5) Local Governmental Authority - H1191 - Authority to Adopt Local Ordinances (Prevents local governments from regulating fertilizer or the removal, replacement, and preservation of trees on private property within its jurisdiction); (6) Revenue - H1050 - Omnibus Tax Law Changes (Passed the House with \$100 privilege license tax (PLT) cap per physical location. Current Senate version includes reform that: (a) Repeals cities' authority to levy PLT in FY15/16; (b) Limits FY 14/15 PLT to businesses with a physical location inside a city; and (c) Limits PLTs for FY 14/15 to FY 13/14 rate); and (8) Graffiti - no bill at this time.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET

RESOLUTION NO. 14-115 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET

Director of Public Works Greg Shuler said that this is the consideration of a resolution to permanently close an unnamed alley off South Ann Street. This public hearing was advertised on March 28, April 4, 11 and 18, 2014. On April 22, 2014, this public hearing was continued to this date at City staff's request.

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

Pursuant to this statute, property owner Shalin Patel has requested the City of Asheville to permanently close an unnamed alley off of South Ann Street.

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of the unnamed alley off of South Ann Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent property
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley off of South Ann Street.

Mayor Manheimer opened the public hearing at 6:16 p.m., and when no one spoke, she closed the public hearing at 6:16 p.m.

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

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-115. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 216

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 20 AND A PORTION OF 28 DEAVERTVIEW ROAD FROM RS-8

RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A DENTAL CLINIC, INCLUDING A REQUEST FOR MODIFICATIONS TO THE LANDSCAPING AND PARKING

ORDINANCE NO. 4311 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 20 AND A PORTION OF 28 DEAVERVIEW ROAD FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A DENTAL CLINIC

Urban Planner Julia Fields that this is the consideration of an ordinance to conditionally zone property located at 20 and a portion of 28 Deaverview Road from RS-8 Residential Single Family High Density District and Highway Business District to Office District/Conditional Zoning for the construction of a dental clinic, including a request for modifications to the landscaping and parking. This public hearing was advertised on May 16 and 23, 2014.

Ms. Fields said that the applicant is requesting review of a conditional zoning submittal proposing to rezone property from Highway Business District and RS-8 Residential Single-Family High Density District to Office District/Conditional Zoning in accordance with Section 7-7-8 of the UDO, for the construction of a dental clinic/office facility.

The subject property consists of a .21 acre parcel located at 20 Deaverview Road and a portion (.378 acre) of a .6 acre parcel located at 28 Deaverview Road in West Asheville. The property contains a dental clinic and parking at 20 Deaverview Road, zoned Highway Business (HB) District with additional parking for the clinic and a single-family home located at 28 Deaverview Road, zoned Residential Single-Family High Density District (RS-8).

The applicant, Dr. Thomas L. Morton, Jr., proposes to construct a new dental clinic to the south of the requested rezoning site with accompanying parking largely located along Deaverview Road. A small parking area (2 spaces) and parking garage (2 spaces) are proposed to access off of Green Hill Avenue for employee parking. The two properties will be recombined to subdivide off the single-family home which will remain and will continue to be zoned RS-8. The requested conditional zoning (Office) is for the remainder of the property which will house the new dental clinic and associated parking. It is proposed that the existing practice will remain in operation while the new clinic is being constructed. The practice will close briefly while the existing building and parking is demolished and new parking and storm drainage are constructed.

The new building will be one-story in height with a basement containing storage/flex office space and the garage. The building has a gross floor area of 6,800 square feet and a 3,400 square foot footprint. It is planned to contain 3,350 square feet of space for the clinic with 2,850 square feet of flex office and storage space.

Principal access to the site is proposed to be from Deaverview Road where there are currently two entrances to the property and dental clinic. This proposed principal access leads to a parking area containing fifteen parking spaces and a drop off circle with Porte-cochere. A secondary access for employees is shown off of Greenhill Avenue. This secondary access leads to two parking spaces and a two vehicle parking garage. A modification is requested for parking (two spaces). Twenty-one spaces are required; nineteen are provided. Sidewalks are to be provided along Deaverview Road (existing but to be improved) with a fee in lieu of sidewalk approved for the frontage along Greenhill Avenue. Parking for a single bicycle and handicapped parking (two spaces) is shown on the site plan.

Landscaping is required for this project and includes street trees, street buffer, parking lot landscaping, property line bufferyards, and building impact landscaping. Landscaping shown on the submitted plans is compliant with the exception of the property line along Greenhill Avenue.

A modification is requested to allow a small portion of the driveway to encroach into the property line buffer in this area.

The proposal was approved with conditions by the Technical Review Committee on April 7, 2014. A number of TRC comments have been addressed in the submittal received by the City Council.

The Asheville Planning and Zoning Commission held a public hearing on this matter at their meeting on May 7, 2014. Three people (either owning or residing at an adjacent property – 34 Deaverview Road) spoke concerned about traffic and stormwater runoff issues. Following the hearing, the Commission voted 5-0 to recommend approval to Asheville City Council including support for the requested modifications.

While the location of the new dental clinic building is on property currently zoned RS-8, it is adjacent to property zoned HB. The existing dental clinic has been on the property to be zoned Office CZ for many years. Some of the parking for the existing clinic is currently located on the RS-8 zoned parcel. The site is bordered by properties zoned HB to the east and south (containing a medical equipment/clinic facility and parking for a restaurant located on Patton Avenue). To the north and west the property abuts or is across a street from parcels largely zoned RS8 and containing single family homes.

Conditional Zoning Findings: 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.*

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

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

A dental clinic and accompanying parking are already located on the subject property so the proposed use should not injure the value of adjoining or abutting property. The landscaping and site improvements proposed should enhance the area. The Office District has operations standards limiting activities associated with non-residential uses.

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 development proposed abuts commercial uses on two sides and single-family homes on the other sides. Buffering will be provided against the single-family zoned properties. The scale of the proposed new structure is in keeping with the buildings in close proximity.

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 development supports the land use goal of pursuing compatible redevelopment in appropriate areas.

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 development site is located just off of Patton Avenue in West Asheville. The W3 transit line services the area. Adequate water supply, police protection, waste disposal and similar facilities are verified during the TRC review process.

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

The proposed use of the property is the same as the existing use located there. Although there will be limited access to the site via Greenhill Drive (existing access is only off of Deaverview Road) it is not anticipated that this will cause traffic issues.

The proposed development supports the land use goal stated in the *Asheville City Development Plan 2025* of pursuing compatible redevelopment in appropriate areas.

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

Considerations:

- The proposal is for the redevelopment of a property to support the same use type as currently exists.
- The proposal shows enhanced landscaping and site improvements to the property.
- There will be limited vehicular access off of Greenhill Drive.

Staff recommends approval of the request to conditionally zone the proposed site (.588 acres) to Office District/Conditional Zoning. Staff also recommends support for the modifications to the landscaping and parking standards as requested. Staff finds the request is reasonable and consistent with the Comprehensive Plan and other adopted plans in that (1) The proposed development supports the land use goal stated in the *Asheville City Development Plan 2025* of pursuing compatible redevelopment in appropriate areas; and, (2) The proposal is for the redevelopment of property to support the same use type as currently exists at the site but with enhanced landscaping and site improvements.

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

Mr. Long, tenant and son of owners of 34 Deaverview Road, expressed concerns with the proposed conditional zoning in that it will eliminate a portion of mature trees behind his home, existing stormwater runoff onto his property will increase, new configuration will cut his garden behind his home in half, and will affect his income because he won't be able to rent the house with these problems. He asked that a fence be installed between the properties and that the stormwater runoff be addressed.

Mr. Mark Wilson, registered landscape architect for the applicant, clarified that there will be no parking in the landscaped area in which they are requesting a modification. He said they have a stormwater design that will accommodate every adequately everything the site is contributing currently and will in the future. They are producing no more impervious surfaces now than what are already on the site. The topographical survey, provided by licensed surveyor, indicates that even though there may be a minor area where stormwater is going onto the neighbor's property, primarily the majority of the stormwater is on the owner's own property.

Mr. Timothy Sadler urged the applicant and the property owner to find good middle ground.

Dr. Thomas Morton Jr., applicant, explained that he has tried to work with Mr. Long in the past about the drainage issues. Mr. Long wanted to construct a wall between the properties split the cost of \$25,000. Instead, Dr. Morton said that he constructed a nice curb on this property to make sure that any water would flow back onto his property. His new plan will stop all access on his neighbor's driveway, except for their renters. His initial plan was to keep the mature trees, but due to City regulations, some had to be cut. He intends to keep as many trees as possible.

In response to Vice-Mayor Hunt, Ms. Fields said that the plan is conceptual in nature because we don't want an applicant to fully engineer a site before they receive approval for what is a legislative decision from City Council. This did go to the Technical Review Committee before it went to the Planning & Zoning Commission. While staff looks conceptually at drainage issues, the fully engineering drawings of both grading and stormwater will take place post-approval, should the project be approved. The project will go back for final Technical Review Committee and at that time they will need to have the fully engineered drawings and be compliant with all our stormwater regulations, and get both grading and stormwater approval. There are provisions to divert the water onto the site, whereas, now there doesn't seem to be any water control, other than what the applicant has tried to do. There will be less impervious surface under this plan. She said that those are the reasons why staff is supportive of the plan.

Director of Development Services Shannon Tuch said that the applicant is redrawing their property lines and the residential piece of property will remain RS-8. Staff doesn't review the portion of the property that remains residential because it's not included in the scope of the work. From the stormwater prospective, the impervious surface in the project area that currently exists will be reduced. As a result of the reduction of impervious surface, they are not required to do stormwater quality, only quantity. They have to control the flow of the water which is what they are doing. In looking at this preliminarily, we don't anticipate an increase in water flow off the property - we anticipate a decrease in water flow off the property.

In response to Councilwoman Wisler, Ms. Tuch said that staff welcomes the property owner to retain as many trees as possible.

When Councilman Pelly asked what recourse Mr. Long would have after the project is built and the stormwater runoff still exists, Ms. Tuch said that if the water is from the neighbor's property, it's a civil issue between private property owners. If after the project is built and staff discovers that something is not working according to the plan, then they go back to the property owner for correction.

Ms. Elizabeth Morosani, spouse of Dr. Morton, noted that their survey shows that most of Mr. Long's garden is on their property.

Mr. Joseph Malkie felt that someone should ensure that the agricultural integrity is protected.

Mayor Manheimer closed the public hearing at 6:47 p.m.

When Councilman Smith asked if Ms. Fields has heard any comment from the urban farm people on the other side of Greenhill Avenue, she replied no.

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. 4311 to conditionally zone property located at 20 and a portion of 28 Deaverview Road from RS-8 Residential Single Family High Density District and Highway Business District to Office District/Conditional Zoning for the construction of a dental clinic, with approval for the modifications to the landscaping and parking standards, 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 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 and grading plans; (5) A subdivision recombination will have to be approved and recorded prior to permit issuance; and (6) Per the UDO (Office District), all activities associated with non-residential uses, including deliveries and refuse collection, shall be conducted between the hours of 7:00 a.m. and 9:00 p.m. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 72

V. UNFINISHED BUSINESS:

A. APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CAMBRIA HOTEL SUITES - LEVEL II PROJECT SITE PLAN APPEAL

At the request of Mayor Manheimer, Councilman Smith moved to rescue Mayor Manheimer from participating in the matter due to a conflict of interest. This motion was seconded by Vice-Mayor Hunt and carried unanimously. At this time, Mayor Manheimer handed over the gavel to Vice-Mayor Hunt to proceed with the meeting.

Vice-Mayor Hunt said that the public hearing on this matter was held on May 13, 2014, and no further comment would be accepted.

City Attorney Currin said that the appeal that was heard on May 13, 2014, was a quasi-judicial matter so there was evidence presented under oath and exhibits presented. City Council reached a decision to affirm the decision of the Planning & Zoning Commission and approve the site plan. The decision has to be reduced to writing and Council is charged with resolving disputed issues of fact and making findings of fact and conclusions of law based on what was heard at the hearing. She took the evidence and prepared a proposed findings of fact and conclusions of law which memorialize that decision. Those are in front of the Council at this meeting. When those findings and conclusions are approved, that is the time when the decision becomes official, and it is provided to the applicant and appellant. If there is any legal challenge or appeal, that is when the 30 day period begins to run. If the findings and conclusions are acceptable to City Council, she suggested approval.

Vice-Mayor Hunt said that members of Council have been previously furnished with a copy of the findings of fact and conclusions of law and it would not be read.

Councilwoman Wisler moved to adopt the findings of fact and conclusions of law for the Cambria Hotel Suites Level II Project - Site Plan Appeal. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused).

City Attorney Currin also noted that the appellant submitted several objections and suggestions that he had for the proposed findings. Those objections and suggestions were provided to City Council for review prior to final approval.

At this time, Vice-Mayor Hunt returned the gavel to Mayor Manheimer to continue presiding at the meeting.

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Ken Michalove spoke against the City using tax funds to support the Art Museum. He provided City Council with a letter dated May 27, 2014, in which several budgeting questions were raised for Pack Place and the Asheville Art Museum.

Mr. Roger McCredie asked if Vice-Mayor Hunt and City Manager Jackson were authorized by City Council, at their April 8, 2014, closed session, to demand at the April 9, 2014, Pack Place Board of Directors meeting that the Pack Place Board adopt a resolution asking for a 60-day extension of its existing lease (ends on June 30, 2014) in order to tie up loose ends and settle its affairs. Mayor Manheimer asked that City Attorney Currin look into the process of lease extensions and report back to Mr. McCredie.

Brother Christopher Chiaromonte felt that Asheville won't repent because they took out the prayers at the Council meetings.

Mr. Timothy Sadler encouraged a thorough review of the transit management contract prior to renewal.

Mr. Joseph Malkie commented about customer service of the bus drivers and suggested a review of the injustice of the routes.

Closed Session

At 7:12 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) 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); and (2) 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, but not limited to a lawsuit involving the following parties: State of North Carolina and City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:54 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:54 p.m.

CITY CLERK

MAYOR