

Tuesday – July 22, 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.

ANNOUNCEMENTS

Mayor Manheimer announced that points of order can only be raised by members of City Council.

Mayor Manheimer also noted that the public comment period is an opportunity for the public to comment and it is not a dialogue opportunity between the public and City Council.

I. PROCLAMATIONS:

A. AMERICAN PUBLIC WORKS ASSOCIATION SCHOLARSHIP & AWARD WINNERS

Executive Director of Planning & Multimodal Transportation Cathy Ball introduced American Public Works Association current President Russell Byrd and Past President B. Keith Pugh, Engineering Services Director from the City of High Point, who in turn honored Ms. Kathi Willis, Mr. Lee Morrison and retired employee Mr. Lyle Willis during the APWA-NC Annual meeting in New Bern.

Mr. Byrd said that Kathi Willis, Administrative Assistant with Public Works Administration and the Capital Projects Management (Engineering) Division has worked for the City since 1991. In addition she has served as the State APWA-NC Chapter Secretary since 2008 providing management and conference planning support. In 1999 the Chapter Board instituted an award entitled the President's Award. This special award, at the sole discretion of the Chapter President is to recognize an individual whose efforts during the year singularly contributed to the betterment and success of the chapter.

Mr. Pugh said that Lee Morrison, Construction Inspector with the Capital Projects Management (Engineering) Division has worked for the City of Asheville since 2006. He has been attending classes to help him understand fully what is necessary to provide quality service to the citizens of Asheville. In addition to his schoolwork and his position as a construction inspector, Lee is a lieutenant at a local volunteer fire department, and an Eagle Scout. He has also just received his advanced certificate as an NC Road Scholar. He is certified in many aspects of his job and is a valued team member with the City.

Mr. Pugh also recognized retired City employee Lyle Willis, who is not a member of the Association; however, helps the leadership of the Association succeed. He embodies the ideals of the person who works behind the scenes.

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 24, 2014**

- B. RESOLUTION NO. 14-151 - RESOLUTION AMENDING THE CITY COUNCIL MEETING SCHEDULE TO CANCEL THE AUGUST 12, 2014, CITY COUNCIL REGULAR MEETING**

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- C. RESOLUTION NO. 14-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SUPERIOR LANDSCAPING FOR GROUND MAINTENANCE AT VARIOUS PARKS, GREENWAYS AND FACILITIES**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Superior Landscaping to provide ground maintenance services at various parks, greenways and facilities in the north and east districts in Asheville in the amount of \$117,200 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

The Parks and Recreation Department contracts with multiple vendors for ground maintenance services in the six districts in Asheville. On August 12, 2013, the department issued an Advertisement for Bids for ground maintenance services in these districts to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest responsive and responsible bidders. Of these, Superior Landscaping, located at 9 Linda Vista Drive in Asheville, bid is in the amount requiring City Council approval for a total of \$117,200.

The ground maintenance contract will extend until June 30, 2015 with the option for two (2), twelve (12) month renewals based on contractor performance.

Pro: Supports the efficient delivery of core park maintenance services.

Con: None

The \$117,200 to support the ground maintenance contract in the various parks, greenways and facilities in the north and east districts in Asheville is budgeted in the FY 2014-2015 Parks and Recreation Department operating budget as part of the Parks Maintenance division budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract and execute contract change orders with Superior Landscaping to provide ground maintenance services in the various parks, greenways and facilities in the north and east districts in Asheville in the amount of \$117,200 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

Councilman Bothwell hoped that as we move forward with landscaping contracts that we be clear that want them to exclude Round-Up from their chemical arsenal and exclude pesticides that are responsible for killing honey bees.

Councilman Smith agreed with Councilman Bothwell and also wanted to make sure that our landscaping contractors are aware of our food action plan and that we would like for them to incorporate those edibles into their landscaping plans.

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D. RESOLUTION NO. 14-153 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR LEGISLATIVE REPRESENTATION SERVICES WITH JACK COZORT

Summary: The consideration a resolution authorizing the Mayor to enter into an agreement for legislative representation services with Jack Cozort.

Jack Cozort ("Cozort") has been providing legislative/lobbying services for the City since May 2012. A contract was executed at that time, which was effective until September 4, 2012. Cozort has been present at both short and long legislative sessions since May 2012 and has provided valuable services to the City by, among other things, monitoring legislation, aiding with the City's legislative agenda, and advocating for the City's interests in the General Assembly.

Even though Cozort has continuously represented the City since May 2012, and the City has continued to pay him \$5,000 per month (\$60,000 per year), it was only recently noted by the Purchasing Department that the contract had expired, so a new agreement is needed. Cozort is currently representing the City at the 2014 short session, and the City needs the same for the 2015 long session beginning in January 2015. The new contract would be effective through January 1, 2016. Because of the numerous bills which contain items which significantly affect the City, it is important for the City to have a presence in Raleigh, through the end of the 2015 long session. Cozort can provide this, and to date, has done so effectively for the City.

The cost of providing this service is \$60,000 a year, plus costs, payable monthly at a rate of \$5,000 per month for the contract term.

Pros:

- Strengthens the City's presence in the seat of State government during legislative sessions.
- Provides monitoring of important legislation, aids in furthering the City's legislative agenda and advocates for the City's interest in the General Assembly.
- Cozort has substantial experience in legislative matters at the N.C. General Assembly.

Con:

- None noted.

The fiscal impact is \$60,000 per year. Funding for this contract is included in the FY 2014-15 adopted General Fund budget.

Adoption of the resolution is recommended.

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E. RESOLUTION NO. 14-154- RESOLUTION AUTHORIZING THE MAYOR TO EXPRESS THE CITY OF ASHEVILLE'S WILLINGNESS TO PROVIDE THE REQUIRED 20% LOCAL MATCH AND FUNDING FOR RIGHT-OF-WAY IF FEDERAL TRANSPORTATION FUNDING IS AUTHORIZED FOR ANY OF SEVERAL PEDESTRIAN OR BICYCLE PROJECTS IN THE CITY

Summary: The consideration of a resolution authorizing the Mayor to express the City of Asheville's willingness to provide the required 20% local match and funding for right-of-way if federal transportation funding is authorized for any of several pedestrian or bicycle projects in the City.

This request is a result of recent legislative changes preventing state transportation funds from being spent on stand-alone pedestrian or bicycle projects and changes in the way that the

N.C. Dept. of Transportation (NCDOT) evaluates transportation projects for inclusion in the 10-year transportation improvement program (TIP).

Stand-alone pedestrian or bicycle projects may still compete within the state's prioritization system for federal funding, but without any state funding available, the City must commit to providing the required 20% local match if the project is to be considered for inclusion in the TIP. Additionally, according to NCDOT procedures, right-of-way (ROW) must also be locally funded, so the commitment includes an amount for projected ROW costs if applicable.

The City has four projects under Strategic Planning Office (of) Transportation (SPOT) consideration at this time. They are:

- Construct sidewalk on Riceville Road from Tunnel Road to Bull Mountain Road. (SPOT cost estimate: \$600,000; 20% local match: \$120,000 plus \$60,000 ROW)
- Construct pedestrian improvements along McDowell Street and Choctaw Street, which would include sidewalk gap closure, ADA upgrades and crossing improvements along McDowell Street from Phifer/Southside Ave to Choctaw Street and then on Choctaw Street to Biltmore Ave. (SPOT cost estimate: \$446,000; 20% local match: \$89,200 plus \$26,000 ROW)
- Add bicycle lanes and sharrows at pinch points on Broadway Street from I-240 to Riverside Drive. This is anticipated to involve a combination of lane and road diets. (SPOT cost estimate: \$410,000; 20% local match: \$82,000)
- Bicycle improvements for McDowell Street and All Souls Crescent, including bike lanes, sharrows and striped shoulder, from McDowell St at Southside Avenue and continuing on All Souls Crescent to intersection with US 25/Hendersonville Rd. (SPOT cost estimate: 291,000; 20% local match: \$58,200)

From what we have seen in the preliminary scoring, we are not expecting these projects to score well enough to be added to the next 10-year TIP, but without the resolutions, the projects will be dropped from consideration for the funding.

Pros:

- Allows the listed city projects to remain in contention for federal funding that would leverage city funds by four times
- Is an opportunity to bring these projects to fruition faster than would otherwise be possible
- We expect to know the outcome in August or September, so the period of uncertainty is short

Con:

- If the funds are awarded, the projects might delay other capital projects.

There is no fiscal impact, unless the grant funds are awarded. If awarded, the city would be responsible for providing the match through the Capital Improvement Program (CIP) in the year(s) programmed by the state and the MPO. Since there is no allocation in the current 5-year CIP for these matches, there is the potential that other capital projects might have to be delayed in order to fund the match requirements.

City staff recommends City Council authorize the Mayor of City of Asheville to execute a statement of commitment to provide the required 20% local match and funding for right-of-way if federal transportation funding is authorized for any of several pedestrian or bicycle projects in the City, as set forth herein, by signing the letter committing to the funding local match as described.

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F. RESOLUTION NO. 14-155 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT FOR THE ASHEVILLE REGIONAL AIRPORT TO REHABILITATE RUNWAY 16-24, PHASE 1

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of \$8,935,654.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of \$8,935,654, is for the following: Rehabilitate Runway 16-34, Phase 1 (Grade and Drain Temporary Runway; Acquire Land for Development, Construct Retaining Wall, Engineering/Design/RPR Services, Force Account Services, FAA Reimbursable Agreements).

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-44-2014.

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G. RESOLUTION NO. 14-156 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH RIVERTOP CONTRACTING INC. FOR THE DOWNTOWN CLEANING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$286,340 plus a contingency of 4.7% (\$13,659) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning, City of Asheville Project # DC-15-01.

This contract covers the contracted pressure washing of sidewalks located in the City of Asheville Central Business District. The project was advertised on April 23, 2014. Bids were opened with Rivertop Contracting, Inc. of Swannanoa, NC, being the lowest responsive bidder with a bid of \$286,340. A 4.7% contingency (\$13,659) has been added to allow payment for any unforeseen costs that typically arise during construction. Below are the two responsive bidders:

Rivertop Contracting, Swannanoa, NC \$286,340.00
DeAngelo Brothers, Inc., Hazleton, PA \$418,036.40

The work produced from this contract will resolve a great concern of downtown business owners and residents.

Pros:

- Will result in the most heavily used areas of the CBD being pressure washed completely 4 times in the life of the contract and the lesser used areas being pressure washed completely 2 times in the life of the contract.
- Will result in all areas of the CBD having loose debris removed 5 days per week.

Con:

- Project management and contract administration will consume staff time.

\$300,000 was budgeted for Downtown Cleaning in the general fund. This amount was approved by City Council and included in the Fiscal Year 2014-15 budget.

City staff recommends City Council adopt the resolution awarding the contract to Rivertop Contracting, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a

contract in the amount of \$286,340 plus a contingency of 4.7% (\$13,659) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning, City of Asheville Project # DC-15-01.

Councilman Davis asked that City Council receive a copy of the scope of the contract. He was excited about the possibility of a cleaner downtown.

Executive Director of Planning and Multimodal Transportation Cathy Ball said that they will have a checklist on the website for the different projects; and, that they have asked the contractor to wear clothing to identify that they are associated with the downtown cleaning project.

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H. RESOLUTION NO. 14-157- RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A GENERAL SERVICES AGREEMENT WITH CAROLINA MANAGEMENT TEAM FOR THE WATER RESOURCES WATER STORAGE TANK AND PIPE COATING AND MAINTENANCE PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into a general services agreement with Carolina Management Team (CMT) in an amount not to exceed \$150,000 for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the 2014-15 fiscal year with an option to renew for an additional two fiscal years in an amount not to exceed \$150,000.00 each year contingent upon funding.

On May 16, 2014, the Water Resources Department issued a Request for Proposals (RFP) for the Water Storage Tank and Pipe Coating and Maintenance Project. The scope of the project is for the maintenance, rehabilitation, repair, and repainting of water storage tanks and pump station piping at various locations in the water distribution system. The project locations include: Concord Tank exterior, Fairview Downs Tank exterior, Patton Mountain Tank exterior, South Buncombe Pump Station, Mills River Water Treatment Plant Finished Water Piping, Mills River Water Treatment Plant Pipe Gallery, and Poplar Ridge Tank 2 exterior.

On June 11, 2014, Water Resources received one (1) proposal for the project in response to the RFP. The company responding was Carolina Management Team in Enka, NC for a total bid of \$148,078.

The total bid includes: the base work to rehabilitate, repair, and repaint the aforementioned project locations; the cost to add three (3) additional sites depending on funds availability; and crack / spall repair. A review team comprised of Water Resources staff reviewed CMT's proposal and selected them for the project based on their qualifications, understanding of project scope, cost, and project schedule.

After the first year of the contract, the Water Resources Department desires to extend CMT's contract for an additional two fiscal years, both at \$150,000 each year, contingent upon funding. The two year option to renew the contract benefits the City as follows: eliminates the time and expense associated with re-bidding; eliminates the logistics and operational requirements to stabilize another Contractor's workforce on site; continued work with a company who has a proven track record for excellent work and a known contract cost.

Pros:

- Approval of the project will allow Water Resources to complete necessary maintenance on various water storage tanks and pump station piping in need of rehabilitation and repair. The project will also make these sites more aesthetically pleasing.

- The project will provide a local company with work for at least the next year, possibly the next three years if the department is allowed to renew the contract for two additional fiscal years.
- The WRD will realize cost savings by not having to rebid the project.

Cons:

- If the project does not continue, the water storage tanks and pump station piping on the list to be rehabilitated and repaired will continue to degrade, which may eventually jeopardize the system's water quality.

No additional appropriations are necessary as funds are budgeted in the Water Resources Capital Improvement Projects Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a general services agreement with Carolina Management Team (CMT) in an amount not to exceed \$150,000 for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the 2014-15 fiscal year with an option to renew for an additional two fiscal years in an amount not to exceed \$150,000 each year contingent upon funding.

RESOLUTION BOOK NO. 36 - PAGE 277

I. RESOLUTION NO. 14-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH LAND OF THE SUN INC, D/B/A FLETCHER GRADING CONTRACTORS, FOR THE WESTWOOD ROAD STORM DRAINAGE IMPROVEMENT PROJECT

ORDINANCE NO. 4323 - BUDGET AMENDMENT FOR THE WESTWOOD ROAD STORM DRAINAGE IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter a contract with Land of the Sun, Inc. doing business as Fletcher Grading Contractors for the construction services necessary to complete the Westwood Road Storm Drainage Improvements; and a budget amendment in the amount of \$72,147 from Stormwater Fund reserves to fully fund the contract and a 15% contingency.

Westwood Road has a failing drainage system currently in existence. City crews have made minor repairs to the area in the past. The City obtained the professional services of McGill Associates for the design work associated with this stormwater improvement.

Within the scope of the project, Fletcher Grading Contractors will abandon the existing failing storm drainage system, place curb and gutter as necessary for the success of the project and install approximately 990 linear feet of storm drainage infrastructure.

The project was posted for bid on June 12, 2014. A mandatory pre-bid meeting was held with a moderate turnout on June 19, 2014. The bids were opened and June 26, 2014 and the following were the results:

Fletcher Grading Company	2157 Brevard Road, Arden NC	\$306,215
NHM Constructors, LLC	PO Box 6385, Asheville NC	\$427,578
Graham County Land Company, LLC	750 Tallulah Road, Robbinsville, NC	\$461,870

The City receive bids from qualified contractors to perform the construction activity outlined in the approved documents for the Westwood Road Storm Drainage Improvement Project and the City of Asheville determined that Fletcher Grading Contractors, LLC and their bid of \$306,215 as the low responsible and responsible bidder

Pros:

- Improvements to the storm drainage system in this area will prevent future maintenance issues.
- Provides safe access for the citizens that visit this area.
- Moves forward with the goals of the Stormwater Utility program to make capital investments through projects.

Cons:

- Construction will be disruptive to the area for approximately 3 months.

The total initial cost of the contract is \$306,215; however an additional 15 percent contingency is recommended for this project, which brings the total expected budget to \$352,147. The FY 2013-14 Stormwater CIP included an original budget of \$280,000 for this project. In order to fully fund the contract amount and the 15% contingency, the original budget must be amended by \$72,147. This additional funding will be taken from Stormwater Fund reserves that exceed the 8% policy target.

City staff recommends City Council approve a resolution authorizing the City Manager to enter a contract with Land of the Sun, Inc. doing business as Fletcher Grading Contractors for the construction services necessary to complete the Westwood Road Storm Drainage Improvements for \$306,215 and to enter into change orders to this contract not to exceed 15% of the original contract or \$45,932; and a budget amendment in the amount of \$72,147 from Stormwater Fund reserves to fully fund the contract and the 15% contingency .

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ORDINANCE BOOK NO. 29 - PAGE 118**

**J. RESOLUTION NO. 14-159 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO EXECUTE AN AMENDMENT TO AN EXISTING AGREEMENT
WITH THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES
FOR THE BILTMORE AVENUE BRIDGE FLOOD REDUCTION PROJECT**

**ORDINANCE NO. 4324 - BUDGET AMENDMENT TO ACCEPT FUNDS FROM
THE N.C. DEPT. OF ENVIRONMENTAL & NATURAL RESOURCES FOR
FLOOD MITIGATION EFFORTS FOR THE BILTMORE AVENUE BRIDGE
FLOOD REDUCTION PROJECT**

Summary: The consideration of a resolution authorizing the City Manager or designee to execute an amendment to an existing agreement with the N.C. Dept. of Environmental and Natural Resources (DENR) to supplement the current contract by an additional \$750,000 in order to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the Biltmore Avenue Bridge Flood Mitigation Project; and a budget amendment in the amount of \$750,000 to appropriate additional Senate Bill 7 funding received from DENR.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. Through a study completed by Brown and Caldwell and the ongoing feasibility study the Army Corps of Engineers is conducting, the Biltmore Avenue Bridge Flood Mitigation Project has shown potential to provide significant flood reduction benefits. The flood control project includes the removal of floodplain fill and flood bench restoration to allow for a larger conveyance areas under the existing Biltmore Avenue Bridge.

On May 15, 2007, City Council approved a resolution allowing the City Manager to enter into the following three contracts with DENR:

- \$2,500,000 for a three phase flood damage reduction measure which institutes a watershed-wide program for flood damage reduction in the Swannanoa
- \$2,000,000 for acquiring property that is prone to flooding
- \$75,000 to work with the Army Corps of Engineers to develop an emergency flood preparedness plan for Biltmore Village

On September 13, 2011, City Council approved a resolution authorizing the City Manager to enter into an agreement to the existing contract and additional funds were provided from Senate Bill 7. The City did not utilize all the funds for acquisition of property, \$715,888 was remaining. This \$715,888 will be re-allocated and additional DENR (Senate Bill 7) funds in the amount of \$374,251 was approved for the flood damage reduction measures contract. The \$1,090,139 supplements the existing NCDENR contract (\$2,500,000) for a new total amount of \$3,590,139.

With the additional funds now available for the Biltmore Avenue Bridge Flood Mitigation Project (\$750,000), the original contact amount has been increased to \$4,340,139 for the combined efforts for item 1 listed above.

On May 26, 2009, by Resolution No. 09-108, the City Manager was authorized to enter into a Feasibility Cost Share Agreement for the Swannanoa Flood Risk Management Project with the Army Corps of Engineers to provide professional services for a feasibility study for reducing flood damage in the Swannanoa River Watershed. The CORPS continues to be involved with this project and it is anticipated that a draft feasibility report will be available in 2015.

On June 28, 2011, City Council approved the City Manager to enter a contract with McGill Associates to perform the engineering services necessary to provide flood mitigations to the properties down stream of the Lake Craig Dam which will include the evaluations of the existing dam. McGill Associates are also providing engineering services associated with the improved roadway connections to the John B. Lewis Soccer Complex and provide a much needed connection to the City of Asheville water system. In an effort to keep consistent working relationships and expectations from both the Army Corps of Engineers, NC Division of Water Resources, and the City, McGill Associates is being recommended to continue the flood reduction efforts for the Biltmore Avenue Bridge Flood Mitigation Project.

These funds will be in addition to the \$3,590,139 Million that have been made available for the City to perform flood mitigation work. The funds available for the completion of the engineering services for the Swannanoa Flood Risk Management project, to complete Phase I of the Lake Craig Project (currently under construction) and to include the Biltmore Avenue Bridge Flood Risk Management Project now totals \$4,340,139.

Pros:

- Implements the priority objective of the Swannanoa Flood Risk Management Project
- To continue to work with state, local and federal partners on a flood mitigation plan
- Priorities are set for expending the remainder of state flood mitigation funding
- This funding will allow the completion of the design phase of the Biltmore Avenue Bridge Flood Mitigation Project

Cons:

- Construction of the project will require the involvement and funding of the US Army Corps of Engineers or the North Carolina Division of Water Resources.

Funding for the design, property acquisition, permitting and continued partnership with the Army Corps of Engineers for the Biltmore Avenue Flood Mitigation Project is currently coming from the Division of Water Resources Senate Bill 7 money. Future construction cost associated

with this project will be funded through partnerships with the Army Corps of Engineers and the City of Asheville with the possibility of additional funds from the Division of Water Resources. The additional \$750,000 from Division of Water Resources Senate Bill 7 will allow the city to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the construction of the Biltmore Avenue Bridge Flood Mitigation.

Staff recommends City Council approve a resolution authorizing the City Manager or designee to execute an amendment to an existing agreement with DENR to supplement the current contract by an additional \$750,000 in order to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the Biltmore Bridge Flood Mitigation Project; and a budget amendment in the amount of \$750,000 to appropriate additional Senate Bill 7 funding received from DENR.

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ORDINANCE BOOK NO. 29 - PAGE 120**

**K. RESOLUTION NO. 14-160 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH
MCGILL ASSOCIATES FOR THE BILTMORE AVENUE FLOOD MITIGATION
PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to complete negotiations and enter into the necessary agreements for an amendment to the existing professional services contract with McGill Associates for the engineering services necessary for the completion of the design of the Biltmore Avenue Bridge Flood Mitigation Project to be included in the current contract for the Lake Craig/Azalea Road Project.

McGill Associates is the design team for the ongoing work associated with the Lake Craig/Azalea Road Project. During the process, McGill's team continues to work closely with the Army Corps of Engineers on the Swannanoa Flood Mitigation Project. As this project has moved forward, McGill has continued to help facilitate the projects along the Swannanoa River and be actively involved with the Flood Mitigation Efforts. The goals of these projects have been to provide additional flood protection to Biltmore Village and the surrounding area.

As the City and the consulting team of McGill Associates have continued to work closely with the Army Corp of Engineers on the final stages of the Swannanoa Flood Risk Management Project, the Biltmore Avenue Bridge Flood Mitigation Project has continued to be a key component to these flood reduction efforts. The Corps has the Biltmore Avenue Bridge Flood Reduction Project as a top project on the study. As McGill Associates have worked closely with the Corps to develop the Lake Craig/Azalea Road flood reduction models and have been actively involved in continuing conversations and necessary actions associated with the Swannanoa Flood Risk Management Project, they are best suited to move forward with the communication with the Corps and to implement the design of the flood reduction project within Biltmore Village.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. Through a study performed by Brown and Caldwell and also the Army Corps of Engineers, the Biltmore Avenue Bridge Flood Mitigation Project has shown potential to provide significant flood reduction benefits. As the projects funded throughout the state have been finalized, the state has indentified additional funds that can be utilized toward the flood reduction efforts in the Swannanoa River Basin. The project that fits the criteria from the Corps and also the Division of Water Resources is the Biltmore Avenue Bridge Project.

Within the scope of the project, McGill Associates will perform the engineering services necessary to provide flood mitigation to the properties in the Biltmore Village Area. The Biltmore Avenue Flood Mitigation Project was a high priority in the Swannanoa Flood Risk Management Project which was accepted by City Council on May 10, 2011.

The Biltmore Ave. Bridge Flood Mitigation will continue the efforts of flood reduction within the Biltmore Village Area by moving forward with the design any necessary property acquisition ahead of the Corps study. The Corps is in the final stages of their report and expect to have a draft Feasibility Study out in 2015.

Pros:

- Implements the priority objective of the Swannanoa Flood Risk Management Project
- To continue to work with state, local and federal partners on a flood mitigation plan
- Priorities are set for expending the remainder of state flood mitigation funding
- This funding will allow the completion of the design phase of the Biltmore Avenue Bridge Flood Mitigation Project

Cons:

- Construction of the project will require the involvement and funding of the US Army Corps of Engineers or the North Carolina Division of Water Resources.

The change order portion of this flood mitigation project is funded through the State in compliance with the Hurricane Recovery Act of 2005. With the additional funding from the SB 7 (\$750,000), the Biltmore Ave. Bridge Flood Mitigation Project can move forward with the design, permitting and property acquisition. City Staff is working with the Army Corps of Engineers as well as the North Carolina Division of Water Resources to identify future funding sources for potential flood mitigation projects within the Swannanoa River Basin.

City staff recommends City Council approve a resolution authorizing the City Manager to complete negotiations and enter into the necessary agreements for an amendment to the existing professional services contract with McGill Associates for and additional \$297,000 for the engineering services necessary for the completion of the design of the Biltmore Avenue Bridge Flood Mitigation Project to be included in the current contract for the Lake Craig/Azalea Road Project.

RESOLUTION BOOK NO. 36 - PAGE 280

L. RESOLUTION NO. 14-161 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment with Schnabel Engineering South, PC, to increase the existing contract in the amount of \$302,400 for a total project budget of \$710,590 to expand the scope of services to include bidding and construction administration services for the North Fork Dam Intake Tower and Conduit Repairs Project.

On March 12, 2013, City Council awarded the Engineering Design Services Contract to Schnabel Engineering for the North Fork Water Treatment Plant Dam/Tunnel Project in the amount of \$408,190.00, which included a contingency for a total project budget of \$428,600.00. Water Resources is ready to move into the bidding and construction phase of this project. Schnabel has presented a scope of work and cost proposal for engineering services associated with the Intake Tower and Conduit Repairs at the North Fork Water Treatment Plant. Due to their intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete the additional scope of services. The additional scope of services will include: assistance with advertising, bidding, and the selection of a contractor; inspection and testing services; construction observation and reporting; contract administration; development of record drawings; and additional tasks as outlined in their proposal.

Pro:

- Continued use of Schnabel Engineering as the most qualified engineering firm to assist with the bidding and construction phase of the project.

Cons:

- The cost for the additional scope is notable but if Schnabel Engineering is not awarded this contract the project will be delayed.
- If another firm is awarded the contract, the most qualified engineering firm will not be selected.

The funding needed for the contract and the contingency is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a contract amendment with Schnabel Engineering South, PC, to increase the existing contract in the amount of \$302,400 for a total project budget of \$710,590 to expand the scope of services to include bidding and construction services for the North Fork Dam Intake Tower and Conduit Repairs Project.

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M. RESOLUTION NO. 14-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION (MPO) FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS, AND IF THE APPLICATIONS ARE SUCCESSFUL, TO ACCEPT GRANTS AND SIGN NECESSARY AGREEMENTS WITH THE MPO, OR STATE OR FEDERAL AGENCIES TO RECEIVE THE FUNDS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The MPO has opened a call for projects to use federal Surface Transportation Program – Directly Attributable (STP-DA) funds and Transportation Alternative Program (TAP) funding sources. The MPO expects to have approximately \$6.1 million in STP-DA for fiscal years 2016 and 2017, and \$566,000 in TAP funding for fiscal years 2013 and 2014. All of these funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- One ART bus for \$450,000; with 80% funded by the grant
- A bike share study for \$50,000; 50% funded by the grant
- River Arts District Transportation Improvement Project (RADTIP) right of way acquisition, 50% funded by the grants. Application for this project will be made to both funding sources and for all available years.

If received, all but the bike share study grant would help fund projects already programmed in the city's capital improvements program (CIP). This would not supplant city funding already available because the CIP planning process presumed partial grant funding for these projects.

Each of these projects is ready to move forward as the funding becomes available, and are not expected to need any additional environmental documentation to proceed. Ability to deliver projects in the designated timeframe is a requirement of the grant.

Pros:

- Allows the City of Asheville access to up to \$6.6 million in capital, planning and infrastructure investment
- Allows the City of Asheville to take the next step in moving the RADTIP project forward
- Would replace a 12 year old bus that is nearing the end of its expected life cycle
- Allows the city to move toward a bike share system

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage between 50% and 80% grant funding for these projects, up to a grant value of \$6.6 million. As noted above, all but the bike share study grant would help fund projects already programmed in the city's capital improvements program (CIP).

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

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N. RESOLUTION NO. 14-163 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTACT WITH UNIFIED AV SYSTEMS FOR RENOVATIONS TO THE AUDIO VISUAL SYSTEMS

ORDINANCE NO. 4325 - BUDGET AMENDMENT FOR AUDIO VISUAL SYSTEMS

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$174,065 with Unified AV Systems for renovations to the city's government channel and audio visual systems in the Council Chamber and first floor conference room; and 2) a technical budget amendment in the amount of \$174,065 to create a project budget for the contract utilizing savings in other capital projects.

The City of Asheville produces and broadcasts City Council and other meetings held in the City Council Chambers. Meetings are broadcast live on the local government access channel, Charter Cable channel 193, and recorded for scheduled re-broadcasting on Charter Cable 193 and on the City's YouTube channel. Council meetings are also live streamed for internet viewing. Historically, the channel has also scheduled and broadcast original programming and bulletin board information.

The last significant equipment upgrade occurred in the late 1990s and included broadcast equipment in the control room as well as audio visual equipment in the Council Chamber and First Floor Conference Room. That equipment is reaching the end of its useful life with key components already failing.

Renovations will include:

- Updated broadcast equipment

- Addition of large flat-screen monitors to the Council Chamber
- Replacing standard definition cameras with high definition cameras and adding a fourth camera to the Council Chamber
- Updated audio visual equipment for the Council Chamber and first floor conference room
- Updated production equipment in the downstairs Control Room, including remote camera controller, character generator, live production switcher, video server, and video bulletin board.
- Updated equipment for live streaming

Five (5) proposals were received March 28, 2014. Proposals were reviewed by an evaluation team including a representative from the Buncombe County government access channel (BCTV) with telephone interviews following the review of the proposals. Best and final offers were submitted June 2, 2014. Unified AV Systems was unanimously recommended for contract award by the team. The proposals with the top two scores were:

- Ronco Specialized Systems is headquartered in Buffalo, NY with local project work completed from their Charlotte, NC office. \$183,869
- Unified AV Systems is headquartered in Atlanta, GA with local project work completed from their Greensboro, NC office. \$174,065

Pros:

- Renovations will improve sound quality and allow members of the public to view presentation materials from every seat in the Council Chamber.
- Renovations will improve the failing audio visual system in the first floor conference room.
- Renovations will allow programming, including City Council meetings, to be scheduled for broadcast throughout the week creating opportunities to once again apply for supplemental PEG funding. Currently, these payments are roughly \$30,000 per year.
- High definition cameras will significantly improve the online viewing experience.

Cons:

- High Definition upgrades will be limited to an analog signal through the city's cable provider.
- Technology continues to change at a rapid pace with more and more users gaining access to online viewing. It is possible, at some time in the future, government channels will become obsolete. The portion of the contract to be invested in broadcast-only equipment is \$15K.

There is approximately \$18,308 remaining in a prior year capital project that was established for government channel equipment replacement. The remaining \$155,757 needed to fund the contract with Unified AV Systems will come from savings in the City Hall renovations project. A technical budget amendment is required to create a new project budget utilizing the savings in these two other projects.

City staff recommends City Council adopt: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract not to exceed \$174,065 with Unified AV Systems for the project known as Government Channel and Council Chamber Audio Visual Renovations; and 2) a technical budget amendment in the amount of \$174,065 to create a project budget for the contract utilizing savings in other capital projects.

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O. RESOLUTION NO. 14-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONSTRUCTION CONTRACT WITH BRANTLEY CONSTRUCTION FOR THE U.S. CELLULAR CENTER RENOVATIONS PROJECT

RESOLUTION NO. 14-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH BETSCH ASSOCIATES/CLARK NEXSEN FOR THE U.S. CELLULAR CENTER RENOVATIONS PROJECT

Summary: The consideration of resolutions to authorize the City Manager to: 1) execute an amendment to the construction contract with Brantley Construction in the amount of \$11,399.33 for additions to construction related to the US Cellular Center renovations. After the approval of the pending contract amendment, the total contract amount will be \$3,006,235.61; and 2) execute an amendment to the professional services contract with Betsch Associates/Clark Nexsen in the amount of \$7,340.00 for additional design services related to the US Cellular Center renovations for a total contract amount not to exceed \$1,116,795.00.

The renovations to the ExploreAsheville.com Arena and common areas of the US Cellular Center renovation project are nearing completion. A temporary certificate of occupancy has been issued and staff expects a final Certificate of Occupancy for the project to be issued before the end of the month. As often is the case in an older facility, unexpected issues related to ADA access and water service/backflow prevention, which surfaced during construction, have necessitated change order directives to the contractor and additional design services from the architect. These items have increased the respective construction and professional services contracts above the administrative limit staff can authorize, and City Council action is necessary to amend the contracts.

Pros:

- Action updates the construction contract to meet the obligations for the required construction necessitated by unforeseen conditions at the beginning of the design.
- Action updates the professional services contract to meet the obligations for the required design necessitated by unforeseen conditions at the beginning of the design.
- Action will support improved facilities in the renovated facility.

Con:

- None noted. Funding for this is available in the USCC Capital Budget.

Funding for the amendments to the construction and professional services contracts is already in the Capital Budget for the Project, so no budget amendment is required.

Staff recommends City Council approve resolutions to authorize the City Manager to: 1) execute an amendment to the construction contract with Brantley Construction in the amount of \$11,399.33 for additions to the construction related to the US Cellular Center renovations; 2) execute an amendment to the professional services contract with Betsch Associates/Clark Nexsen in the amount of \$7,340.00 for additional design services related to the US Cellular Center renovations project.

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P. RESOLUTION NO. 14-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPOINTMENTS TO THE 51 BILTMORE CONDOMINIUM ASSOCIATION

Summary: The consideration of a resolution authorizing the City Manager to appoint a director to the 51 Biltmore Condominium Association, and make related committee appointments.

The 51 Biltmore Project is the project that includes the Aloft Hotel, a City parking garage, and vacant property that is being held for possible future development. As Council may recall, the ownership structure of this public-private project, using the downtown development act, is a condominium.

The condominium association is governed by a board of directors consisting of three members—each member/owner appoints one director. The association by-laws also provide for the appointment of an executive board and various committees. There is not much common area, and each member/owner is substantially responsible for its respective property, so there is not much business for the condominium association to conduct. However, meetings are sometimes necessary. Former Finance Director, Lauren Bradley, was the City's appointed director, but she is no longer employed by the City, and it is necessary for a new City representative to be appointed.

The resolution authorizes the City Manager to appoint and remove City representatives to the 51 Biltmore Condominium Association, including committee and board members, in accordance with the Association by-laws.

Pros:

- Fills a *de facto* vacancy on the board of directors.
- Allows City Manager to make future appointments without Council action.

Con:

- None noted.

Adoption of the resolution is recommended.

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Q. RESOLUTION NO. 14-167 - RESOLUTION SETTING A PUBLIC HEARING ON AUGUST 26, 2014, FOR A LAND USE INCENTIVE GRANT AGREEMENT FOR 146 ROBERTS STREET (RAD LOFTS)

Summary: The consideration of a resolution setting a public hearing on August 26, 2014, for a land use incentive grant agreement for 146 Roberts Street (RAD Lofts).

The owners/developers of RAD Lofts have applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on January 10, 2012. The following report summarizes their application and reports on eligibility and points.

RAD Lofts LLC has contracted to purchase the 2.88 acre site formerly home to the Dave Steel Company. The site is located at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The develop estimates a total development cost of \$52 million. The project consists of

- 209 residential rental apartments (144 one-bedroom apartments and 65 two-bedroom apartments). 220 of the parking spaces within the parking structure noted below will accommodate residents of the community;
- A two story parking deck for residents and for the public (on an hourly rental basis), street front retail spaces, live work spaces and second floor office space. This commercial component will be 48,500 sq. ft. plus 136 parking spaces.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developers indicate they will contribute at least 30% equity to the project.
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

The developer will not agree to assume all legal costs if the Land Use Incentive policy is challenged. This is a required element of the adopted Land Use Incentive Policy and therefore, Council may want to consider an amendment to the existing policy at the public hearing.

Public Benefit

The project proposes the following Public Benefit Elements:

- Workforce Housing units, assuming an annual rental increase of 3%, for the proscribed period: 100% of total units for which the developer request 20 points.
- Affordable Housing units assuming an annual rental increase of 3%, for the proscribed period: 5 units, for which the developer requests 10 points.
- Green Building/Energy: *Energy Star certified* (5 points)
- Includes a minimum 20% non-residential (5 points)
- Within the Sustainability Bonus area (5 points)
- Brownfield Redevelopment (5 points)

The developer has scored the project with 50 points. Based on this score, the project would be eligible for a 5 year Land Use Incentive Grant.

The project meets the following 2013-14 Strategic Plan Goals: (1) *Economic Growth and Financial Sustainability*: The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District. (2) *Affordable Housing and Community Development*: the project creates locationally efficient affordable and workforce housing;

The project meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location “along major transit corridors...”; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Exemption Request

The current assessed value of the property is \$501,800 (land only). The developer's estimate of completed project taxable value is \$40,000,000, and has estimated the value on which the LUIG is made at 80% of that (\$32,000,000). The current annual city tax, based on current assessed value, is \$2,308. The annual estimated city tax post completion, based on the developer's estimate of value is \$184,000. Thus, the estimated annual Land Use Incentive Grant would be \$144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be \$724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is \$81,806.40. The value of each 10% of the fee rebate would be \$8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be \$40,903.20.

As noted in the developer's cover letter, the project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately \$823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over an eight year period, as opposed to equal payments over the requested five-year period. This would result in a grant disbursement that would increase annually over the five year term, as the brownfield grant decreased, and then pay the remainder over three additional years; it would not change the amount of the grant.

Staff recommends that Council set a public hearing date of August 26, 2014, for the consideration of the Land Use Incentive Grant request, as detailed above.

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R. ORDINANCE NO. 4326 - BUDGET AMENDMENT FOR THE VELODRONE IMPROVEMENTS AND CARRIER PARK RESTROOM RENOVATIONS

Summary: The consideration of a technical budget amendment in the amount of \$17,500 to transfer funds from Parks and Recreation's deferred maintenance operating budget to two capital projects; the Velodrome Improvements in the amount of \$4,000, and Carrier Park Restroom Renovations in the amount of \$13,500.

The Parks and Recreation Department deferred maintenance cost center in the General Fund is used for minor repairs and improvements for parks and recreation facilities. There are items budgeted there in the current fiscal year that relate to large projects. These items include \$4,000 to complete the design services for future improvements to the Velodrome, and \$13,500 to complete the design services for future renovation of restrooms at Carrier Park.

Staff is requesting City Council to approve a technical budget amendment to increase \$17,500 to two individual capital projects in the General Capital Project Fund from the Parks and Recreation Department deferred maintenance budget.

Pro:

- This action will allow each capital project to reflect all the expenditures related to the construction and design related to it.

Con:

- None

The technical budget is to complete the design of the Velodrome improvements and Carrier Park Restroom renovations. The project budget will authorize expenditures up to \$17,500. These expenditures have been fully funded through the transfer of funds from the Parks and Recreation Department deferred maintenance operating budget.

City staff recommends City Council approve the technical budget amendment authorizing the City Manager to increase \$17,500 to the Velodrome Improvements and Carrier Park Restroom Renovations capital projects.

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S. ORDINANCE NO. 4327 - BUDGET AMENDMENT TO SUPPORT THE INITIATIVES OF THE WNC DIVERSITY ENGAGEMENT COALITION

Summary: The consideration of a budget amendment in the amount of \$10,000 from General Fund unassigned fund balance to support the initiatives of the WNC Diversity Engagement Coalition (WNC DEC) in Fiscal Year 2015.

The WNC DEC is a network of anchor institutions dedicated to engaging a diverse and inclusive workforce in Western North Carolina. With a combined workforce of more than 15,000 employees, WNC DEC combines resources, expertise, and social capital to recruit, retain, and advance individuals from under-represented communities within the coalition. In addition to the City of Asheville, partners include AB Tech, Buncombe County, the Chamber of Commerce, MAHEC, Mission Health, and UNC Asheville. Over the next year the coalition will be opened up to additional partners.

WNC DEC works to create intentional networks of support, development, and practices that increase the diversity of professional and executive talent in the region and fosters work environments that realize the benefit of a fully engaged workforce. Currently WNC DEC is focusing on three main initiatives:

- Offering a series of professional development workshops for employees and community members;
- Implementing best practices of coaching, mentoring and sponsoring for identified employees; and
- Developing nationally-accredited accountability standards for the WNC DEC partner institutions.

The requested commitment of \$10,000 from each of the anchor institutions will allow for the continuation of the WNC DEC's programs in the coming fiscal year to include:

- Professional development classes: ongoing development classes for anchor institution members and members of the community. This will include related costs such as printing, snacks, etc;
- Coaching: one-on-one coaching hours for anchor institution employees with a personal development coach;
- Social Networking and Social media: establishing and continuing a social media presence for the coalition;
- Social events: programming and costs associated with local networking events; and
- Development of accountability standards for member institutions.

Pro:

- The City of Asheville will remain a key player in implementing a critical diversity initiative in our community

Con:

- Requires an appropriation from unassigned fund balance

Based on current unassigned fund balance estimates, the City has sufficient resources to appropriate the \$10,000 associated with this budget amendment and still maintain an unassigned fund balance that exceeds the City's 15% policy target.

City staff recommends City Council approve a budget amendment to fund the WNC DEC FY15 projects with a contribution of \$10,000 from General Fund unassigned fund balance.

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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.

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

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE POLICE DEPARTMENT STRATEGIC PLAN 2014 - 2017

At the direction of City Council, the Asheville Police Department has been working with Dolan Consulting Group to develop a three year Strategic Plan. This process began in August 2013 with meetings involving all APD personnel, City of Asheville department directors and other staff, local law enforcement and public safety agency partners, community groups, and the Citizens Police Advisory Committee. These meetings were facilitated by the consultants, and were held to gather input on potential areas for departmental growth. The focus was on departmental strengths and areas for development. Planning areas consisted of (1) Operations (a) recruitment and retention - Goal is to enhance recruitment and retention); (b) leadership - Goals are to create an environment that promotes fairness, consistency, and accountability; and provide employees with current and high quality training, and provide equity in career development opportunities; (c) organizational structure - Goals are to allocate staff to ensure the goals of the APD are met in an efficient manner; and improve APD's reaction to crime; and (c) equipment and technology - Goals are to ensure the ability to upgrade and/or replace equipment and technology as needed in the future; and maintain a professional, safe and operable fleet of department vehicles); and (2) Community (a) community quality of life - Goal is a committed partnership with the community to reduce crime and improve the quality of life; and (b) agency outreach and communication - Goal is to ensure that the community is informed in a timely manner about current events, programs and news.

Time markers and performance measures (1) three-year Strategic Operations Plan; (2) each goal, objective and action item has specific time markers and performance measures to evaluate outcomes; (3) team leaders are responsible for their Planning Areas; and (4) the Strategic Operations Plan is a living document that will be evaluated and revised as needed over the next three years.

When Councilwoman Wisler suggested the Chief to be creative in using volunteers, Chief Anderson said that it is in their action plan to expand their volunteer opportunities. In addition, they will be working closely with the City's Communication and Public Engagement Division.

In response to Councilman Smith, Chief Anderson explained how they are committed to crisis intervention training for their officers.

Councilman Davis said that the Public Safety Committee received an update to the APD Downtown Enhancement Plan, noting that they have heard positive comments, including, but not limited to how the Downtown Unit is very responsive to calls and there is a good APD presence on the streets.

B. LEGISLATIVE UPDATE

Assistant City Manager Paul Fetherston highlighted the following bills: H1224 - Local Sales Tax for Education; H625 - Temporary Health Structures; H189 - Challenges to State Laws; H1145 - Registration Required for Mopeds; S594 - Omnibus Justice Amendments; S38/H15 - Amend Environmental Laws 2014; S729 - Governor's Coal Ash Action Plan; H150/S139 and S734 - Zoning Design and Aesthetic Controls; S734 - Regulatory Reform Act of 2014; H531 - ETJ/Zoning - Weaverville and Buncombe/Correction; H1113 - Bent Creek Property Sullivan Act

Exemptions; H1247 - Asheville Regional Airport; H1050 - Omnibus Tax Law Changes; includes Privilege License Tax reform; and S786 - Energy Modernization Act.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS

Councilman Bothwell moved to continue this public hearing until October 14, 2014. This motion was seconded by Councilwoman Wisler and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 1 SUNSET PARKWAY FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT TO OFFICE II DISTRICT/ CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF A RESIDENCE AND A CANINE REHABILITATION CENTER, WITH REQUESTED LANDSCAPE AND PARKING MODIFICATIONS

On June 10, 2014, this public hearing was continued to this date, at the applicant's request. On July 17, 2014, Mr. Derek J. Allen, attorney for the applicant Mark Ledyard, wrote a letter to Mr. Alan Glines stating "I am writing to inform you that Mark Ledyard hereby withdraws his application for approval by the City of Asheville for a request to rezone property located on 1 Sunset Parkway, Asheville, NC. We appreciate your efforts and the time and consideration of the members of the City Council.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND THE DEFINITION OF "GATED COMMUNITIES"

ORDINANCE NO. 4328 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND THE DEFINITION OF "GATED COMMUNITIES"

Director of Development Services Shannon Tuch said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinances to amend the definition of "Gated Communities." This public hearing was advertised on July 11 and 18, 2014.

Ms. Tuch said that in 2007 the Asheville City Council adopted a prohibition on gated communities throughout the city's jurisdiction. In conjunction with the prohibition, a definition of gated community was also adopted.

The prohibition was enumerated in each and every zoning district that allowed residential development. The only exception to this was for those existing gated communities that had phased expansion plans previously documented in an approved Master Plan prior to the adoption of the prohibition. This potentially applied to only two existing communities that have since been removed from the city's jurisdiction.

Since the adoption of the prohibition, there have been several inquiries for existing developments to gate residential communities. In some cases, it was a desire to gate an entire community, in other cases it was to gate only a portion of, or one entrance to a community. The ordinance language and meeting minutes from the hearing establishing the prohibition clearly communicates that restricting access to an entire neighborhood or a large subdivision would not be allowed, however, these same documents were less clear when it came to these other requests that would not have the same effect. The intent of this amendment is to clarify and

redefine **Gated community** so that gates may be used in certain situations, providing property owners the ability to secure individual properties but, not restrict access between properties.

This proposed UDO text amendment amends the existing definition found in Section 7-2-5 of the City of Asheville's Code of Ordinances. The current definition reads:

Gated community means a subdivision, neighborhood or residential community to which entry is restricted to residents and their guests. Often includes barriers such as gates, security personnel, fences and/or walls.

There have been several instances where multi-family developments have sought to gate access to their parking areas either for security or traffic control purposes. Strictly interpreting the definition would not allow the installation of a gate at the parking entrance so these requests have been denied. Staff is proposing to amend the current definition to allow gates in a limited capacity when located exclusively on an individual property and when it does not restrict access between properties. The proposed definition is as follows.

Gated community means a subdivision, neighborhood or residential community where any vehicular or defined pedestrian access to more than one parcel is unavailable to the general public as the result of a barrier that may include, but would not be limited to, gates, security personnel, fences or walls. This definition would not include gates or other barriers limiting access to an individual parcel.

This simple amendment would allow a property owner to secure their property through easy to maintain and low cost means, but does not restrict the movement between properties.

This wording amendment is primarily designed to address security concerns related to unrestricted access to private properties. Controlling access and empowering property owners is supported by Police Goals I & III of the **Asheville City Development Plan 2025**.

Goal I. Partner with the community to enhance the quality of life and resolve neighborhood concerns.

Goal III. Utilize resources efficiently in preventing and suppressing criminal activity.

Additionally, this amendment preserves the goal of connectivity and community described in the Land Use & Transportation section of the City Development Plan, which reads:

Goal X. The City should assure that as land is developed or redeveloped, provision is made for access by various means of transportation.

Strategy #1. The City should revise its subdivision regulations to require pedestrian and, where feasible, vehicular connections within the subdivision and between the subdivision and adjacent property.

The Planning & Zoning Commission reviewed this item at their regular June 4, 2014, meeting. Three members of the public spoke regarding the proposed amendment, two were strongly in favor, one individual was neutral but expressed concern regarding the need to maintain connectivity. The Commission had several questions exploring when gates may be permitted and when they would not. After some deliberation, the Commission voted 4:2 supporting the amendment (one Commissioner was absent).

Considerations:

- Provides opportunities for controlling access to private homes, parking or amenity areas when located on a single parcel.

- Preserves access and movement between properties, whether on public or private roads.

City staff recommends approval of this wording amendment.

Mayor Manheimer opened the public hearing at 5:51 p.m., and when no one spoke, she closed the public hearing at 5:51 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 moved for the adoption of Ordinance No. 4328, to approve the proposed wording amendment to Section 7-2-5 of the Code of Ordinances of the City of Asheville and finds this request is reasonable and is consistent with the Comprehensive Plan and other adopted plans for the following reasons: (1) Controlling access and empowering property owners supports the Police Goals of the Asheville City Development Plan; (2) The amendment preserves the goal of connectivity and community in the Land Use & Transportation section of the Asheville City Development Plan; and (3) The amendment protects personal security and promotes effective traffic control. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-168 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE COLBURN EARTH SCIENCE MUSEUM

RESOLUTION NO. 14-169 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE ASHEVILLE ART MUSEUM

RESOLUTION NO. 14-170 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE DIANA WORTHAM THEATRE

Vice-Mayor Hunt, member of the Pack Place Board, said that the proposed three tenant leases is a significant change in the property management structure at Pack Place. For many months there has been a lot of work and effort which has culminated to these leases. The City is now prepared to move forward with three direct leases. Since the City is the ultimate steward of Pack Place, they want to make sure that its occupants are successful. The City takes that duty very seriously. These direct leases are brokered outcomes but the staff of the City and the many stakeholders have worked very hard to make sure that the balanced interest of all parties are knitted together the best ways possible. He thanked the founders and early supporters of Pack Place, which opened 22 years ago. Because of the state of downtown Asheville there was real vision and real risk-taking by those supporters. He also thanked the staff and board members of Pack Place Board Inc. who have worked hard in the the property management role. There were a number of funding partners who worked together 22 years ago and he thanked the Buncombe County Commissioners for their role. At this time, the City is eager to support and work along side the Asheville Art Museum, the Diana Wortham Theatre and the Colburn Earth Science Museum. Even though the Colburn Earth Science Museum will occupy the space for one more year under this lease arrangement, he hoped they will find a new home and acknowledged to the community that Colburn is a vital important asset to our area. He felt that moving forward with these three direct leases is a reasonable and balanced way to move forward.

City Manager Gary Jackson said that this is the consideration of (1) a resolution authorizing the Mayor to execute a lease agreement with the Colburn Earth Science Museum; (2)

a resolution proposing approval of a lease with the Asheville Art Museum, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period; and (3) a resolution proposing approval of a lease with the Diana Wortham Theatre, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period.

The City owns the real estate which has been under lease to Pack Place Education, Arts, & Science Center, Inc. ("PPEASC) since 1988. The current lease term ends July 31, 2014. The City has given notice to PPEASC that it is in breach of the current lease. City Council has directed staff to notify PPEASC that it will not renew the existing lease. City Council has directed staff to negotiate direct leases with the tenants of Pack Place Center. Proposed leases have been negotiated with three tenants—Asheville Art Museum, Colburn Earth Science Museum and the Diana Wortham Theatre. The action before Council is to act on the proposed leases with the Asheville Art Museum, the Colburn Earth Science Museum, and the Diana Wortham Theatre

Asheville Art Museum

Premises leased: Space currently occupied by AAM.

Term: 30 years, with two renewal options of ten years each.

Rental Rate: Nominal fee and additional consideration in the form of major renovations to be undertaken by AAM and capital maintenance contributions. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas. Tenant to contribute a pro-rata amount for maintenance and utilities of Pack Place Center shared areas.

Capital Maintenance: Beginning in the fiscal year starting July 1, 2015, AAM to make payments into City fund for capital maintenance of Pack Place Center. Annual amounts are \$21,000, \$25,200, \$29,400, \$33,600, and \$37,800. Payments will be re-evaluated every five years, or at the conclusion of proposed AAM renovations, based on conditions existing at the time. Payments will be suspended for three years during construction of proposed AAM renovations.

Commencement of Construction: Before beginning construction, AAM must obtain all permits, prepare an ingress/egress plan that complies with State Building and Fire Safety Codes, and provide evidence satisfactory to the City Manager that financing has been obtained to carry out AAM renovations, such conditions to be met on or before December 31, 2018.

Separation changes: AAM must pay the cost of all capital repair and maintenance of Pack Place Center necessary to ensure compliance with fire and safety codes, and ADA, up to a cap of \$250,000. This compliance provision includes fire code compliance sprinkler installation in the Arcade Breezeway to Biltmore Avenue, and installation of an elevator from the DWT lower lobby level to the Pack Square level DWT lobby. The cap is indexed from 2014 to the PPI set by the Associated General Contractors of America, and does not apply to repair and maintenance caused by any change in the North Carolina Building Code, or any federal law or regulation, not in effect at the time the parties enter into the lease.

AAM must fund and perform relocation of the Pack Place Historic Interpretive Exhibit, at a cost sufficient to create a newly designed, interactive display that meets the approval of the State Historic Preservation Office ("SHPO"), not to exceed \$25,000.

AAM must pay DWT the sum of \$47,000 for office relocation and upfit expenses for space currently occupied by Colburn Earth Science Museum. In the event DWT is required to relocate its offices before August 1, 2015, due to construction, the City agrees to provide comparable office space to DWT from the 121st day after AAM makes payment of \$47,000 to DWT up to August 1, 2015.

Colburn Earth Science Museum

Premises leased: Space currently occupied by Colburn.

Term: August 1, 2014 to June 7, 2015.

Rental Rate: \$1450 per month beginning January 1, 2015. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas.

Diana Wortham Theatre

Premises leased: Space currently occupied by Diana Wortham Theatre and primary exhibit space currently occupied by Colburn.

Term: 30 years, with two renewal options of ten years each. Colburn space may be occupied after June 7, 2015.

Rental Rate: Nominal fee and additional consideration in the form of capital maintenance contributions. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas. Tenant to contribute a pro-rata amount for maintenance and utilities of Pack Place Center shared areas.

Capital Maintenance: Beginning in the fiscal year starting July 1, 2015, Diana Wortham Theatre to make annual payments to the City of \$15,000, \$18,000, \$21,000, \$24,000 and \$27,000. The annual payments are calculated based on the square footage leased and will be adjusted upward based on additional space made available upon termination of Colburn lease.

Office Relocation: Permanent Diana Wortham Theatre offices will be relocated into the space vacated by Colburn. Diana Wortham Theatre will receive a sum of \$47,000 for office relocation and upfit expenses from AAM. In the event Diana Wortham Theatre is required to relocate its offices prior to August 1, 2015, due to construction, the City agrees to provide comparable office space to Diana Wortham Theatre during the interim period.

Pros:

- The proposed lease with the Asheville Art Museum ("AAM") provides a framework for long-term funding of capital maintenance needs of Pack Place Center. The proposed lease favorably resolves the capital maintenance funding issue which has been problematic under the existing Pack Place lease.
- The proposed AAM lease will allow AAM to move forward with a planned \$17 million renovation project.
- The proposed lease provides reasonable protection to the City and other tenants of Pack Place Center against construction related issues related to the proposed AAM renovation.
- The proposed Diana Wortham Lease lease provides for satisfactory relocation of their offices with construction of the AAM renovation, and offers additional space for Diana Wortham Theatre programming.
- The proposed Colburn lease provides operational certainty to Colburn certainty over the next 11 months, as it charts its new course, including a planned move from Pack Place Center.

Con:

- The proposed leases do not resolve all issues between AAM and Diana Wortham Theatre.

City Council adopt (1) a resolution authorizing the Mayor to execute a lease agreement with the Colburn Earth Science Museum; (2) a resolution proposing approval of a lease with the Asheville Art Museum, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period; and (3) a resolution proposing approval of a lease with the Diana Wortham Theatre, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period.

The following individuals spoke in opposition of the direct leases:

Mr. Jerry Rice, County resident
Mr. Ken Michalove
Ms. Judy Strong
Rev. Lisa Landis

The following individuals spoke in support of the direct leases:

Mr. W. Louis Bissette, attorney representing the Asheville Art Museum
Mr. Marc Rudow, attorney representing the Diana Wortham Theatre
Ms. Vicky Ballard, Executive Director of the Colburn Earth Science Museum

In response to Councilman Pelly, Assistant City Attorney Jannice Ashley said that the City has authority to enter into leases longer than 10 years.

Councilman Davis thanked everyone involved in these negotiations and gave a brief background of Pack Place noting that Pack Place has been a big draw to downtown Asheville over the years. This has been a complex and difficult issue, but in reality, the City wanted to get to a better place and the direct leases will achieve that goal.

Councilman Bothwell noted that the government has been involved in Pack Place for a long time felt this is a good move forward for the City and the tenants.

Mayor Manheimer also thanked everyone for their hard work, time and effort on this great achievement.

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

Councilman Davis moved for the adoption of Resolution No. 14-168. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 288

Councilman Bothwell moved for the adoption of Resolution No. 14-169. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 289

Councilman Pelly moved for the adoption of Resolution No. 14-170. This motion was seconded by Councilman Smith and carried unanimously.

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Civic Center Commission, the following individuals applied for the vacancy: Gary Herndon, Geoff Mohney, Yvonne Cook-Riley, Greg Duff, Anthony Mitchell, Bill Russell, Brian Rowland and Harris Livingstain. It was the consensus of the Boards & Commissions Committee and City Council to (1) reappoint Carol Ann Lydon; (2) arrange interviews for Greg Duff and Yvonne Cook-Riley; and (3) acknowledge that Bill Russell is a candidate; however, it is not necessary to bring him in for an interview.

Regarding the Community Relations Council (CRC), the following individuals applied for a vacancy: Fyffe Aschenbrenner and Kate Sampson. It was the consensus of City Council to continue the vacancy for an additional month (pursuant to the request of the CRC).

Regarding the Multimodal Transportation Commission, the following individuals applied for the vacancy: David Allen Wilson, Meredith Gregory, Lothar Dohse, Steven Obremski, John Stuart Ridout and Michael Sule. It was the consensus of the Boards & Commissions Committee and City Council to continue consideration until August 26, 2014, until the Multimodal Transportation Commission has an opportunity to give recommendations.

CONFIRMATION OF THE PLANNING & ZONING COMMISSION CANDIDATES AND QUESTIONS

The following individuals applied for vacancies on the Planning & Zoning Commission: Geoff Mohney, Mark DeVerges, Pratik Bhakta and David Brown. In addition to these individuals, the current incumbents (Jeremy Goldstein, Jane Mathews and Kristy Carter) are interested in reappointment.

It was the consensus of City Council that all applicants, including the incumbents, respond in writing to the following five questions: (1) Please take time to review the City's 2025 Plan land use plan. How strongly does your own vision align with that plan, and in what ways might it differ?; (2) Name one Planning & Zoning Commission decision in the last 18 months you've agreed with and one you've disagreed with or would have struggled with. Please explain your rationale for each.; (3) What are some of the positive or negative effects of Asheville's zoning regulations?; (4) How has existing zoning promoted/inhibited the construction of affordable housing in Asheville? What changes could be made to further the creation of affordable housing?; and (5) Are there any changes to the City's processes, including but not limited to public input, for addressing zoning changes that you would like to see made?

After all written responses have been received, the City Clerk will send all seven documents to City Council to narrow the field to six (including three incumbents) interviews. Those interviews will take place in the afternoon of August 26, 2014, with appointments to be effective immediately.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jerry Rice urged City Council to have their police officers trained in the area of mental illness and crisis intervention sooner rather than later.

Rev. Lisa Landis made several comments regarding a civil rights lawsuit she filed, a video about injustice by the Asheville police, the Police Department audit room investigation, and hearing impaired equipment.

Mr. Bob Spitzen spoke about his civil and property rights.

Ms. Jeanie Rosenthal updated City Council on electronic cigarettes.

Closed Session

At 7:07 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 a lawsuit involving the following parties: Roger S. Aly; City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:07 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 8:07 p.m.

CITY CLERK

MAYOR