

Tuesday – February 24, 2015 - 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.

**MOMENT OF SILENCE**

Mayor Manheimer asked for a moment of silence on the passing of Mr. J.W. "Red" Hoyle on December 20, 2015, who was Vice-Mayor from December, 1971 - December 1973 and a Councilmember from December 1973 - December 1977. On behalf of City Council, she expressed Council's condolences to Mr. Hoyle's family.

**I. PROCLAMATIONS:**

**II. CONSENT AGENDA:**

At the request of City staff, it was the consensus of Council to add a the following resolution to the Consent Agenda "Resolution approving the submission for a re-accreditation application, on behalf of the WNC Nature Center, to the Association of Zoo and Aquariums."

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 10, 2015**
- B. RESOLUTION NO. 15-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK WATER TREATMENT PLANT DAM/SPILLWAY UPGRADE PHASE 1: DESIGN PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel Engineering South, PC, for the North Fork WTP Dam/Spillway Upgrade Phase I: Design project for the proposal in the amount of \$3,903,350.

On June 27, 2014, the Water Resources Department issued a Request for Qualifications (RFQ) for professional engineering services for the upgrade of the North Fork Dam/Spillway. As outlined in the RFQ, engineering services for the project will be conducted in two phases: Design and Construction Services. The selected engineering firm will be responsible for all of the design phase (Phase I) and construction phase (Phase II) aspects of the project. Phase I and II are the engineering phases of the \$30 million dam/spillway construction upgrade project to occur at the North Fork Water Treatment Plant in Black Mountain.

Phase I Design includes design services, geotechnical exploration, assessment of the existing gated spillway, environmental permitting, bid process support, and public outreach. Phase II Construction Services includes contract administration, observation of all construction-

related activities, field and laboratory quality control testing, full-time onsite representation, attendance at construction meetings, preparation of reports, and final record drawings. Engineering services will be divided into two phases because the cost of Phase II Construction Services will not be known until Phase I Design is complete. Since the RFQ included that the selected firm would provide services for both phases, the department will not have to issue another RFQ for Phase II. The department will seek Council approval for the Phase II contract with the selected firm once the amount of that contract is known.

In response to the RFQ, the department received three Statements of Qualifications from the following firms responding:

1. Gannett Fleming / Hazen and Sawyer (a joint effort) – Raleigh, NC
2. Rizzo Associates – Columbia, SC
3. Schnabel Engineering South, PC – Greensboro, NC

Schnabel has presented a scope of work and cost proposal in the amount of \$3,903,350.00 for Phase I Design engineering services associated with this project. Due to the firm's intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete Phase I and subsequent Phase II once that contract amount is known.

Pros:

- Schnabel Engineering has provided engineering services on various dam and spillway projects for the City of Asheville. The firm's experience and extensive knowledge of the dam and spillway at North Fork make them the most qualified firm.
- This project will allow the Water Resources Department to upgrade the North Fork dam and spillway to comply with State regulations.

Cons:

- The cost for the engineering services agreement while substantial, is typical for a construction project of this size. The overall construction project is estimated at \$30 million.
- Failure to award an engineering services agreement would prevent Water Resources from making the necessary upgrades to the North Fork dam and spillway.

The funding needed for the professional engineering services contract is currently allocated within the North Fork WTP Dam/Tunnel Repairs project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel Engineering South, PC, for the North Fork WTP Dam/Spillway Upgrade Phase I Design project for the proposal amount of \$3,903,350.

Director of Water Resources Steve Shoaf responded to Councilwoman Wisler regarding the agreement.

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- C. RESOLUTION NO. 15-40 - RESOLUTION CHANGING THE NAME OF "SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT" TO "SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT"**

**RESOLUTION BOOK NO. 37 - PAGE 43**

**D. RESOLUTION NO. 15-41 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE HIGH INTENSITY DRUG TRAFFIC AREA GRANT**

**ORDINANCE NO. 4383 - BUDGET AMENDMENT TO ACCEPT THE 2015 HIGH INTENSITY DRUG TRAFFIC AREA GRANT**

Summary: The consideration of (1) a resolution authorizing the City Manager to accept the 2015 High Intensity Drug Traffic Area (HIDTA) grant in the amount of \$30,980 as a fiduciary for the Asheville Area HIDTA Task Force; and (2) a budget amendment, in the amount of \$30,980, to establish the budget.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. Asheville HIDTA, which has been in place for many years, serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA, a component of the Asheville United States Drug Enforcement Administration (DEA) Task Force, is comprised of members of the DEA, Asheville Police Department, the Buncombe County Sheriff's Office, Henderson County Sheriff's Office and McDowell County Sheriff's Office. The HIDTA task force primarily concentrates on high volume, high value drug trafficking. As an example the task force was recently involved in the seizure of several hundred grams of crack cocaine tied to local and national gangs, a seizure of 30 pounds of marijuana and \$65,000 cash; multi pounds of methamphetamine and the seizure of 335.3 grams of heroin. All of the cases mentioned involved people trafficking narcotics in the regional area and beyond. In several of the cases it involved organized gang activity and weapons.

The City of Asheville serves as the fiduciary for the Asheville HIDTA. The allotted funds from the federal government will go for investigative purposes. The expenditure of all funds are tracked and audited by both local and federal authorities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City Staff recommends City Council (1) adopt the resolution to accept the HIDTA 2015 grant funds; and (2) adopt the budget amendment in the amount of \$30,980.

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ORDINANCE BOOK NO. 29 - PAGE 368**

**E. ORDINANCE NO. 4384 - ORDINANCE AMENDING SECTIONS 19-144 AND 19-164 OF THE CODE OF ORDINANCES TO ALLOW REVERSE ANGLE PARKING**

Summary: The consideration of an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

City Council approved a complete streets policy on June 26, 2012, via Resolution No. 12-154. A major purpose of a complete streets policy is to enable staff to consider all modes of transportation when designing and/or reviewing transportation-related projects. Staff would like to

revise certain existing city ordinances to allow reverse angle parking (a change to prohibit parking in designated bicycle lanes will be coming forward at a later date combined with some changes that the Legal Department is working on).

Reverse angle parking (or back-in parking) is a new parking style that enables drivers to back into a parking space so that the front of the vehicle is facing the street. Benefits of reverse angle parking include improved driver visibility, easier loading and unloading, improved accessibility, and traffic calming. Assuming the amendments are made, staff would review future requests on a case-by-case basis to be sure that the most effective treatment is used.

This item was reviewed by the Council's Public Safety Committee on January 26, 2015, and has received their endorsement. This item was reviewed by the Multimodal Transportation Commission on January 28, 2015, and has received their endorsement.

Pros:

- Enhances the pedestrian and bicycle experience.
- Promotes complete streets principles and guidelines.
- Improves driver visibility.
- Provides easier loading and unloading.

Cons:

- "Learning curve" for drivers.
- Strict enforcement might be needed during the early stages of implementation.

City staff recommends that City Council approve an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

#### **ORDINANCE BOOK NO. 29 - PAGE 370**

#### **F. RESOLUTION NO. 15-42 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED SUB-RECIPIENT AGREEMENT WITH THE CITY OF HENDERSONVILLE FOR 2012 NEW FREEDOM FUNDS**

Summary: The consideration of a resolution authorizing the City Manager to amend the sub-recipient agreement with the City of Hendersonville to: (1) provide increased New Freedom grant funding-\$21,498; (2) expand the scope of services; and (3) extend the period of performance.

The City of Asheville (City) is the Designated Recipient of grant funding by the Federal Transit Administration (FTA) entitled, "New Freedom Grant Funds (NF)."

The provision of adequate transportation is deemed a primary barrier to integrating those with disabilities into the workforce. The New Freedom Grant Program administered by the FTA, is intended to provide new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990.

As a Designated Recipient of New Freedom Grant Funds, the City was required to undergo an intensive planning process to develop a Coordinated Public Transportation and Human Services Transportation Plan (CTP-HSTP) based on community participation. Since inception of the program and to ensure neutrality, this plan has been developed by the French Broad Metropolitan Planning Organization, with participation of the City, Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. Consistent with the City's preference as approved by FTA, the CTP-HSTP was approved on March 29, 2012 by the French Broad River

MPO's governing body (the Board). The MPO Board consist of elected representatives from the eighteen local governments which make up the MPO The CTP-HSTP set the rules to apply for projects and the projects were selected in a competitive process that was approved by the Board.

In September 2012, MPO recommended and the City approved NF funding for the City of Hendersonville and Customer Inspired Services. The 2012 Program of Projects for NF funding was approved by FTA. The City entered into a sub-recipient agreement with the City of Hendersonville but, Customer Inspired Services (CIS) closed its doors and no sub-recipient agreement was executed. While the CIS project, which provided for operating funds to hire an additional dispatcher, and capital funds for the rehabilitation of a van, is different in scope and services, the MPO on June 26, 2014, approved a transfer of the CIS funds to the City of Hendersonville Project, in that both the CIS and Hendersonville projects were chosen at the same time, in the same call for projects, and the construction by the City of Hendersonville of sidewalks would allow for the construction of a longer sidewalk, and is the only feasible project at this time for additional NF funds. FTA has approved the transfer of funding.

The project funding changes are listed as follows:

Sub-Recipient	Project	Program	Previous federal amount	New federal amount	Sub-Recipient's match
City of Hendersonville	Pedestrian improvements along US 64	NF	\$239,918	\$257,116	\$64,279

Both projects are under the same MUNIS project code and do not require a budget ordinance amendment. Since the transfer of additional funds constitutes a change to the 2012 Program of Projects, the sub-recipient agreement must be amended to comply with FTA requirement.

The City as the Designated Recipient is responsible for program management and the proper administration of funding. The program management requires the use of City resources, mainly staff. As a Designated Recipient the City is using \$28,567 of NF funds for program administration for a period of four years. These funds are already budgeted in the operating budget.

Pro:

- Project funding is provided by the FTA, 80% of capital projects. The sub-recipients are responsible for the local match.

Con:

- None.

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

Staff recommends that City Council adopt the resolution authorizing the City Manager to execute an amended sub-recipient agreement with the City of Hendersonville for 2012 New Freedom Funds.

**RESOLUTION BOOK NO. 37 - PAGE 45**

**G. ORDINANCE NO. 4385 - BUDGET AMENDMENT TO ADD ADDITIONAL COMPONENTS TO A REPLACEMENT COMPRESSED NATURAL GAS BUS FOR HENDERSON COUNTY'S TRANSIT SYSTEM**

Summary: The consideration of a budget amendment in the amount of \$5,000 to increase the budget project to add additional components to a replacement Compressed Natural Gas (CNG) bus for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is \$148,600.4. Federal funds will provide \$115,976 covered with grant NC-90-X439; this grant requires a match of \$28,994.4 provided by Henderson County, plus \$3,630 for the title, tag and graphics. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. The bus has been ordered and these components will be added to the order.

Pros:

- The bus will produce savings in maintenance and fuel costs for Henderson County.
- The Federal Transit Administration (FTA) provides 80% of the cost of the bus.
- Henderson County provides 20% of the total estimated project cost plus tag, title's costs and graphics.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is \$148,600.4, \$115,976 or 80% of the cost of the bus are coming from Federal funds, 20% or \$28,994.4 and tag and title in the amount of \$3,630 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council adopt the budget amendment in the amount of \$5,000 to increase the budget project to add additional components to a replacement Compressed Natural Gas (CNG) bus for Henderson County's transit system.

#### **ORDINANCE BOOK NO. 29 - PAGE 371**

#### **H. ORDINANCE NO. 4386 - BUDGET AMENDMENT FOR LED EXTERIOR LIGHTING UPGRADES AT TWO TRANSIT FACILITIES**

Summary: The consideration of a budget amendment from General Fund and Federal Transportation Administration grant money to establish a Fiscal Year 2015 budget in the City's Special Revenue Fund the amount of \$10,000 for procurement and installation of LED exterior lighting at two transit facilities.

The City of Asheville has access to Federal Transportation Administration (FTA) grant monies to fund energy efficiency projects at transit facilities. Staff has identified exterior lighting upgrade opportunities at both the Asheville Redefines Transit station on Coxe Avenue as well as the Transit Maintenance Facility on West Haywood Street. The total cost for the project is

estimated at \$10,000. The FTA grant can cover up to 80% of this cost, while the City's match of \$2,000 will come from the Green Sustainability budget.

Pros:

- Energy saving opportunity will cut energy consumption of exterior lighting in half
- Better, brighter light will create a safer environment for both ART riders and ART staff

Con:

- None foreseen

The lighting project will be paid with a combination of \$8,000 FTA grant money and \$2,000 of the City's Green Sustainability money, which is from streetlight avoided costs.

City staff recommends City Council adopt a budget amendment to perform exterior LED lighting upgrades at ART Station downtown and ART Maintenance Facility.

### **ORDINANCE BOOK NO. 29 - PAGE 373**

#### **I. ORDINANCE NO. 4387 - BUDGET AMENDMENT FOR THE BINGHAM ROAD WATER MAINTENANCE FACILITY**

Summary: The consideration of a budget amendment in the amount of \$3,525,000 to move funds from Water Resources Fund Balance to the Bingham Road Water Maintenance Facility capital project in order to fund the purchase and renovation of 200 Bingham Road.

In recognition of the deteriorating condition of the Water Maintenance/Meter Services facility at 174 S. Charlotte Street, the Water Resources Department (Department) started setting aside capital project funds for a new facility in Fiscal Year 2008-09. For the next several years, additional funds were added to the project. As an economic development proposal, White Labs recently expressed an interest in purchasing part of the Water Maintenance property at 172/174 South Charlotte Street. The transformation of South Charlotte Street to a higher use has been an economic development goal, and the White Labs project is a major step towards realizing that goal. The Department, with assistance from the Community & Economic Development Department expedited the search for a new facility.

Utilizing a consultant engaged in commercial real estate, several properties were investigated. There were very limited choices for buildings and property sized to house the two divisions being relocated. The building needed to accommodate two operating divisions and the surrounding property needed space for heavy equipment and service vehicles. The search led to 200 Bingham Road in northwest Asheville. This site has the necessary space both inside and outside. The location re-purposes a property that is outside the central business district.

The building at 200 Bingham Road is larger than what is needed by the Water Maintenance /Meter Services divisions. The Department is in discussion with the Finance Department about relocating the Central Stores portion of Purchasing to this location. That would free up another City-owned parcel along the South Charlotte Street corridor. Additionally, there should be space to accommodate needs from another City department.

In a September 23, 2014, closed session, Council authorized the acquisition of the property at 200 Bingham Road. Thereafter, the seller and City representatives engaged in negotiations and subsequent due diligence and executed a purchase and sale agreement. A February closing date has been set with a final purchase price of \$2,855,000. This price is discounted to less than the square foot fair market value in recognition of some necessary repairs. The Department will need to make renovations to the property (immediately and over the next five years) and with those costs factored in the final price will be just over the square foot fair

market value. By making the renovations, the value of the property will increase, protecting the investment.

In order to proceed to closing, a budget amendment is necessary to ensure the project budget is in place for financial reconciliation of the sale and associated expenses. As part of the budget amendment, funds are included to modify the facility's systems and retrofit it and the property to better serve the needs of Water Resources. The property will be purchased and renovated with Water Resources funds and will remain with the Department if there is a future disposition of the property, thus it is in compliance with the Sullivan Act(s) I, II, and III.

Pro:

- Approval of the budget amendment will ensure that the necessary funds are in place for the purchase and renovation of 200 Bingham Road.

Con:

- If the budget amendment is not approved, the Department will not be able to complete the transactions necessary to fund the purchase and renovation of 200 Bingham Road.

The Water Resources Department currently has \$764,264 budgeted for the Bingham Road Water Maintenance Facility project. The remaining funds of \$3,525,000 needed for the purchase and renovation of 200 Bingham Road will be transferred from the Water Resources Fund Balance. In order to transfer funds from fund balance, a budget amendment is necessary.

Amount Budgeted in Bingham Road Water Maintenance Facility project	\$ 764,264
<u>Additional Amount Needed for Purchase &amp; Renovation</u>	<u>\$3,525,000</u>
Total Amount Needed for Project	\$4,289,264

Water Resources began FY 2014-15 with more than \$17.7 million in fund balance. With an operating budget of \$34.6 million, this equated to a fifty-one percent fund balance. The drawdown of \$3,525,000 will leave Water Resources with a fund balance of \$14.2 million, or forty-one percent of their operating budget for the year. Finance staff believes that this fund balance is sufficient for any operating needs and demonstrates the continued fiscal health of the fund. Staff will seek Council approval of contracts associated with the renovation project for amounts required by the City of Asheville Procurement, Purchasing and Contracting Policy.

City staff recommends City Council approve a budget amendment in the amount of \$3,525,000 to move funds from Water Resources Fund Balance to the Bingham Road Water Maintenance Facility capital project in order to fund the purchase and renovation of 200 Bingham Road.

#### **ORDINANCE BOOK NO. 29 - PAGE 375**

#### **J. ORDINANCE NO. 4388 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF NORTH CAROLINA STATE DRUG SEIZURE FUNDS**

Summary: The consideration of a budget amendment in the amount of \$20,600 to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of covert surveillance equipment (\$14,000), and support of Changing Together (\$6,600).

The North Carolina State drug seizure program is an equitable sharing program between the North Carolina State government and local law enforcement agencies which divides the proceeds from illegal drug dealing. It is designed to allow local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The proceeds from illegal drug dealing are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.



This amendment will authorize the use of \$20,600 in North Carolina State drug seizure funding for: 1) The purchase of covert surveillance equipment to be utilized to secure evidence of criminal activities related primarily to drugs sales and prostitution; and 2) Funding the partnership with Changing Together for services related to Violent Criminal Offenders and the Domestic Violence Task Force.

Pros:

- North Carolina State drug seizure revenue used to fund covert surveillance equipment, and the Changing Together partnership.
- Reduction in cost to the City of Asheville for the purchase of this equipment by use of the forfeiture funds
- Increase officer and public safety by providing covert audio/video equipment
- Support of partnership with Changing Together

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the City allowing the Asheville Police Department to better equip employees and provide safety measures to protect the public. There is no impact to the General Fund budget.

City staff recommends City Council adopt a budget amendment in the amount of \$20,600 authorizing the use of North Carolina State Drug Seizure Funds to fund the purchase of covert surveillance equipment and support of Changing Together.

In response to Mayor Manheimer, Interim Police Chief Steve Belcher, provided the specifics on the use of the equipment, which 90% of its use will be for narcotics surveillance. This equipment is not used for demonstrations or freedom of speech issues - use is strictly for criminal issues. These actual criminal surveillance videos are commissioned and coordinated with the District Attorney's Office and closely managed by command staff at the Police Department.

Councilman Smith hoped that going forward there will be a public process about civil liberties and about what is going to be appropriate in the community so we can make sure that everyone is as safe as we can make them and make sure we are still protecting civil liberties.

#### **ORDINANCE BOOK NO. 29 - PAGE 377**

#### **K. ORDINANCE NO. 4389 - BUDGET AMENDMENT TO ALLOW THE PARKS & RECREATION DEPARTMENT TO USE FUNDS FROM THE SALE OF A DUMP TRUCK TO THE STREET CUT UTILITY FUND TO PURCHASE AN EXCAVATOR**

Summary: The consideration of a budget amendment increasing the budgeted expenditures of the Parks and Recreation Department in the General Fund in the amount of \$73,000 to be offset by a revenue in the same amount from the Street Cut Utility Fund.

The Street Cut Utility Fund has budgeted funds to purchase a dump truck in the 2014-2015 budget year. The Parks and Recreation Department has a dump truck available to sell to the Street Cut Utility Fund and would like to use the funds received to purchase an excavator which will serve their needs better. The Street Cut Utility Fund would pay the General Fund the book value of the dump truck and the Parks and Recreation Department would use those funds to purchase an excavator.

Pros:

- The Parks and Recreation Department of the General Fund and the Street Cut Utility Fund would each gain a piece of equipment that would better serve their needs.
- City resources will be put to their most effective use.

Cons:

- None

There is a net fiscal impact of \$0 on the General and Street Cut Utility Funds. The budget amendment will increase the City's General Fund revenue and expenditure budgets by \$73,000 and there will be no effect on the Street Cut Utility Fund's budget. The Street Cut Utility Fund already has sufficient funds budgeted to purchase a dump truck and the General Fund will use the payment from the Street Cut Utility Fund's purchase of the dump truck to purchase an excavator.

Staff recommends City Council approve the budget amendment authorizing the City Manager to increase the General Fund revenues and appropriations by \$73,000 to reflect the Street Cut Utility Fund's purchase of a dump truck from the General Fund and the appropriation of those funds in the General Fund to allow the Parks and Recreation Department to purchase an excavator.

**ORDINANCE BOOK NO. 29 - PAGE 379**

**L. RESOLUTION NO. 15-43 - RESOLUTION APPROVING THE SUBMISSION OF A RE-ACCREDITATION APPLICATION, ON BEHALF OF THE WNC NATURE CENTER, TO THE ASSOCIATION OF ZOO AND AQUARIUMS**

Summary: The consideration of a resolution authorizing the City Manager to approve the submission of the City of Asheville's (City) re-accreditation application on behalf of the WNC Nature Center (Nature Center) to Association of Zoos and Aquariums (AZA).

The Nature Center has been an accredited member of AZA since 1999. The accreditation process, which occurs every five years and is due again in 2015, requires the consideration and approval of the City's governing authority.

Pros:

- Maintains the Nature Center as an AZA accredited institution
- Demonstrates the high standards of the Nature Center operations and credibility

Con:

- None

The AZA application fee of \$3,250 is included in the Nature Center's FY 2014-2015 adopted budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to approve the submission of the City's re-accreditation application on behalf of the Nature Center to AZA.

**RESOLUTION BOOK NO. 37 - PAGE 46**

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 Davis and carried unanimously.

### **III. PRESENTATIONS & REPORTS:**

#### **A. FISCAL YEAR 2014 CARBON FOOTPRINT UPDATE**

Interim Sustainability Manager Kerby Smithson updated City Council on the Fiscal Year 2014 carbon report.

In 2008, City Council established a 2% annual carbon footprint reduction goal. That goal was increased in 2011 to 4%. In Fiscal Year 2014 the City of Asheville reduced our carbon footprint from municipal operations by 4.5%. For the 6<sup>th</sup> year in a row, the City has met the goal by reducing its greenhouse gas emissions by 1,328 metric tons of CO2 equivalent.

Last year's increase was due, in large, to conversion of the biodiesel the City uses from B-5 to B-20 for all fleet and transit operations. The lower carbon footprint of the B-20 fuel alone accounted for 40% of the year's improvement. In concert with the fuel change, the City's fleet overall managed a 2.1% reduction in fuel volume consumption of diesel, gasoline and CNG. More efficient vehicles purchased through the more robust Fleet CIP had a large part to do with this achievement.

Additional actions that resulted in the reduction included:

- 1,500 more streetlights were converted in the City's fourth phase of LED streetlight installations;
- Efficiency improvements in water production and distribution operations; and
- Efficiency improvements in City buildings.

City reduced its energy spending to \$5.6 Million, a reduction of \$164,000 from the previous year.

When Councilman Bothwell asked what areas we can next see progress in, Mr. Smithson said that there is still a lot of opportunity in downtown street lighting and electrification of our fleet.

#### **B. MID-YEAR FINANCIAL REPORT**

Budget Manager Tony McDowell provided the Council with a brief report which reflects the City's overall financial position for the fiscal year through December 2014.

**Amendments.** The General Fund budget presented in this second quarter report reflects the adopted budget of \$99,547,954 along with six budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	10,000
Traffic Signal Pole Replacement	16,590
City Workforce Investments	500,000
Thomas Wolfe Auditorium Roof Repairs*	60,000
Senior Center and Harvest House Grants	<u>7,786</u>
12/31/2014 Budget	<u>\$100,196,125</u>

\*Fund Balance Appropriation

**Revenues.** Through December 31, 2014, the City has collected \$23,759,568 in General Fund revenue, which represents approximately 24% of the total General Fund revenue budget. Staff received assessed valuation data from Buncombe County in early February that showed tax base growth was less than originally expected. Fiscal 2014-15 property tax revenue estimates have been adjusted downward to reflect this data. Sales tax revenue, which is up approximately 9% compared to the same period last fiscal year, is expected to exceed budget. Through two quarters, state utility tax revenue is up 6.6% compared to the prior year. Revenue from Development Service fees continues to trend higher than anticipated and is at 58% of budget at the end of December. Overall, staff is currently projecting that *FY 2014-15 General Fund revenue will exceed budget by \$450,000 or 0.46%.*

**Expenditures.** General Fund expenditures through December 31, 2014 total \$46,469,381 or 46% of the budget, which is slightly ahead of where expenditures were last fiscal year after two quarters. Personnel expenses, the largest component of the General Fund budget, are running right on budget through the first two quarters. With the drop in gas prices, expenditures for fuel and fleet maintenance are performing better than budget through December. *Based on current trends, staff is projecting that expenditures will finish the year under budget by approximately \$1.0 million (99% of budget).*

**Fund Balance.** The City began FY 2015 with unassigned fund balance of \$15.0 million. As noted above, an additional \$70,000 has been appropriated from unassigned fund balance during the first two quarters of FY 2015. *Based on current revenue and expenditure projections for FY 2015, staff estimates that unassigned fund balance at June 30, 2015 will be \$16.4 million or 16.6% of estimated expenditures.*

**IV. PUBLIC HEARINGS:**

- A. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING ON PROPERTY LOCATED AT 95 CRAGGY AVENUE, 180 LOUISIANA AVENUE AND 178 LOUISIANA AVENUE, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8/CZ RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING THAT WILL ALLOW FOR THE CREATION OF 45 LOTS IN TWO PHASES AND ASSOCIATED INFRASTRUCTURE, WITH A CHANGED CONDITION REQUEST FOR LOT SIZES, SETBACKS AND SIDEWALK STANDARDS**

**ORDINANCE NO. 4390 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 95 CRAGGY AVENUE, 180 LOUISIANA AVENUE AND 178 LOUISIANA AVENUE, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8/CZ RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING THAT WILL ALLOW FOR THE CREATION OF 45 LOTS IN TWO PHASES AND ASSOCIATED INFRASTRUCTURE**

Interim Planner Director Alan Glines said that this is the consideration of a conditional zoning on property located at 95 Craggy Avenue, 180 Louisiana Avenue and 178 Louisiana Avenue, from RS-8 Residential Single-Family High Density District to RS-8/CZ Residential Single-Family High Density District/Conditional Zoning that will allow for the creation of 45 lots in two phases and associated infrastructure, with a changed condition request for lot sizes, setbacks and sidewalk standards. This public hearing was advertised on February 14 and 21, 2015.

City Attorney Currin said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

Mr. Glines said that the applicant is requesting conditional zoning for four parcels located off of Louisiana Avenue and Craggy Avenue from RS-8 Residential Single Family High Density District to RS-8/CZ Residential Single Family High Density District/Conditional Zoning in accordance with Section 7-7-8 of the UDO with conditions for smaller lots and setbacks with larger areas of common open space, which will allow creation of a major subdivision with 45 lots conditionally approved by the Planning and Zoning Commission on January 7, 2015.

The applicant is proposing to create 45 residential lots including two new street sections. The project is proposing a space saving compact development proposal to protect some of the sensitive areas of the site as common space. The subdivision was approved by the Planning and Zoning Commission subject to approval of the conditional zoning request.

The project site consists of four parcels which join in the center but are accessed from two city streets: Louisiana Avenue on the east side and Craggy Avenue on the south side. The developer proposes a recombination and subsequent subdivision of an overall project area of 8.58 acres. The property has a stream through the center which currently acts as the property boundary. There is a significant grade change from the higher portions of the parcels and the lower area near the stream. To reduce the impact to the stream and other natural areas, and to provide a lower impact development, the development is proposing: smaller sized lots, narrower street pavement and right-of-way widths and reduced building setbacks. The lot dimension reductions require approval as specific conditions through the conditional zoning process. The narrower rights of way and pavement widths were approved through the Technical Review Committee process completed on December 1, 2014.

There are three existing dwellings and several associated structures on the parcels. One of the homes will be retained as a part of the site development. To the north of the project area are two parcels owned by the City of Asheville. One of the properties known as the Falconhurst Preserve, is a 7.9 acre parcel that has a conservation easement to protect it in its natural state. The proposed subdivision would provide a walking path near this property for future public access.

Adjacent to this area again on the north side is the second property that is currently leased to the Army Reserve. This 8.76 acre parcel has access from Louisiana Avenue and is zoned Institutional. There are no proposed connections to this parcel and the new development either.

Access to the site is proposed via two separate roadways: roadway A-B with access from Louisiana Avenue. Roadway C is accessed from Craggy Avenue. The project is proposing sidewalk sections along the two street connections but there is a request to reduce the length of the sidewalk to not include the entire roadway. There are also secondary walkway sections that connect through the common green space areas. It is the intent of the developer to allow the public to access the green space.

Landscaping is required but limited for this project and includes street trees meeting UDO standards and tree save areas. The landscaping plans meet the requirements of the ordinance. Tree save plantings are required to cover 30% of the lot area and provide for additional plantings if needed. Trees that are protected and saved can also be used as credits.

Open space is required for the development and is required to be a minimum of 15% of the lot area. Since the development is adjacent to City owned property known as the Falconhurst Preserve, this permits the development to qualify for a reduction of 25% of required open space reducing it from 20% to 15% as described in 7-11-4(e)(2). The subdivision is adjacent to the Falconhurst Preserve land but any future connections will need to be coordinated with the city Parks and Recreation Department after submitting a separate proposal for use. That process has not been initiated at this time.

The amount of open space required for the project is 1.29 acres but the development is providing **1.59** acres. The proposal exceeds this amount even considering the number of exclusions to open space described in the UDO (steep portions of the land, wetland areas, narrow portions, etc.) There will be additional 'community common area' of **.77** acre which will be provided in the development for reservation.

The Technical Review Committee (TRC) reviewed this application at their meeting on December 1, 2014, and approved it with conditions along with the narrower right of way and pavement widths. As with all conditional zoning applications, this development proposal was reviewed by the Planning and Zoning Commission who completed their review on January 7. City Council will have the final review of the conditional zoning. It will return to the Technical Review Committee for a final TRC review, if approved by Asheville City Council. The subdivision portion of the application was approved by the Planning and Zoning Commission subject to the approval of the CZ request by the City Council.

Although not required, the developer held several neighborhood meetings during the design stage before the project was officially submitted. Since those meetings staff had two meetings with neighborhood residents who wanted additional information regarding the proposal and shared some concerns about the lots sizes proposed, additional traffic using neighborhood streets, loss of tree cover and additional stormwater runoff.

Council conditions requested to modify development standards: City Council may consider conditions modifying dimensional requirements as a part of the conditional zoning approval process.

- Lot size- 35 of the lots are requesting the approval of area less than the district standard of 5,000 square feet. The lot sizes range in size from 2,691 to 4,972 square feet.
- Lot Setbacks- The development is seeking setback reductions from the district standards (Front/ rear 15' and 6' sides) to be a consistent 5 foot front and side setbacks and 10 foot rear setbacks. A single lot, Lot 11 is seeking a front setback of 2 feet.
- Lot Width- 23 lots are requesting the approval of lot width reduction less than the district standard of 50 feet. The proposed lot widths will range between 30 and 48 feet.
- Sidewalk sections- The developers are seeking to reduce the length of sidewalk provided for several portions of both street sections. There will be a sidewalk at the street intersections at existing roads which will continue into the development to a point. The development team is proposing several foot paths to link major sections of the development. The Technical Review Committee reviewed this request and asked that easements be provided for the street sections without sidewalks in case sidewalks are ever requested at a future date. The Planning and Zoning Commission conditioned their recommendation for approval subject to the developer studying options for increasing the length of pedestrian connectivity throughout the development.

The subject parcels and adjacent lots are zoned RS-8, with an Institutional parcel to the north of the site. The properties are immediately surrounded by single-family homes with the Army Reserve occupying the city parcel. The proposed development area taken with the additional open space area provides a density of about 5.25 units per acre and like the proposal, single-family homes are common in the surrounding area. The property is located along a bus line and is within walking distance of a number of services and retail businesses on Patton Avenue and Haywood Road.

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

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

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

Considerations:

- Infill development furthers the goals and objectives of the comprehensive plan.
- The proposed development provides residential lots in an area close to many services, transit and within walking distance to the pedestrian-oriented Haywood Road.
- Additional areas of open space and common space centered around riparian areas of the property are the basis of the development plan.
- The project requires a number of modifications to development standards under the current RS-8 zoning district prompting the need for the conditional zoning application.
- Concern has been voiced by surrounding neighbors regarding increased traffic, changes in community character and storm water runoff.

Staff recommends approval of the proposed conditional zoning along with the conditions requested, finding it consistent with City-adopted plans and strategic goals for development. The Planning and Zoning Commission recommended approval of the conditional zoning request at their meeting on January 7, 2015. They asked that the developer investigate additional pedestrian connections adjacent to the proposed street. The Commission also approved the subdivision subject to approval of the conditional zoning application.

Conditions agreed upon by the developer include:

1. The zoning designation will be RS 8 CZ
2. Site plans show 45 residential lots and open space based on the conditional zoning approval. The development will be in substantial compliance with the site plan which is incorporated herein.
3. Tree Save areas will be provided as required by the UDO.
4. Street trees will be provided along street frontages as illustrated in the plan.
5. Open space is designated as shown on plans and totals approximately 1.59 acres.
6. Additional community commons areas are also provided on the plans.
7. Walking paths will be provided in the areas of open space or community common areas as show on the plans.
8. Sections of street length without adjacent sidewalks will be provided for by easement 10 feet wide.
9. Of the 45 residential lots, 35 lots are approved on the site plan with sizes ranging from between 2,691 square feet to 4,972 square feet.
10. The development is approved for 5 foot front setbacks, 5 foot side setbacks and 10 foot rear setbacks. A single lot, Lot 11 is approved for a front setback of 2 feet.
11. Of the 45 lots, 23 lots are approved on the site plan with a lot width of between 30 and 48 feet.
12. Stormwater and grading will be approved by separate permits. A combination of curb and gutter and swales will be used to manage storm water runoff.
13. Retaining walls will meet retaining wall standards for design and plantings.
14. Along the road in Phase II and the 'Y', traffic control and crosswalks needed per engineering requirements.
15. Retaining walls will meet City and building code standards for landscaping and guardrail protection where required.
16. Pedestrian bridge will require a separate building permit.
17. The developer will need to obtain all right of way and utility cut permits.
18. All street lights to be LED lights.
19. The Property owner will work with the Asheville Design Center to further the design and development of the Smith Mill Creek Greenway.

20. The Property owner agrees to pursue restoration for the streams located on the Property in Areas 3 and 10 on the Site Plan at page C-16, and to work with RiverLink and/or other similar organizations to effectuate such restoration.

Clarification requested from the development team: The property owner agrees to pursue restoration of the streams located on the Property in Areas 3 and 10 on the Site Plan at page C-16, and to work with RiverLink and/or other similar organizations, **if there is a grant to do the work for stream restoration**, to effectuate such restoration. **If there is no grant to do the work, the property owner agrees to provide stream enhancements.**

21. The property owner will create and post a sign at or near the boundary of the Property and the adjoining Falconhurst Natural Area (PIN No. 9638-17-3304-00000)(the "Natural Area") informing the public as to the condition of the Natural Area and any rules and regulations which are applicable to the Natural Area. The sign characteristics and language must be approved by the City Parks and Recreation Department.

Vice-Mayor Hunt was interested in a condition that the developer commit to establishing an easement or a commitment for public access across their property along the stream to ultimately connect to the Falconhurst Natural Area.

Councilman Bothwell felt that larger lots tend to have more greenspace around the homes. He felt that by permitting more homes in a denser area, we are reducing the actual greenspace in this neighborhood.

In response to Councilman Pelly, Mr. Glines explained how the site plan might change if the developer were required to build in the RS-8 Residential Single-Family High Density District with no conditional zoning request.

In response to Councilman Davis, Mr. Glines believed that there is an additional five years left on the Army Reserve lease and he has not heard any indication that they plan on moving their facility. Councilman Smith said that when the lease is re-negotiated, the City may have an opportunity to extend this public access space down to the Smith Mill Creek Greenway.

Mr. Brian Nelson, Principal of East West Craggy, said they committed to transform this property into a neighborhood where people who care about green living will be aspired to live. They designed a low impact development that takes into consideration a careful balance of the environment, the community and the economic realities of infill developments in the City. They have worked to define plans that actually fit the land and the fabric of the community. They sent out 400 mailings to surrounding homes, held two community meetings and held numerous one-on-one meetings with neighbors. Without going through the conditional zoning process, a different development would require substantial grading and impact to the property in order to yield enough units to make it economically feasible. This project serves the community with real economic benefits - 45 new GreenBuilt homes in a market that is scarce of supply. He asked that Council approve the conditional zoning request to help maintain the sensitive balance of environmental and economic factors.

Mr. David Tuch, President and Landscape Architect at Equinox, gave a brief background of Craggy Park which includes (1) zoned RS-8 Single-Family High Density District; (b) developed compact clustered development pattern to maximize open space and tree preservation; (c) utilized low impact development to reduce overall impacts to the landscape and watershed; (d) located near goods and services, including shopping, employment, recreation, transit corridor, and park land; and (e) conducted two public meetings to gain feedback from the community and neighbors. He said that their goal is to (1) provide infill development; (2) meet the City's smart growth goals; (3) create a healthy housing project; (4) utilize sustainable design techniques; (5) comply with the City's Comprehensive Plan; (6) locate near a transit line; and (7) be compatible



with surrounding development. The primary goal of low impact development is to design a development to protect or restore the natural hydrology of the site so that the overall integrity of the watershed is protected. Benefits to low impact development include (1) preserves the quality of water of downstream water bodies; (2) reduces flood occurrence; (3) reduces impervious cover as compared to traditional development; (4) maintains hydrology; and (5) preserves habitat. He pointed out specific design elements as follows: (1) innovative stormwater control measures/low impact development; (2) reduced impervious surfaces (3) green space/open space/preservation; (4) stream enhancements; (5) pedestrian oriented amenities/public access; (6) GreenBuilt homes; and (7) provides much needed housing through infill.

Mayor Manheimer opened the public hearing at 6:01 p.m.

The following individuals spoke in opposition of the conditional zoning request for various reasons, some being, but are not limited to: need to protect the natural environment and inhabitants of the natural environment; loss of green space that is critical to the quality of life of our citizens; request for a fence on the developer's property to prohibit public access to the Falconhurst Preserve; pedestrian concerns on Craggy Avenue; suggestion to decrease the number of homes allowed; development does not fit into the neighborhood unless conditional modifying the requirements are granted; increased in traffic on Craggy Avenue, which is narrow and steep, especially with Village of Haywood project approved; need for neighborhood repurposing program to help neighborhoods cope with infill development; safety concerns for young children and older adults who walk on Craggy Avenue; if the development residents are allowed to have access to the Falconhurst Preserve property, the the rest of the area should also be allowed to have that access; concern that homes abutting the Falconhurst Preserve will take advantage of that natural area; concern that developer has asked for modifications but has not offered any money to alleviate neighborhood concerns; and need for a park in the area:

Ms. Catherine Morris, resident of the Falconhurst neighborhood  
Mr. Paul Olszewski, resident on Craggy Avenue  
Mr. David Dvorscak, resident on Craggy Avenue  
Resident at 46 Blue Ridge Avenue  
Resident at 39 Blue Ridge Avenue  
Ms. Monica Hall, area resident  
Ms. Deidra Duffy, resident on Craggy Avenue  
Mr. Michael Kohnle, resident on Craggy Avenue  
Resident on Blue Ridge Avenue

In response to Councilman Smith, Mr. Mike Figura, representing Mosaic Realty, said that their target date for breaking ground on Phase I is May 5, 2015. As far as the trail, they would like to get started on that soon, but realize that this is part of the larger conservation that they are having with the community. That is why they have hired the Asheville Design Center. If the project is approved by City Council, the next step is the community design charette.

Mr. Tuch also provided the City with letters of support from RiverLink, Asheville on Bikes, Kieran Roe (who has worked in land conservation for 20 years) and WNC Green Building Council.

Mayor Manheimer closed the public hearing at 6:51 p.m.

In response to Councilman Smith, City Traffic Engineer Jeff Moore said that any conversation about closing Druid Drive would be part of a broader conversation around the Haywood Road Traffic and Parking Study.

Councilman Smith felt a Neighborhood Repurposing Program is a good idea and suggested the Neighborhood Advisory Committee (NAC) look into that suggestion. Councilman

Pelly said that the NAC is hosting a Festival of Neighborhoods on March 15, 2015, at which time they will be having workshops on how neighborhoods can more effectively address these type growth and development issues. He encouraged the neighborhood to attend.

Councilman Bothwell felt that the letters of support provided by the developer only supported elements of the project, not the actual endorsement of the entire project. He felt the City should protect the green space and neighborhood and not facilitate the developer in making as much money as possible.

Vice-Mayor Hunt felt that a different developer may not plan a project with the best interest of the neighborhood and environment in mind. He felt that there is a demand for housing and felt that infill development in the City is important to avoid urban sprawl.

Councilman Pelly felt that even if the development was reduced from 45 units, the developer would still have to put in all the improvements, i.e., stormwater, etc. He felt that how much the developer is trying to make a profit should not be a factor in this decision. We know that we don't want sprawl and there is a need for housing in the City.

Councilman Davis has seen other projects constructed by this development team and felt this will also be a quality project.

Mayor Manheimer agreed with Councilman Smith that a clarifying the process for neighborhoods and opening up communication is a good idea, and suggested that be a project for the new permanent Planning Director.

Mr. Tuch explained the clarification of Condition No. 20 request. City Council and the developer agreed that Condition No. 20 read "The property owner agrees to support restoration for the streams located on the Property in Areas 3 and 10 at page C-16, and to work with RiverLink and/or other similar organizations to effectuate such restoration; however, should such restoration not occur, the Property owner agrees to provide stream enhancements for the same area.

Vice-Mayor Hunt asked for a new condition that the developer grant an easement to the City for public access across their property along the stream to ultimately connect to the Falconhurst Natural Area, subject to acceptance by the City after the infrastructure is built out.

After discussion, City Council and the developer agreed to the following new Condition No. 23 - "The property owner will make an offer of dedication of an easement to the City for a trail beginning at Tanglewood Drive and terminating at the north end of the open space area adjacent to Lots 31 and 32 on the Site Plan, and which approximately follows the patch indicated on the Site Plan and Exhibit B-2 attached hereto. The trail will be located so as to provide the ability to connect to the Falconhurst National Area in the future. The easement area shall be 20 feet in width where available, but in no event less than 10 feet wide. The final location of the easement and design shall comply with all local, state and federal regulations and shall be subject to final approval by the City of Asheville. The offer of dedication shall be in a form acceptable to the City Attorney and shall be executed and recorded at the Buncombe County Register of Deeds on or before the issuance of building permits for infrastructure for Phase II. The City shall have no obligation to accept the offer of dedication, but should the City choose to accept, this right must be exercised within one year following the date the offer of dedication is recorded."

Councilman Davis moved to approve the conditional zoning request for Craggy Park on Louisiana Avenue and Craggy Avenue from Residential Single Family High Density District (RS-8) to Residential Single Family High Density Conditional Zoning (RS-8 CZ), with the conditions to: lot size, lot widths, setbacks and sidewalk waivers for certain areas, based on the master plan and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Infill development is

encouraged in areas close to shopping, employment, recreation and near transit corridors; (2) Riparian areas will be protected in the plan as open space which is adjacent to city parkland; (3) The proposed lots are sufficiently sized for single family use; (4) The conditional rezoning request allows flexibility for development standards which are reviewed based on specific site plans and details of the proposal. This motion was seconded by Councilwoman Wisler and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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### **Closed Session**

At 7:22 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: City of Asheville v. Robert Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:46 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

### **B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 40 COXE AVENUE FOR BUNCOMBE COUNTY'S HEALTH & HUMAN SERVICES BUILDING ADDITION AND PARKING STRUCTURE**

City Attorney Currin reviewed with Council the conditional use permit hearing process, which is quasi-judicial. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the Applicant.

City Clerk Bureson administered the oath to anyone who anticipated speaking on this matter.

Interim Planner Director Alan Glines submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Glines said that Buncombe County is requesting approval of a Conditional Use Permit for an addition to the Health and Human Services Building and a new 650 space parking structure located at 40 Coxe Avenue. The application for a government use in the CBD requires that the project be reviewed as a conditional use permit following in 7-5-5 of the UDO (City Exhibit 4 - Application).

Using City Exhibit 5 (drawings, site plan, landscape plan, floor plans, building elevations and context renderings), Mr. Glines said that the site consists of a 1.91 acre parcel located on Coxe Avenue. The parcel is zoned Central Business District (CBD) and currently houses the existing 71,000 square foot Health and Human Services building (HHS) at 40 Coxe Avenue (the former Sears Building). The parcel is bordered by four streets or rights of way: Sears Alley to the north, Buncombe Street to the east, Aston Street to the south and Coxe Avenue to the west. Neighboring uses include, surface parking, a church and commercial offices, the downtown post office and the Asheville Transit Center. The site also provides surface parking for visitors and clients of the HHS building.

The proposal consists of a 69,000 square foot, 7-story addition to the existing Buncombe County HHS Building located at 40 Coxe Avenue. In addition, an 8-tier parking structure is proposed in the center of the parcel fronting on Sears Alley and Buncombe Street. The parking structure will have two driveway connections from Sears Alley.

Sears, Roebuck & Co. opened the three-story Moderne-style brick store in 1948. The block-long building is noted for its simple stylish embellished brick banding with flat cast concrete canopies on the Coxe Avenue facade. The structure will be redeveloped with interior renovations to support the HHS expansion.

The proposal consists of a 69,000 square foot, 7-story addition with frontage on Coxe Avenue connecting to the existing structure. The design of the proposed addition is a modern interpretation of a base-middle-cap composition with subtle differences between the three zones. The base includes the first two stories of the office building and the cap reintroduces a masonry material (that is used in vertical pilasters on the building) to create a horizontal cap proportion. Coxe Avenue is a key pedestrian street, so the minimum windows, doors and openings standard is 70% fenestration which the project exceeds. The primary pedestrian entrance is provided along Coxe Avenue in compliance with development standards.

Pedestrians will access the building directly from the Coxe Avenue entrance with a secondary entrance adjacent to the garage elevator. Vehicular access to the site is from Coxe Avenue using Sears Alley as access to the parking structure. Sears Alley provides two-way movement and drivers can access Buncombe, Commerce Street and Aston Street to exit the property. There is a light at the intersection of Aston Street and Coxe Avenue. Sidewalks surround the parcel and except for the existing Aston Street sidewalk which will remain in place, all sidewalks will be improved and provide space for street trees. Bicycle parking will also be provided in the parking structure totaling 30 spaces.

The parking structure is proposed to be 8-levels providing 650 parking spaces. It will provide parking for staff and clients of the HHS building. The new construction will free up several lots along Coxe Avenue that are currently being leased for surface parking.

Landscaping required for the project is limited to street trees. These are being provided along all street frontages. The project requested alternative compliance from the Tree Commission for the spacing of street trees along Coxe Avenue which is needed to avoid the existing metal awnings on the HHS Building and for the number of street trees provided along Aston Street. The Tree Commission approved the request at their meeting on February 16, 2015. Open space is not required for downtown projects but there will be a small plaza space in front of the elevator tower.

This proposal was approved with conditions by the Technical Review Committee on July 7, 2014. The Downtown Commission reviewed the proposal at their meeting on July 11, 2014. The application also requires a quasi-judicial review by the Asheville City Council and Final TRC review.

The site is currently zoned Central Business District and Buncombe County is proposing to meet the standards of this District and the building design requirements.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. There are total of ten standards that the project must meet; seven findings are usual for all conditional use permits and three additional findings are specific to governmental uses in the Central Business District. The applicant has provided a statement on these findings which is attached to the staff report.

Staff finds that the relevant standards of the City have been met or can be met with this application. The Downtown Commission reviewed the site plan and building design and voted unanimously to recommend approval of this conditional use permit to the Asheville City Council on July 11, 2014 (by a vote 9-0 with Councilman Davis excused from the review proceedings and vote). They also provided these recommended conditions that Buncombe County (1) strongly consider adding public restrooms; and (2) strongly consider allowing public use of the parking garage after hours. These Downtown Commission recommendations are not binding for City Council.

When Councilman Davis asked if there was any partnership opportunities for underground utilities, Mr. Glines said that that is budgeted in the Capital Improvement Plan at this time, but that would really be outside of this project in some ways.

Buncombe County Senior Staff Attorney Michael Frue asked for City Council's support of this project.

In response to Councilman Smith, Assistant County Attorney Jon Creighton said that the County does plan on having general public use of the parking deck during the day and also at night.

Mr. Creighton then spoke about how the demand for human services continues to rise and asked for Council's support.

Mr. Keith Hargrove, architect, explained the project, using Applicant Exhibit 1 (renderings of different views, materials, elevations and site plan).

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 8:12 p.m.

Mr. Byron Greiner, representing the developers on the S&W building, the Bank of America Building and the Swicegood Building, said they intended to build a luxury hotel but have now decided to put their properties on the market, due to this proposed project. They wanted to invest in Asheville, but their feeling that if this project is built at this location, it will increase the population of undesirables that we deal with everyday in terms of homeless and panhandling. He has been talking with homeless providers, Buncombe County Commissioners, some members of City Council, and Mission Hospital to locate a campus of service providers in one location, where it would be cost efficient, delivery better services, and alleviate some of the issues with Mission and the emergency rooms. They have identified a location and shared that with the Commissioners. He noted that the Downtown Commission requested that this building contain public restrooms but that is not part of their design. If this project were in a different location, there would be over \$10 Million worth of property possibly back on the tax roles.

Ms. Nancy Hayes felt that a lot of people have invested in downtown and felt that allowing this building at that location will drive business out of downtown. This property is a very expensive piece of real estate and the health and human services component of the County should be located in the Innsbruck Mall.

After rebuttal, Mayor Manheimer closed the public hearing at 8:18 p.m.

Mr. Frue said that the County concurs with the statement on the findings which are attached to City Exhibit 1.

In response to Councilman Davis, Mr. Creighton said that one out of five people in our community get assistance of some sort, and their clients are not only homeless and panhandlers,

but everyday working people. Out of 100,000 clients a year, the homeless population is a very small percentage of their clients.

Councilman Smith said that the City & County 10-Year Plan to End Homelessness has reduced homelessness by over 82% in the community and they are looking at getting this to zero in the near future. The transient homeless folks that come through is a whole different population. He felt his proposed building is at the epic center of the bus service. It's the best place for this especially for families in need. He said that downtown is not just for the wealthy, but for everyone.

Councilman Bothwell felt that the project is a good idea; however, felt the parking deck is a waste of downtown real estate.

Councilwoman Wisler moved to approve the conditional use permit for Buncombe County Health and Human Services building and parking garage located at 40 Coxe Avenue, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the ten conditional use permit standards as demonstrated by the applicant. This motion was seconded by Councilman Pelly and carried unanimously.

**C. PUBLIC HEARING RELATIVE REZONING PROPERTY NEAR 230 HILLIARD STREET AT 99999 S. FRENCH BROAD AVENUE AND AT 99999 S. GROVE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT**

**ORDINANCE NO. 4391 - ORDINANCE TO REZONE PROPERTY NEAR 230 HILLIARD STREET AT 99999 S. FRENCH BROAD AVENUE AND AT 99999 S. GROVE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT**

**ORDINANCE NO. 4392 - ORDINANCE AMENDING OFFICIALLY ADOPTED MAP PERTAINING TO THE CENTRAL BUSINESS DISTRICT: MASTER PLAN CONCEPTS - CONTEXT TRANSITION EDGE AND HEIGHT ZONE MAP PERTAINING TO THE REZONING OF 226 HILLIARD AVENUE**

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to rezone property near 230 Hilliard Street at 99999 S. French Broad Avenue and at 99999 S. Grove Street from RS-8 Residential Single-Family High Density District to Central Business District. This public hearing was advertised on February 14 and 21, 2015.

The site proposed for rezoning consists of two parcels with a combined area of .66 acres, located at the southwest corner of Hilliard and South French Broad Avenues. The site does not have any buildings and is landscaped. The larger parcel is split zoned Central Business District (CBD) and Residential Single-Family High Density (RS-8) with the majority of the parcel already being CBD. The smaller, interior parcel is zoned RS-8 and is .03 acre or 1300 square feet. The total area that would be re-zoned from RS-8 to CBD is approximately .11 acre (less than 5000 square feet).

The applicant is proposing a standard rezoning of two parcels to Central Business District (CBD).

This is the second standard rezoning request received by staff in this immediate location to expand the CBD along its southwest boundary. In the past year, City Council approved a rezoning request along Hilliard Avenue and including the corner of Hilliard and Asheland Avenues to the east (1.65 acres from RB and RS-8 to CBD at 226 Hilliard on June 24, 2014). In 2013, there were two other re-zonings on the east side of Asheland Avenue.

Approval of the rezoning request would require an adjustment to the Downtown Height Zones map. Similar to the previous requests along Asheland Avenue, staff proposes extending the intermediate height zone in this location, which would allow for a maximum height of 145 feet. Additionally, the context transition edge, which is already in place in this area, would be applied along the parcel boundary adjacent to RS-8 zoning and would limit the building height allowed adjacent to that neighborhood.

As the Context Transition Zone is already in effect along this boundary, no additional review is required, but the Zone will extend farther south along a new boundary between the CBD and RS-8 if approved. Staff gave an update to the Downtown Commission on December 12, 2014. The proposal was reviewed by the Planning & Zoning Commission at their meeting on February 4, 2015, and recommended for approval by a vote of 7-0.

This site sits at the corner of Hilliard and South French Broad Avenues at the edge of the CBD with Aston Park to the west (zoned RM-8); offices and commercial uses (United Way Building) to the north (zoned CBD); commercial properties to the east (zoned CBD); and single-family residential to the south (zoned RS-8). Uses allowed in the CBD would be appropriate and compatible on this site. Design standards found in the UDO would require that any future development be pulled up towards Hilliard Avenue. While the maximum height permitted (145 feet) would be significantly greater than current RS-8 zoning (40 feet), the context transition edge would limit the height of structures within 100 feet of the neighborhood and provide a gradual scale at that property line.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating on downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

Although the area proposed for rezoning is small, rezoning it to CBD will allow a greater use of the overall larger parcel. The smaller parcel, zoned RS-8, is not large enough to build upon, thus it makes sense to rezone it and allow it to be potentially consolidated with the parcel to the north in the future.

Similarly, the *Downtown Master Plan* anticipated that growth on the edges of the Central Business District would occur. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having the potential to grow and improve following an urban development pattern.

The *Strategic Plan* includes several objectives supporting higher density infill development with investment downtown and efforts that continue to implement the *Downtown Master Plan*. If the proposed rezoning is approved, future development on the site would be allowed higher residential densities and follow strict design requirements with emphasis on the pedestrian experience which would be consistent with goals of the *Strategic Plan* pertaining to downtown vitality and overall quality of life.

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

Considerations:

- This request would clean up the zoning district lines along parcel lines. It is current practice to have zoning district boundaries follow parcel lines.
- The zoning district lines were originally drawn at a time when there was not a Context Transition Zone, and therefore there was no protection for adjacent neighborhoods.

- Expansion of the CBD is generally recommended in the *2025 Plan*, and this rezoning will allow a greater use of the land on the corner of Hilliard and South French Broad.
- Application of the context transition edge and development standards in the UDO pertaining to building placement will minimize some impact to the adjacent neighborhood with future development
- Several similar requests have been approved in this immediate location over the past year and a half.

Staff recommends approval of the proposed rezoning, finding that the request to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 8:30 p.m. and when no one spoke, she closed the public hearing at 8:30 p.m.

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

Councilman Pelly moved to approve the zoning map amendment from RS-8 and Central Business District to Central Business District as a standard rezoning and the amendment to the height zone map and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the 2025 Plan and the Downtown Master Plan recommend CBD expansion; and (2) Design standards and the application of the context transition edge should minimize impact from future development on adjacent neighborhood. This motion was seconded by Councilman Bothwell and carried unanimously.

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**D. PUBLIC HEARING TO CONSIDER A MAJOR SUBDIVISION WITH CONDITIONAL ZONING ON PROPERTY LOCATED ON WELLEN WAY FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CREATION OF 7 SINGLE FAMILY LOTS AND ROADWAY TO SERVE THOSE LOTS, WITH A MODIFICATION REQUEST FOR LOT WIDTH.**

Mayor Manheimer announced that the applicant has withdrawn this item from City Council's consideration.

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Todd Stimson asked for City Council support of cannabis for medical use. Mayor Manheimer said that the City Council Governance Committee would review the request.

Councilman Davis was pleased to announce the Southern Conference starting on March 5-9, 2015, and encouraged the public to attend and enjoy themselves.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:38 p.m.



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CITY CLERK

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MAYOR