

Tuesday – April 28, 2015 - 3:00 p.m.

## Budget Worksession

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

Finance Director Barbara Whitehorn provided the Council with a preliminary overview of the Fiscal Year 2015-16 Operating Budget, including the enterprise funds, and presented operating budget scenarios for balancing the Fiscal Year 2015-16 budget.

She explained the revenues come from (1) property tax; (2) sales and other taxes; (3) charges for services; (4) licenses and permits; (5) intergovernmental revenue; and (6) other review. Challenges include (1) the North Carolina General Assembly voted to disallow the Privilege License Tax effective July 1, 2015; (2) charges for services are not keeping up with costs (a) solid waste fee, \$7.00/month; taxpayer subsidy of service: \$2.4 Million; and (b) Nature Center subsidy at 65% of operating budget; and (3) several bills introduced in the 2015 General Assembly could significantly reduce sales tax receipts for the City; one bill could increase tax receipts.

Assumptions for 2015-16 include (1) property tax - County Tax Office predicts value increase of 1.8%; (2) sales tax (a) N.C. League of Municipalities projects growth of 4.0%; and (b) current year trend 14% over prior year; and (3) local revenue - building permits for Fiscal Year 2014-15 is trending 8.5% above budget; (4) Intergovernmental revenue - State utility tax receipts in Fiscal Year 2015 are \$600,000 over prior year.

Assumptions for 2015-16 for the General Fund expenditures include (1) 2015 election costs; (2) transit operations; (3) Graffiti Program continuation; (4) maintain contribution to workers compensation and liability funds; (5) fleet maintenance and fuel; (6) enhanced Fire Inspection Program; (7) Police Department's first steps in the Strategic Operating Plan and Organizational Assessment; (8) health care; (9) other benefits; and (10) classification and compensation study. Overall, the General Fund expenditures are anticipated to increase 2.7% over Fiscal Year 2014-15. Estimated expenditures of \$102 Million.

She reviewed various revenue strategies to balance the General Fund budget, recommending (1) a 1.5 cent increase per \$100 valuation to offset the loss privilege license; (2) decreasing taxpayer subsidy of the Nature Center (a) new gate admission rates; and (b) membership contribution to operations; (3) decreasing taxpayer subsidy at the Aston Park Tennis Center (a) new membership rates; and (4) planned increase in solid waste fee of \$3.50/month. With these recommendations, along with managed savings and re-engineering, the budget would be balanced. Staff will continue to seek and implement innovative cost savings models.

She then reviewed the enterprise funds: (1) Water Fund (a) continued stable performance; (b) minor rate adjustments based on financial model were approved on April 14; and (c) \$12 Million pay-go investment in water capital improvements; (2) Transit Fund (a) continued financial pressure; (b) no service changes budgeted; and (c) General Fund support increased by \$90,000; (3) Parking Fund (a) strong revenue growth; (b) no adjustments to garage or meter rates; (c) maintain \$616,000 in support to Transit Fund; and (d) capital program being developed; (4) US Cellular Center Fund (a) moderate performance in Fiscal Year 2014-15 (revenue and expenses adjusted down to reflect lighter event load); (b) no increase in General Fund operating support; and (c) Thomas Wolfe acoustical study funded; and (5) Stormwater Fund

(a) 5% rate increase approved April 14; (b) additional crew added for enhanced maintenance program; and (c) continuation of service and capital investment.

Throughout Ms. Whitehorn's presentation, she responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised include where is the savings from the LED street lights in the budget; request to see how funding is being proportioned out to community programs; how are fees established for outdoor dining; what is the impact on tipping fees since there is success with residents using recycling; is the reinstatement of the leaf trucks in this budget cycle; and request to look at raising parking meter fees in certain corridors.

Ms. Whitehorn then reviewed the upcoming dates associated with adoption of the budget.

Discussion then occurred regarding the different revenue strategies recommended to balance the budget, with each Council member voicing their suggestions, and the City Manager outlining how (if Council rejects the recommended revenue strategies) the \$2.5 Million impact might be absorbed.

The majority of Council supported the revenue strategies outlined by Ms. Whitehorn and directed her to move forward with them in order to present a balanced budget.

At 4:05 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 28, 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.

#### **I. PROCLAMATIONS:**

##### **A. PROCLAMATION PROCLAIMING MAY 3-9, 2015, AS "NATIONAL DRINKING WATER WEEK"**

Mayor Manheimer read the proclamation proclaiming May 3-9, 2015, as "National Drinking Water Week" in the City of Asheville. She presented the proclamation to Director of Water Resources Steve Shoaf, who briefed City Council on some activities taking place during the week.

#### **II. CONSENT AGENDA:**

##### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 14, 2015**

**B. RESOLUTION NO. 15-64 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 12, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO SUPPORT POLYLINKS INC.**

Summary: The consideration of a resolution authorizing a public hearing to be held on May 12, 2015, to consider an economic development incentive grant for PolyLINKS Inc.

City of Asheville has been requested by Buncombe EDC for consideration of a performance based incentive grant under the City of Asheville Economic Development policy to PolyLINKS Inc. PolyLINKS Inc. is an existing precision metal working company (in the formerly owned Citizen-Times Production Plant on Sardis Road) and they have proposed expansion of their building. The company is investing \$1.1 Million in building upgrades and \$1.2 Million in machinery & equipment, for a total of \$2.3 Million. The expansion will add 12 new jobs with an average wage of \$36,000 to the existing 17 employees at the company. The City of Asheville is considering offering a performance-based grant in an amount not to exceed \$31,000.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of the new incremental increase from property tax revenue generated by the project for a 5 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After 5 years, the City will henceforth receive 100% capture of new city taxes. As noted above, the City of Asheville performance-based grant amount will not exceed \$31,000 in total.

City staff recommends Council approve a resolution authorizing a public hearing to be held on May 12, 2015, on an economic development incentive grant agreement to support PolyLINKS Inc.

Councilwoman Wisler asked that at the public hearing staff provide information regarding the range of wages.

**RESOLUTION BOOK NO. 37 - PAGE 77**

**C. RESOLUTION NO. 15-65 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 12, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO SUPPORT THE EXPANSION OF HI-WIRE BREWING**

Summary: The consideration of a resolution authorizing a public hearing to be held on May 12, 2015, to consider an economic development incentive grant for Hi-Wire Brewing.

Hi-Wire Brewing opened its doors in June 2013 and the company was named Best New N.C. Brewery in 2013 by RateBeer and was awarded the most medals at the 2014 N.C. Brewer's Cup. The continued growth has prompted the company to invest \$1.62 million over the next 3 years in a new brewing facility and equipment. Additionally, the company will create 15 new jobs

over a period of 3 years with an average wage rate of 37,400. The company provides 50% of coverage for health insurance and other benefits to employees.

The City's incentive policy would justify an incentive grant of \$25,000 to the company. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, \$5,000 a year, after the conditions of the performance agreement are met and the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of property tax revenue for a five year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After five years, the City will henceforth receive 100% capture of new city taxes.

The economic development incentive grant for Hi-Wire Brewing supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on May 12, 2015, on an economic development incentive grant agreement to support the expansion of Hi-Wire Brewing.

Councilwoman Wisler asked that at the public hearing staff provide information regarding the range of wages.

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#### **D. RESOLUTION NO. 15-66 - RESOLUTION ACCEPTING W. SUMMIT STREET AS A CITY MAINTAINED STREET**

Summary: The consideration of a resolution to accept West Summit Avenue as a city-maintained street.

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on November 14, 2014 asking the City to accept the subject street as a city-maintained street.

West Summit Avenue from US 25 (Hendersonville Road) to its dead-end is a developer-constructed street that has an average width of 22 feet with 24-inch curb and gutter, a length of 0.18 mile, and a variable right-of-way width of 50 to 100 feet. The original 100-foot right-of-way is recorded in Plat Book 1 Page 62 and City Council approved Resolution # 14-8 to permanently close portions of excessive right-of-way along West Summit Avenue on January 14, 2014 leaving a minimum right-of-way width of 50 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

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

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

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

Staff recommends that City Council accept West Summit Avenue as a city-maintained street.

#### **RESOLUTION BOOK NO. 37 - PAGE 79**

**E. RESOLUTION NO. 15-67 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE EARTH FARE 5K EVENT**

**RESOLUTION NO. 15-68 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOWNTOWN AFTER 5 EVENTS**

**RESOLUTION NO. 15-69 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE SUNDAY MUSIC IN THE PARK EVENTS**  
**RESOLUTION NO. 15-70 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL**

**RESOLUTION NO. 15-71 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL**

**RESOLUTION NO. 15-72 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE HALF MARATHON**

**RESOLUTION NO. 15-73 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE RACE TO THE TAPS**

**RESOLUTION NO. 15-74 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST**

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Earth Fare 5K on May 9, 2015; Downtown After 5 on May 15, June 19, July 17, August 21, and September 18, 2015; Sunday Music in the Park on May 17, May 31, June 14, June 28, and July 12, 2015; Mountain Sports Festival on May 22, May 23 and May 24, 2015; Beer City Festival on May 30, 2015; Asheville Half Marathon on June 6, 2015; Race to the Taps on August 8, 2015; and Organicfest on August 30, 2015.

- Asheville Track Club has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Earth Fare 5K and allow for consumption at this event.

Earth Fare 5K will be held on Saturday, May 9, 2015, from 6:30 a.m. – 11:30 a.m. within the interior of the velodrome at Carrier Park, located at 220 Amboy Road as per the event area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Downtown After 5, Sunday Music in the Park and Race to the Taps – South Slope and allow for consumption at these events.

Downtown After 5 will be held on Fridays, May 15, June 19, July 17, August 21 and September 18, 2015, from 5:00 p.m. – 10:00 p.m. on Lexington Avenue between the intersections of Hiwassee and the I-240 underpass, extending within the metered parking lot located at the I-240 underpass as per the event area limits referenced on the accompanying site map.

Sunday Music in the Park will be held on Sundays, May 17, May 31, June 14, June 28 and July 12, 2015, from 4:00 p.m. – 6:00 p.m. at Pack Square Park's Roger McGuire Green and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

Race to the Taps – South Slope will be held on Saturday, August 8, 2015, from 4:30 p.m. – 10:00 p.m. on Banks Avenue between the intersections of Coxe Avenue and Church Street as per the event area limits referenced on the accompanying site map.

- Mountain Sports Festival has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

The Mountain Sports Festival will be held on Friday, May 22 from 4:00 p.m. – 10:00 p.m., Saturday, May 23 from 10:00 a.m. – 10:00 p.m., and Sunday, May 24, 2015, from 10:00 a.m. – 6:00 p.m. within the interior of the velodrome at Carrier Park, located at 220 Amboy Road as per the event area limits referenced on the accompanying site map.

- Big Brothers Big Sisters of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Beer City Festival and allow for consumption at this event.

The Beer City Festival will be held on Saturday, May 30, 2015, from 12:00 p.m. –7:00 p.m. within the boundaries of Pack Square Park’s Roger McGuire Green, Spruce Street between the intersections of South Pack Square & College Street, and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- The Asheville Buncombe Regional Sports Commission has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the Asheville Half Marathon and allow for consumption at this event.

The Asheville Half Marathon will be held on Saturday, June 6, 2015, from 7:00 a.m. – 12:00 p.m. within the boundaries of Pack Square Park’s Roger McGuire Green and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- Asheville Greenworks has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Organicfest and allow for consumption at this event.

Organicfest will be held on Sunday, August 30, 2015, from 10:00 a.m. – 6:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Track Club, Asheville Downtown Association, Mountain Sports Festival, Big Brothers Big Sisters of WNC, Asheville Buncombe Regional Sports Commission, and Asheville Greenworks

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Earth Fare 5K, Downtown After 5, Sunday Music in the Park, Mountain Sports Festival, Beer City Festival, Asheville Half Marathon, Race to the Taps – South Slope, and Organicfest.

**RESOLUTION NO. 15-67 - RESOLUTION BOOK NO. 37 - PAGE 81**  
**RESOLUTION NO. 15-68 - RESOLUTION BOOK NO. 37 - PAGE 84**  
**RESOLUTION NO. 15-69 - RESOLUTION BOOK NO. 37 - PAGE 87**  
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**RESOLUTION NO. 15-72 - RESOLUTION BOOK NO. 37 - PAGE 96**  
**RESOLUTION NO. 15-73 - RESOLUTION BOOK NO. 37 - PAGE 99**  
**RESOLUTION NO. 15-74 - RESOLUTION BOOK NO. 37 - PAGE 102**

**F. RESOLUTION NO. 15-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT TO DUKE ENERGY PROGRESS INC. FOR AN ELECTRIC POWER LINE ON PROPERTY LOCATED ON THOMPSON STREET**

Summary: The consideration of a resolution authorizing the City Manager to convey an easement to Duke Energy Progress, Inc. over a portion of city-owned property on Thompson Street.

The City of Asheville owns real property at PIN # 9648813481 and it is currently vacant. The City plans to use the property for future greenway expansion. It contains .35 acres and there are no improvements on site. This property is directly adjacent to the Swannanoa River and the highest and best use appears to be floodplain protection and infrastructure.

Duke Energy is replacing transmission lines on Thompson Street in order to improve reliability to the East Asheville community.

The easement area being requested extends approximately 237 feet along the river side of the property. The total width of the easement is 15' on either side of the line. This is approximately 7100.28 square feet or 0.063 acres of permanent easement that is being requested. In consideration for the easement, Duke has agreed to compensate the city at the fair market value of \$37,500. Additionally, Duke Energy Progress has agreed to work with the City to insure that a 10 foot greenway can be constructed on this easement at a later date and this will be reflected in the recorded easement. The Transportation Department's Greenway Planner has reviewed the easement document.

Pros:

- Granting of the easement will allow Duke Energy to upgrade power infrastructure to provide improved service to the East Asheville neighborhood.
- Granting of the easement will not affect the long range plans for greenway construction.
- Conveyance of the easement at fair market value.

Con:

- None noted.

The monetary consideration from the sale of the easement will benefit the General Fund and will be designated for future economic and community development projects.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 7,100.28 square foot easement over a portion of City-owned property at Thompson Street to Duke Energy Progress, Inc.

#### **RESOLUTION BOOK NO. 37 - PAGE 105**

#### **G. RESOLUTION NO. 15-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL AGREEMENT WITH CLARK NEXSEN INC. FOR ARCHITECTURAL AND ENGINEERING DESIGN SERVICES FOR THE 200 BINGHAM ROAD PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services agreement with Clark Nexsen, Inc., for the proposed amount of \$102,000 plus a 10% contingency amount of \$10,200 for a total project budget in the amount of \$112,200 for Architectural and Engineering Design Services for the 200 Bingham Road project.

City Council authorized the acquisition of property at 200 Bingham Road for the relocations of Water Maintenance / Meter Services. On February 19, 2015, the City acquired the property. Upon acquisition, the Water Resources Department (Department) started making plans to retrofit the building and property to better serve its needs. On February 24, 2015, City Council approved a budget amendment to transfer \$3,525,000 from the Water Fund Balance to the 200 Bingham Road project. The budget transfer included funds for the final purchase price of \$2,855,000 and additional funds for the architectural and engineering design services agreement along with anticipated construction expenses.



On February 9, 2015, the Department issued a Request for Qualifications (RFQ) for Architectural Services for the Water Maintenance / Meter Services Facility at 200 Bingham Road. In response to that RFQ, the department received six submittals from the following:

1. Architectural Design Studio – Asheville, NC
2. Clark Nexsen, Inc. – Asheville, NC
3. Innovative Design – Raleigh, NC
4. Mathews Architecture, PA – Asheville, NC
5. Padgett & Freeman Architects, PA – Asheville, NC
6. Sparc Design, PC – Asheville, NC

A Departmental staff team reviewed these submittals and recommended the firm of Clark Nexsen, Inc.

The scope of the project will include architectural and engineering design services for two phases. Phase I will consist of: (1) a stone shed with storage areas for sand/dirt, washed stone, and rip rap; (2) layout of the yard area for storage of the department's equipment; (3) roof membrane repair and replacement; and (4) fence/gate work. Phase II will consist of interior retrofit based on the layout to include office space, conference areas, crew quarters, equipment storage, locker rooms, HVAC, elevator repairs/replacement to provide access to the second floor, an exercise area, and a video conference area. Also included are a site survey, bidding for Phase II construction, and construction administration. While there will be a Phase III of the project, design efforts for that work are not included as part of this proposal.

Pro:

- Approval of the professional services agreement with Clark Nexsen will keep the project on schedule to relocate Water Maintenance / Meter Services in late December 2015 or early January 2016.

Con:

- If the agreement is not approved, the design and renovations will be delayed, thereby delaying the relocation date past the anticipated goal of January 2016.

The Water Resources Department currently has a \$1,234,685 available budget for the 200 Bingham Road Water Maintenance Facility project. The available budget will be used for design and construction expenses.

Available Budget in 200 Bingham Road project	\$1,234,685.74
<u>Amount Needed for Clark Nexsen agreement</u>	<u>\$ 112,200.00</u>
Amount Remaining for Construction	\$1,122,485.74

The architect has provided a preliminary construction estimate of \$1 million. There will also be Information Technology needs for an added cost of approximately \$80,000. Council approval of additional contracts associated with this project will be sought in accordance with the City's Procurement, Purchasing and Contracting Policy.

Staff recommends City Council approval of a resolution to enter into a professional services agreement with Clark Nexsen, Inc., for the proposed amount of \$102,000 plus a 10% contingency amount of \$10,200 for a total project budget in the amount of \$112,200 for Architectural and Engineering Design Services for the 200 Bingham Road project.

**RESOLUTION BOOK NO. 37 - PAGE 106**

**H. ORDINANCE NO. 4405 - ORDINANCE TO RESCIND THE ELIMINATION OF THE DOWNTOWN FARE FREE ZONE AND REFER THE ACTION TO THE**

## **MULTIMODAL TRANSPORTATION COMMISSION FOR FURTHER DISCUSSION**

Summary: The consideration of an ordinance to rescind the elimination of the Downtown Fare-Free Zone approved by Council on April 14, 2015.

On April 14, 2015, City Council adopted fees adjustments which involved the elimination of the Downtown Free-Fare Zone by Ordinance 4404.

The Transit Committee has asked staff to allow for more opportunities to discuss this change with their members, the Multimodal Transportation Commission and the public, due to the effect this measure could have on low-income residents.

After further consideration, staff is recommending City Council to consider an ordinance to rescind the elimination of the Downtown Fare-Free Zone, allowing for a 120-day review and evaluation of policy alternatives.

### Pros:

- This action allows staff to review and reevaluate options for the fare-free zone.
- Eliminates the potential unintended effects on low-income residents that use the fare-free zone to access to their daily activities.

### Cons:

- None.

This action has no fiscal impact.

City staff recommends that City Council consider an ordinance to rescind the elimination of the Downtown Fare-Free Zone.

Councilwoman Wisler asked that for the next budget cycle, the Transportation Department, in conjunction with the Multimodal Transportation Commission and the Transit Subcommittee, look at all transit fares and report back to Council with a recommendation on those fares.

## **ORDINANCE BOOK NO. 29 - PAGE 428**

### **I. RESOLUTION NO. 15-77 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH JOHNSON PRICE SPRINKLE PA FOR THE ASHEVILLE POLICE DEPARTMENT SPEED MEASURING INSTRUMENTS AUDIT**

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in contract with Johnson Price Sprinkle PA to an amount not to exceed \$120,000, for the Asheville Police Department (Police Department) speed measuring instruments audit.

The City of Asheville Finance Department is seeking to enter a change order for the current general services agreement with Johnson Price Sprinkle PA to complete a review of the the Police Department's speed measuring instruments and officer certifications, which will be completed in May. This contract was entered on November 7, 2014, to provide independent, external review of the Police Department's speed measuring instruments and officer certifications from January 2011 through November 2014 after concerns were raised regarding expired calibrations and certifications.

This change order is needed due to the time involved in reviewing an increased volume of information.

Pros:

- City will receive deliverable in the form of a final report of the speed measuring instruments certifications review.
- City will receive a list of suggested needed improvements.

Con:

- None.

The funding needed for this agreement is currently allocated within the Finance Department Administration Division's contracted services budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to enter a change order for the general services contract with Johnson Price Sprinkle PA for an amount not to exceed \$120,000 with the understanding that funding is project-specific.

**RESOLUTION BOOK NO. 37 - PAGE 107**

**J. ORDINANCE NO. 4406 - BUDGET AMENDMENT TO REFLECT THE COST SHARING OF A NEW VEHICLE PURCHASE WITH STREET CUT ENTERPRISE FUND**

Summary: The consideration of a technical budget amendment in the amount of \$13,190 in the General Capital Projects Fund, funded by debt proceeds, to reflect the cost sharing of a new vehicle purchase with Street Cut Enterprise Fund.

Certain City employees and equipment are used both to perform General Fund and Enterprise Fund activities for the citizens of Asheville. In order to properly account for the recent fixed asset vehicle purchase of a new Ford Explorer, one-half of the total expense is being transferred through a budget amendment from the Street Cut Enterprise Fund to the General Capital Projects Fund.

Pro:

- Properly accounting for the fixed asset purchase to help to ensure the City's financial reports are correct.

Con:

- None.

This transaction requires a technical budget amendment to reduce the budget in the Street Cut Utility Fund and increase the budget in the General Capital Projects Fund.

City staff recommends City Council adopt the technical budget amendment in the amount of \$13,190 in the General Capital Projects Fund, funded by debt proceeds, to reflect the cost sharing of a new vehicle purchase with Street Cut Enterprise Fund.

**ORDINANCE BOOK NO. 29 - PAGE 429**

**K. ORDINANCE NO. 4407 - BUDGET AMENDMENT TO ACCEPT THE DONATION FROM HUMANA FOR MATERIALS AND SUPPLIES FOR THE 2015 ASHEVILLE BUNCOMBE SENIOR GAMES**

Summary: The consideration of a budget amendment in the General Fund in the amount of \$1,000 for materials and supplies for the Asheville Buncombe Senior Games.

Each year the City of Asheville in conjunction with Buncombe County produces the Asheville Buncombe Senior Games, a sports competition for people age 50 and older under the

direction of North Carolina Senior Games through the State of North Carolina Division of Aging and Adult Services.

The 2015 Asheville Buncombe Senior Games will occur April 23 – May 8 at sport venues located throughout Buncombe County. This year the City received a \$1,000 donation from Humana to support the cost of supplies and materials for the games.

Pro:

- Provide materials and supplies for the 2015 Asheville Buncombe Senior Games.

Con:

- None

The budget amendment increases the General Fund budget for materials and supplies by \$1,000. These expenditures are fully funded by a donation in the amount of \$1,000 that has been received; thus, there is no net fiscal impact to the City's operating budget.

Staff recommends City Council to approve a budget amendment authorizing the City Manager to accept the donation from Humana in the amount of \$1,000 to support the cost of materials and supplies for the 2015 Asheville Buncombe Senior Games.

#### **ORDINANCE BOOK NO. 29 - PAGE 431**

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.

Councilwoman Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

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

#### **A. LEGISLATIVE UPDATE**

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: County Tax Flexibility/Municipal Revenue Options; Sales Tax Fairness Act; Restrict Municipal Eminent Domain, Referendum for Certain Local Debt; and new Historic Preservation Tax Credit.

### **IV. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ASHEVILLE OUTLETS SIGN PACKAGE LOCATED AT 800 BREVARD ROAD, ASHEVILLE, N.C.**

#### **ORDINANCE NO. 4408 - ORDINANCE AMENDING THE ASHEVILLE OUTLETS SIGN PACKAGE LOCATED AT 800 BREVARD ROAD, ASHEVILLE, N.C.**

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the Asheville Outlets sign package located at 800 Brevard Road, Asheville, N.C. This public hearing was advertised on April 17 and 24, 2015.

On April 22, 2014, the Asheville City Council approved a master signage plan for the Asheville Outlets development located at 800 Brevard Road. The subject property at that time was comprised of approximately 60 acres.

The signage package approved by Council included provisions for:

- Freestanding Development Identification Signage (total of 5 signs)
- Attached Identification Signage (based on linear footage of the exterior façade of the center)
- Banners (on building facades [20] and parking lot light poles [20])
- Vehicular Directional Signs (total of 6 signs)
- Parking Area Location Signs
- Service Door Identity Signs

Since that time the retail center development has been expanded to include the property on which the former Belk Department Store was located (an addition of approximately nine acres to the project site). The project site is zoned Regional Business (RB). The applicant is asking that this area be added to the area covered by the signage plan.

The applicant is not proposing any additional freestanding signs or vehicular directional signs, nor is the applicant increasing the number of banners permitted. The addition of the former Belk property to the development will only affect:

- The linear footage of the exterior façade of the center which affects the amount of attached identification signage that will be allowed.
- The possible location of such attached identification signage – expanding to allow attached signage at the entrance of a building tenant who has an exterior public entrance (not just at the general public access points to the center).
- The location of permitted banners (the number permitted does not change).
- The area in which parking area location and service door identity signs could be placed.

Anything not addressed in this sign package must meet City of Asheville standards.

The stated purpose in the City's Unified Development Ordinance of allowing the consideration of a separate signage plan is as follows: *The purpose of allowing the consideration of a separate signage plan is to permit creativity in sign placement to address issues and constraints associated with topography, pedestrian-orientation, way-finding, and other conditions unique to the subject development.*

When Council reviewed the proposed signage plan in 2014, it was found that the signage proposed met this stated purpose. The amendment currently before Council does not change the main elements of the previously approved plans. The amendment expands the area for which the package applies.

Pros:

- Provides clear and recognizable signage for a major regional shopping center.
- Provides only limited expansion of the application area for the previously approved sign package.
- Promotes a coordinated unifying theme for the development.

Con:

- Exceeds existing standards found in the UDO.

City staff recommends that City Council adopt the ordinance approving the amendment to the sign package for 800 Brevard Road (Asheville Outlets) as submitted subject to the

condition that any signage not addressed in the package would have to comply with the City's sign regulations or an amendment to this sign package would have to be approved.

Mr. W. Louis Bissette, attorney representing the developer, explained what a great retail experience this project will create, noting that it will provide hundreds of new jobs.

Mayor Manheimer opened the public hearing at 5:17 p.m., and when no one spoke, she closed the public hearing at 5:17 p.m.

Councilman Bothwell felt that all businesses, large and small, should comply with the existing sign regulations. He voted against the original signage plan, and would vote against this amendment.

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

Councilman Pelly moved to approve the amendment to the signage plan for the Asheville Outlets project located at 800 Brevard Road subject to the condition that any signage not addressed in the package would have to comply with the City's sign regulations or an amendment to this sign package would have to be approved. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilman Bothwell voting "no."

#### **ORDINANCE BOOK NO. 29 – PAGE 433**

#### **B. PUBLIC HEARING TO CONSIDER ADOPTION OF THE CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2015-19**

#### **RESOLUTION NO. 15-78 - RESOLUTION APPROVING THE 2015-2019 CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN**

Assistant Community & Economic Development Director Jeff Staudinger said that this is the consideration of a public hearing and resolution approving the City's Consolidated Strategic Housing and Community Development Plan for 2015-19, which will guide Community Development Block Grant and HOME funding decisions during that time period. This public hearing was advertised on April 17 and 24, 2015.

Every five years the City of Asheville, as the Participating Jurisdiction of the Asheville Regional Housing Consortium and as a Community Development Block Grant (CDBG) Entitlement Community must prepare a plan for the use of CDBG and HOME funds for the next five years. The Plan establishes priorities for the use of these federal funds, based upon an analysis of need and impact.

The Community Development Division began preparation of the Plan in December of 2014. An extensive citizen engagement process elicited broad stakeholder participation. The Housing Needs Assessment report prepared by Bowen National Research provided essential information about existing and projected affordable housing needs. The Asheville Regional Housing Consortium Board and the City Housing and Community Development Committee, serving as the advisory boards for the plan, reviewed data and citizen comments and have recommended priorities.

The highest priority in the proposed plan is to increase housing affordable to households earning 60% or less of median income.

The final Plan, as approved by Council, will be submitted to HUD on or before May 15, 2015. Submittal is made electronically through HUD's "IDIS" system. A copy of the plan will be available on the City's web site, and distributed to all Asheville Regional Housing Consortium members.

All funding decisions for 2015 CDBG and HOME funding must be in accord with the 2015-2019 Consolidated Plan. Staff considers all funding recommendations before Council to be supported by the Plan.

Pros:

- Approval of the Consolidated Plan will ensure continued eligibility for federal CDBG and HOME funding;
- Because of the extensive research and community engagement, the Consolidated Plan is a relevant and meaningful source of information about the needs of the communities served by the Plan;
- Priorities established in the Consolidated Plan will guide applicants as they seek to develop programs and projects that meet the greatest needs in the communities served by the Plan.

Con:

- None.

The 2015-2019 Consolidated Plan guides the use of federal funds during that time period. The priorities of the Plan, by guiding the investment of federal funds for affordable housing and other eligible activities, may affect City decisions about investments in CDBG and HOME funded projects during this time frame. The submittal of the Plan and its acceptance by HUD is a requirement for the continued receipt of CDBG and HOME funds.

Staff recommends that Council approve the 2015-2019 Consolidated Plan for CDBG and HOME.

Mayor Manheimer opened the public hearing at 5:34 p.m.

Mr. Greg Borom, representing Children First of Buncombe County, thanked the Council for addressing issues surrounding affordable housing with bold and creative ideas. Investing in children is a long-term proposition for our community's viability and future and we know that the stress of homelessness as well as the stress of being in an unsafe or unstable housing can impact children's health and educational outcomes for years to come.

Mayor Manheimer closed the public hearing at 5:36 p.m.

Councilman Smith noted that the Plan does reflect the community's needs, but does not provide nearly enough money. However, he noted that several thousands of people will be helped. We have dwindling resources for growing needs.

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

Councilman Smith moved for the adoption of Resolution No. 15-78. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

#### **RESOLUTION BOOK NO. 37 – PAGE 108**

#### **C. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2015-16 WHICH SETS**

**OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT  
BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR  
THE COMING YEAR**

**RESOLUTION NO. 15-79 - RESOLUTION AUTHORIZING SUBMISSION OF  
THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2015-16 TO THE  
U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT**

Community Development Manager Heather Dillashaw said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2015-16, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 17 and 24, 2015.

The City will have \$1,083,621 in CDBG funds and \$1,088,257 in HOME funds available for the fiscal year beginning July 1, 2015. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 18 CDBG and 8 HOME programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2015-2019.

20% of CDBG funds and 10% of HOME funds are available for administration. Funding for City management and administration is relatively flat in comparison to last year. The Community Development Division will maintain its staffing this year, but with increased federal administrative requirements program administration is an on-going challenge.

If the proposed projects receive the funding from other sources necessary to make them possible, HOME funds and CDBG funds will assist in creating 162 new affordable units, improve 16 housing units and helping an additional 100 households afford housing Consortium-wide. CDBG funds will also benefit almost 2,500 low-income City residents through homeless services, financial counseling, small business assistance, and other needed services. Our CDBG partner agencies leverage \$4.82 of other funding for every \$1.00 of CDBG funding. Our HOME partners will raise over \$25.00 for every \$1.00 of HOME funds invested in their projects.

A public hearing will be held at the Council meeting of April 28. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15.

**Pros:**

- Approval of the Action Plan paves the way for the receipts of over \$2,170,000 of HUD funding to the City and region, which will be used to create affordable housing and create jobs.
- HUD funding will leverage approximately \$34,900,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

**Con:**

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.



The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2015-16 to the U. S. Dept. of Housing and Urban Development.

Mayor Manheimer opened the public hearing at 5:41 p.m.

Ms. Kendra Penland, interim Executive Director of Green Opportunities, thanked City Council for their support.

Mayor Manheimer closed the public hearing at 5:43 p.m.

Councilman Smith thanked City staff for their assistance in evaluating the applications as it is very difficult to decide how to dispense the allowed CDBG funds and HOME funds to the very deserving applicants.

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

Councilman Bothwell moved for the adoption of Resolution No. 15-79. This motion was seconded by Councilman Pelly and carried unanimously.

#### **RESOLUTION BOOK NO. 37 – PAGE 109**

#### **D. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF BRADLEY STREET**

#### **RESOLUTION NO. 15-80 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF BRADLEY STREET**

Mr. Chad Bandy, Streets Manager, said that this is the consideration of a resolution to permanently close a portion of Bradley Street. This public hearing was advertised on March 27, April 3, April 10 and April 17, 2015.

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

Pursuant to this statute, Fiano Properties, property owner on both sides of the proposed closure area, have requested the City of Asheville to permanently close a portion of Bradley Street. Other property owners in the immediate area, not abutting the proposed closure area, signed the petition and submitted affidavits to close permanently close a portion of Bradley Street. Said other property owners include Sandra Alexander of 8 Moore Avenue; Megan and John Griffin of 430 State Street; and Aaron Marmaret and B. J. Harden Jones of 147 Bradley Street. Notice of this closing was via the posting onsite of the closure.

He said that the closing is subject to Fiano Properties, dedicating a new right of way to the City of Asheville that will be of equal width to the proposed closure and will allow for a continuous right of way around the proposed closed portion. In addition, the closing is subject to the retention by the City of Asheville Water Resources Department, its successors and assigns, of a 20 foot wide permanent easement, for the operation and maintenance of a water line lying 10 feet on each side of the center line of said water line located within the portion of

Bradley Street proposed to be closed.

The Multimodal Transportation Commission met on February 13, 2015, and approved the closure.

Pros:

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

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of Bradley Street.

Mayor Manheimer opened the public hearing at 5:48 p.m., and when no one spoke, she closed the public hearing at 5:48 p.m.

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

Councilwoman Wisler moved for the adoption of Resolution No. 15-80. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 36 – PAGE 110**

#### **E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A 97-UNIT APARTMENT BUILDING LOCATED AT 128 FLORENCE STREET AND WHITE FAWN LANE KNOWN AS BEAUCATCHER FLATS**

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 Attorney Currin asked if any Council member has any special knowledge associated with this project that they disclose it at this time. All Council members noted that they have had outside contact but would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

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

Urban Planner Jessica Bernstein 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).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for a 97-unit apartment building located at 128 Florence Street and White Fawn Lane.

The site consists of two parcels with a combined area of 3.24 acre parcel located at 128 Florence Street with additional frontage on White Fawn Place (PINs 9648.46-8032 and 9648.46-8234) (Attachment to City Exhibit 3 - Aerial Map). The site is accessed from Biltmore Avenue just north of Mission Hospital, is zoned Institutional and is currently vacant. Some previous site work was done on the parcel in 2007, including the construction of retaining walls that will be incorporated into the proposal.

Adjacent zoning and uses include Institutional to the west (medical and office/institutional uses), RS-8 to the north (single-family homes); Institutional and RS-2 to the east (vacant and Helpmate); and Institutional to the south (Mission Hospital).

The developer, South Slope Partners, LLC., is proposing a 97-unit multi-family apartment building on the site with associated parking and improvements related to residential amenities - (Attachment to City Exhibit 3 - Site Plan). The structure is shown as four levels with a maximum height of 42 feet. There are 76 one-bedroom and 21 two-bedroom units proposed. Site improvements include an outdoor terrace with a pool and open space.

Access to the site is via two twenty-four foot driveways from Florence Street at either end of the parcel frontage along this public street. There is an existing 5.5 foot sidewalk on the opposite side of Florence Street and none is proposed along the project side or along White Fawn Place.

Parking is provided to the side and rear of the building and a total of 106 spaces are shown on plans, including five accessible spaces and the required bike parking. Pedestrian pathways provide access throughout the site.

Landscaping required for the project includes property line buffer buffering to the north (Type B - 30'), street trees on both frontages, vehicular use area landscaping, building impact landscaping, and tree save area and are indicated on plans. There are a number of existing and proposed retaining walls. Compliance with standards found in Section 7-10-5 of the UDO will be required for new walls.

Fifteen percent of the total lot area is required to be dedicated as open space - 21,196 square feet. A total of 25,225 square feet of open space is provided.

The site is currently zoned Institutional; the use proposed is permitted by-right and the applicant is proposing to meet the standards of the District with this development proposal. Maximum residential density was recently increased for the Institutional zoning district to 30 units per acre; this project proposes 29.9 units per acre.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015 and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on April 1, 2015. At this meeting the Commission voted unanimously (6-0) to recommend approval of the conditional use permit to the Asheville City Council.

The applicant held a neighborhood meeting on March 26, 2015, and has met separately with several neighboring property owners. Staff has heard from neighbors with concerns about increased traffic and overflow parking on Florence Street.

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. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application.

Mayor Manheimer opened the public hearing at 5:56 p.m.

Mr. W. Louis Bissette, attorney representing Beaucatcher Flats, said that the site is zoned institutional and is permitted by right. The applicant will meet all standards of that district. The Project was approved with conditions by the Technical Review Committee and unanimously by the Planning & Zoning Commission. The applicant has held a neighborhood meeting and has met several times with two of its closest neighbors - Helpmate and Mission Health System. He read a letter from Ms. Sonya B. Greck, Sr. VP of Mission Health System expressing their support (Applicant Exhibit 1). The applicant has met with staff and Helpmate Board members on three occasions. Regarding Helpmate, the developer understands the security concerns and is committed to assist them in the following ways (which are not meant to be conditions) (1) provide Helpmate with a \$10,000 contribution to assist in the acquisition of an upgraded security system; (2) consult with Helpmate in designing the project's landscaping and lighting packages; (3) not oppose a no-parking area on the lower section of Florence Street adjacent to Helpmate (understanding that is the City's prerogative); and (4) provide a discounted rental rate to a local law enforcement officer who would live in the apartment complex. This property is an infill development that utilizes existing City streets, has adequate previously installed water and sewer and retaining walls - all of which are incorporated into this proposal. He said that their application (Applicant Exhibit 2) and the testimony presents adequate factual information to support each of the required findings by the Council. He then reviewed the seven conditional use permit standards (Attachment to City Exhibit 3 - Conditional Use Permit Application Statement on Findings). The project does not contain enough residential units to require a traffic study. Rental rates are anticipated to be well under the City's current workforce housing maximum. The one-bedroom units would be \$1,050/month and the 2-bedroom units would be \$1,450/month. The average rent across the 97 units will be approximately \$1,140/month. The property currently pays \$8,646 annually in City, County and Asheville City School System taxes, and upon completion, the estimated taxes will be approximately \$120,000 annually.

Mr. Matt Sprouse, landscape architect, reviewed with Council the site plan. Using a PowerPoint (Applicant Exhibit 3), he oriented the Council to the location and showed the different views of the area from the site. The site was previously much graded flat from the previous development. This is a good example of infill development, which is within one mile from Pack Square. They are designing within the existing site improvements. The project gives ample opportunity for multimodal transportation options for the residents. The traffic study was not required, however, the developer did consult with a traffic engineer to do a study. That study indicated that in terms of additional traffic, what this development would add is approximately 1 car per minute through those peak hours. Most of the traffic will go down to the stop light at Florence Street and Biltmore Avenue. Over the last five years there have been 11 incidents at that intersection and 7 were property damage car accidents.

Mr. Chris Warren, part of the development team, urged Council to support this project.

Ms. April Burgess Johnson, Executive Director of Helpmate, said that Helpmate is well aware of the critical lack of housing stock in Asheville and fully support the development of additional housing units; however, she expressed concern about the increased pedestrian and vehicular traffic in this area and the security risk it poses to their shelter. There will be increased pedestrian traffic on the very steep street leading down to Biltmore Avenue. She asked that the sidewalk be extended on Florence Street going towards Biltmore Avenue. Another main concerns is parking along Florence Street (which is in front of their domestic violence shelter), since it seems likely there will be on street parking given there are 97 units with only 106 parking

spaces. Overnight parking will make it easy for a batterer to stalk their victim which is residing in the shelter. She asked Council to designate all of Veronica Lane and the portion of Florence Street that has a direct site line of their shelter (and 100 feet beyond that site line) as a no parking zone. They are in the process of hiring a security consultant to provide them with a detailed report about where their greatest amount of security risk and exposure will be in relationship to the building of Beaucatcher Flats, with the overflow parking on the street and increased traffic and pedestrian traffic. She asked Council to continue the public hearing so they will be able to bring forward additional information about what the security risks are.

The following individuals reiterated Ms. Johnson's concerns regarding safety of the residents at Helpmate:

Ms. Bonnie Spradling, Helpmate Board Member  
Mr. Joe Fishleigh, Helpmate President  
Ms. Cindy Hamilton, Immediate Past President of Helpmate  
Ms. Cindy Ireland, Secretary of Helpmate (Neighborhood Exhibit 1)

Mr. Chad Pierce, resident at 41 White Fawn Drive, felt that the dumpster should be moved to the south side of the property and locate it deeper into the industrial zone (Neighborhood Exhibit 2). He also requested a condition to eliminate the secondary entrance onto White Fawn Drive (or prohibit hand movements) so as to eliminate the traffic into the residential White Fawn neighborhood.

City Attorney Currin said that the statutes states that Council cannot consider evidence relating to traffic safety from a lay witness (someone who is not an expert). People can testify as to their concerns, but the law does not allow Council to consider that.

Mr. Sprouse responded to the relocation of the dumpster request. Using a portion of the plan (Applicant Exhibit 4), he showed the location of the dumpster which will be screened, noting that there will be 30 feet of landscape buffer, then 20 feet of right-of-way, and then an additional 30 feet to the rear of the nearest neighbor, for a total of 80 feet from the residents to the dumpster location.

Using the site plan (Applicant Exhibit 5), Mr. Sprouse explained that the developer would be willing to construct a sidewalk (approximately 200 feet) on their property (in the City's right-of-way) leading down to Biltmore Avenue. At the end of their property, there is an asphalt parking lot that goes all the way down to Biltmore Avenue.

Regarding the elimination of the second entrance, Mr. Sprouse said that the secondary entrance was a requirement from the Fire Department.

In response to Councilman Smith, Mr. Bisette said that the developer is committed to assisting Helpmate with their security concerns as outlined above; however, they did not view them as conditions. City Attorney Currin said that if they are included as conditions, the City can enforce them. Ms. Johnson said that they are not asking Council to include the four items as conditions as they have a good working relationship with the developer.

When Councilwoman Wisler asked if the developer would be willing to continue the public hearing, per Helpmate's request, Mr. Bisette said that they had not heard that request until this meeting. He said that timing of this small project is important and would not support a continuation request. Mayor Manheimer also noted that the City has a timeline within which to act after receiving the material.

In response to Councilman Davis, City Traffic Engineer Jeff Moore said that should a concern arise from excessive traffic into the White Fawn neighborhood, after study, the City could restrict left turn lanes.

In response to Councilman Davis regarding eliminating on-street parking on Florence Street, Ms. Bernstein said that as you go into the single family neighborhood to the north, most of those residents rely on on-street parking. Mr. Moore agreed with Ms. Bernstein and said that we would want to study that carefully so as not to create an unintended consequences for other area residents as generally on-street parking serves the neighbors close to that parking. City Attorney Currin said that the City Traffic Engineer can study that issue and report to Council at a later time, since it is not a condition of the conditional use permit.

Using Applicant Exhibit 6, Mr. Bissette said that he believed that Helpmate was requesting the City designate all of Veronica Lane and the portion of Florence Street that has a direct site line of their shelter (and 100 feet beyond that site line) as a no parking zone.

Mr. Sprouse said that at this time the developer has a potential fee in lieu of for the sidewalk that would be required on White Fawn Place. After speaking with the developer, he asked that instead of being conditioned to construct the approximately 200 feet of sidewalk on their property (in the City's right-of-way) leading down to Biltmore Avenue, that that fee in lieu of be transferred to the sidewalk on their property leading down to Biltmore Avenue - so they would not have to pay a fee in lieu of twice. It was the consensus of Council that the condition be that the sidewalk be constructed on the developer's property leading down to Biltmore Avenue, and that a fee in lieu of be granted for the sidewalk required on White Fawn Place.

Mayor Manheimer closed the public hearing at 7:00 p.m.

Councilman Smith briefly looked at what Mission Hospital pays their employees and many could not afford to live at this project. Council is well aware that we can't meet all the affordable housing needs and we are seeking partners to provide housing for people who want to live close to where they work.

When City Attorney Currin said that staff has recommended that the approval also be conditioned on the developer's compliance with the site plan and the Technical Review Committee conditions, Mr. Bissette said that they are agreeable to that condition.

Mayor Manheimer noted that Council is looking for a condition for the construction of the sidewalk on the developer's property leading down to Biltmore Avenue, as shown on Applicant Exhibit 5. She noted that that per the City's requirements there is already a fee in lieu of being contemplated for the sidewalk on White Fawn Place.

Councilman Smith did not want to make all our housing exclusive and understood that the conditional use permit standards do not allow him to consider affordable housing for approval. While he has concerns, he hoped that the relationship will grow with this developer.

Vice-Mayor Hunt stated that the City needs more sidewalks and he felt that where appropriate he would prefer to have sidewalks constructed rather than granting a fee in lieu of.

Councilman Davis moved to recommend approval of the conditional use permit for Beaucatcher Flats located at 128 Florence Street and White Fawn Lane, subject to (1) the developer's compliance with the site plan; (2) the Technical Review Committee conditions; and (3) the construction of the sidewalk on the developer's property leading down to Biltmore Avenue. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Currin said that on the May 26 agenda, a motion will be placed approving the Findings of Fact and Conclusions of Law for Beaucatcher Flats located at 128 Florence Street and White Fawn Lane.

## **V. UNFINISHED BUSINESS:**

## **VI. NEW BUSINESS:**

### **A. MOTION AUTHORIZING THE MAYOR TO SIGN A LETTER TO THE WNC REGIONAL AIR QUALITY BOARD TO STRENGTHEN THE PERMIT LIMIT FOR SULFUR DIOXIDE (SO<sub>2</sub>) TO PROTECT OUR COMMUNITY FROM IMPACTS OF HARMFUL AIR POLLUTION**

Said letter reads: "On behalf of the Asheville City Council, I am writing to express concern about the draft Title V air permit recently issued by the Western North Carolina Regional Air Quality Agency (WNCRAQA) for Duke Energy's Asheville Steam Electric Plant. Specifically, Council is concerned that the suggested permit limit for sulfur dioxide (SO<sub>2</sub>) is insufficient to protect city and county residents from harmful air pollution, and we ask that you strengthen that limit to ensure our residents can breathe healthy air.

"As you know, even short-term exposure to SO<sub>2</sub> is linked with an array of adverse respiratory effects, including bronchoconstriction and increased asthma symptoms. Elevated concentrations of SO<sub>2</sub> in the air leads to more emergency room visits and hospital admissions, particularly for children, the elderly, and people with asthma.

"According to a recent report that uses a model approved by the Environmental Protection Agency (EPA) for tracking SO<sub>2</sub> pollution, emissions from the Asheville plant have been causing violations of the ambient air quality standard for SO<sub>2</sub> established by EPA. Indeed, the report states that the pollution in residential and recreational areas is at concentrations up to 3.5 times higher than levels EPA has determined to be safe. These exceedances have occurred approximately one out of every three to four days since 2010.

"I am concerned that the newly released draft air permit maintains the same SO<sub>2</sub> emissions limit that the plant has had for years. This limit is nearly 80 times higher than the limit necessary to attain EPA's public health-based SO<sub>2</sub> standard, and we believe it is insufficient to protect our community from the impacts of air pollution.

"The final Title V permit should contain limits that allow ambient air in the Asheville area to meet EPA's standard. We understand that limit to be no more than 61.7 lb/hr of SO<sub>2</sub> for each coal-burning unit, or a plant-wide average of 0.029 lb/MMBtu. We also understand that these levels are achievable if the plant's air pollution controls are run at full efficiency, as they were when they were first installed, or if the plant stops using high sulfur content coal.

"Part of our job as elected officials is to ensure the safety of our community. There seems to be a clear path to addressing this problem and ensuring healthy air for our residents, and the first step on that path is for plant's air permit to contain appropriate SO<sub>2</sub> limits."

Ms. Emma Greenbaum, representing the Asheville Beyond Coal Campaign, thanked City Council for their support.

Councilman Bothwell moved to authorize the Mayor to sign a letter to the WNC Regional Air Quality Board to strengthen the permit limit for sulfur dioxide (SO<sub>2</sub>) to protect our community from the impacts of harmful air pollution. This motion was seconded by Councilwoman Wisler and carried unanimously.

### **B. RESOLUTION NO. 15-81- RESOLUTION AMENDING RESOLUTION NO. 06-55 RELATING TO CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST CITY OFFICERS AND EMPLOYEES**

City Attorney Currin said that this is the consideration of an amendment to Resolution No. 06-55, regarding the City's policy relating to claims and judgments sought or entered against City officers and employees.

N.C. Gen. Stat. § 160A-167 authorizes the City, in its discretion, to provide for the defense of any civil or criminal action or proceeding brought against any employee or officer of the City, for an act alleged which is done in the scope and course of his or her employment. The statute also gives the City the discretion to appropriate funds for the purpose of paying all or part of any civil judgment entered against any of its employees or officers. In order for the City to defend or pay all or part of a claim or civil judgment, the statute requires the City to adopt uniform standards to determine which claims or civil judgments entered against employees the City will pay.

The City currently has a policy for defending against and paying, civil claims and judgments sought or entered against City officers and employees. In the past, the City has periodically revised this policy, to reflect City policy and to ensure that it is current and in accordance with applicable law. The last time the policy was revised was on March 14, 2006. The City Attorney's Office recently reviewed the City's defense of employees policy, and based on that review and consultation with outside council, recommends that the current policy be amended. These amendments are intended to allow the City to exercise its full authority under the statute and to aid in the administration of the policy.

Pros:

- Ensures compliance with N.C. Gen. Stat. § 160A-167.
- Defines the City's rights under N.C. Gen. Stat. § 160A-167.
- Updates the existing policy and aids in its effective administration.

Con:

- None noted.

There is no known fiscal impact associated with this amendment.

Adoption of the proposed resolution amending the City's policy relating to claims and judgments sought or entered against City officers and employees.

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

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

Councilman Bothwell moved for the adoption of Resolution No. 15-81. This motion was seconded by Councilman Davis and carried unanimously.

#### **RESOLUTION BOOK NO. 37 - PAGE 114**

#### **C. RESOLUTION NO. 15-82 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE**

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Ms. Sarah Nunez has resigned from the HUB Community Economic Development Alliance, thus leaving an unexpired term until August 22, 2015. In addition, Mr. Richard Stiles has also resigned from the Alliance, thus leaving an additional unexpired term until August 22, 2015.

The following individuals have applied for a vacancy on the Board: Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin and Adrian Vassallo.



At the April 14, 2015, meeting, it was the consensus of Council to interview Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning and Adrian Vassallo. Mr. Goosmann and Mr. Manning were unavailable for an interview.

After Council spoke highly of all candidates, Kendra Penland received 5 votes; Ted Figura received one vote; Hunter Goosmann received 3 votes; Ed Manning received no votes; and Adrian Vassallo received 5 votes. Therefore, (1) Kendra Penland was appointed to serve the unexpired term of Ms. Nunez, term to expire August 22, 2015, and then a full three-year term, term to expire August 22, 2018, or until her successor has been appointed; and (2) Adrian Vassallo was appointed to serve the unexpired term of Mr. Stiles, term to expire August 22, 2015, and then a full three-year term, term to expire August 22, 2018, or until his successor has been appointed.

## **RESOLUTION BOOK NO. 37 – PAGE 116**

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

#### **Proposed Duke Energy Substation to be Sited Next to Isaac Dickson Elementary School on Hill Street**

Mayor Manheimer said that this is a project undertaken by Duke Power and City Council is familiar with Duke's need to site three substations in the downtown area in the next two years. City Council is aware that they have acquired from private land owners (not the City) the properties to do that. The City has a limited role in this process. The City has some ability to require screening and buffering of a substation site. We have consulted with our attorney who has looked into this and City Council does not have the ability to zone them out. The part that the City or the County could potentially play in this situation is if the City or County had land available that was suitable for an alternative site. The City has exhaustively looked to see if we do and we do not. She appreciated there is a great concern about this very serious issue and the City has tried hard to see what opportunities we have to play a part in this situation. Last week she met with the co-director of Isaac Dickson's PTO; the City Schools Superintendent; the Chair of the Asheville City Board of Education and other School Board members; several Duke representatives; the City Manager and Assistant City Manager; the City's Real Estate Manager; and some City Council members so we could understand the complexity of the issue and see what opportunities there were to address the problem. It is a very challenging issue and she felt confident that they have looked very hard at what opportunities the City has to try to see if there was any land available for an alternative site. She said that the County is also concerned about this matter as well.

Ms. Angi Everett, co-president of Isaac Dickson PTO, asked Council to oppose the Duke Energy substation to be built next to the new Isaac Dickson Elementary School. Some have questions about possible health effects of the substation and the electromagnetic fields it will produce. She hoped that Duke Energy will find an alternative location. She presented City Council with approximately 200 letters which read "As an Isaac Dickson Elementary School parent, I am very concerned about the location of a Duke Energy Power Substation next to our new school. There are potential, serious health and safety risks for our children if the substation is built close to the school. Potential risks may include electrocution (a child was electrocuted when he entered a power substation near a park in Florida just last fall) and possible increased cancer risks for our children due to electromagnetic fields (EMF). Given these potential risks, it is not prudent to move forward with the current plan to build the substation next to Dickson. Why would we risk the health and safety of our children, given that the body research about the effects of EMF on children is inconclusive? I am writing to ask that you work with the Dickson PTO and the Asheville City School Board to help Duke Energy find an alternative site for the substation and avoid potential risk to our children's health and safety. Our community is investing a great deal in building a healthy new school for our children and the location of a power substation right next to it seriously diminishes this community investment. Thank you for your consideration. I hope that

you will join us and provide leadership to move the location of the substation away from our children's school. This is the right thing to do for our children."

The following individuals reiterated Ms. Everett's concerns and asked for the City's leadership in basically protecting the health of our children by finding an alternative location for the Duke Energy Substation, or those parents that can will pull their children out of the school, thus leaving the minority and low income children to live with the possible health effects:

Katie Russell  
Calvin Tomkins  
Sarah Patten  
Rustan Adcock  
Christine Aiken  
Valeria Wyder  
Holly Kirschbaum  
A young girl  
Lisa Harkema  
Carol Paulsgrove  
James Shaw  
Charlotte Wilkerson  
Jada Bloomfield  
River Harland  
Will Harland  
Papias Sabo

Vice-Mayor Hunt asked that City Attorney Currin share her findings with a representative of the opposition regarding the City not having zoning power authority to pre-empt the substation going in on that site.

Councilwoman Wisler suggested the parents reach out to the N.C. Utilities Commission.

Councilman Bothwell felt the parents biggest weapon against Duke is publicity and urged them to continue to fight for an alternative location.

### **Closed Session**

At 8:18 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(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:07 p.m., Councilman Pelly moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

### **VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 9:07 p.m.

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CITY CLERK

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MAYOR