

Tuesday – October 13, 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:**

**II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 22, 2015
- B. RESOLUTION NO. 15-188 - RESOLUTION AMENDING THE CITY COUNCIL 2015 MEETING SCHEDULE TO INCLUDE THE ORGANIZATIONAL MEETING OF CITY COUNCIL ON TUESDAY, DECEMBER 1, 2015, AT 4:00 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL  
  
RESOLUTION BOOK NO. 37 - PAGE 282
- C. RESOLUTION NO. 15-189 - RESOLUTION TO ESTABLISH AN OPEN DATA POLICY FOR THE CITY OF ASHEVILLE FOR SUSTAINING PUBLIC DATA AVAILABILITY USING OPEN DATA STANDARDS

Summary: The consideration of a resolution adopted an open data policy for the City of Asheville for sustaining public data availability using open data standards.

The City of Asheville has long been committed to using technology to create open, transparent, and accessible government. Furthermore, City staff has led the way in open data since 2012. In fact, the City participated in one of the country's first "Open Data Day" activities, and has been recognized as being the first city in the South to implement a publicly-accessible repository of automated open records.

Open data is the automation of data records that are already considered "open" by state law. Open data removes the manual labor associated with providing data and makes city government more efficient by creating a self-service portal that serves interested parties, such as media, business, and interested citizens.

It is well known that open data is helpful with economic development, commerce, entrepreneurship, and a higher level of civic engagement in the community. Open data allows city staff and others to analyze and visualize data in ways that can help the community. For example, the "Asheville Budget App" (avlbudget.org) was created by interested Asheville citizens, not by city staff. Several community events, such as RerouteAVL, OpenHousing, and Hack For Food, were all assisted by the 24x7 availability of open city data. These weekend events would not have been possible if data was only available through city staff, Monday through Friday, 8:30-5:00.

Staff seeks to have City Council endorse open data efforts at the City of Asheville. Interested citizen groups have also expressed interest in seeing City Council pass an Open Data Resolution.

The City Council Governance Committee reviewed this action on August 25, 2015, and supported it moving forward for full Council consideration.

The following are recommended best practices:

1. The most frequently requested structured datasets (that is, data that have rows and columns, rather than document format) shall be prioritized for release.
2. The City's Information Technology Services (ITS) Department will facilitate the process of open data release with all City departments, and will both identify high value data sets for City departments, as well as assist departments in publishing data sets that are identified by each department.
3. When data sets are published, the originating city department, with assistance from ITS, should provide descriptive information (i.e. metadata) about each dataset to facilitate the search and understanding of the content of open datasets

Pros:

- Compliance with state law regarding open records
- Efficiency regarding fulfillment of open record requests
- Creates opportunities for the community to collaborate with City government
- Increased customer service, decreased turnaround time through self-service access to City data
- Low cost of implementation

Cons:

- None noted

It is difficult to precisely assess the impact of open data on both the economy and on the City budget. However, it is fairly obvious that manually satisfying record requests is dramatically more expensive in terms of labor than an automated process. Moreover, tools that take advantage of open data (such as SimpliCity) have been reported to save local business significant labor over time.

City Staff recommends City Council direct the City Manager to adopt a resolution establishing an open data policy for the City of Asheville for sustaining public data availability using open data standards.

#### **RESOLUTION BOOK NO. 37 - PAGE 283**

- D. **RESOLUTION NO. 15-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR A GRANT TO FUND YEAR 3 OF THE MULTI-JURISDICTIONAL DWI TASK FORCE INVOLVING THE ASHEVILLE POLICE DEPARTMENT AND THE BUNCOMBE COUNTY SHERIFF'S OFFICE**

#### **ORDINANCE NO. 4456 - BUDGET AMENDMENT FOR THE THIRD YEAR OF A GRANT FOR MULTI-JURISDICTIONAL DWI TASK FORCE**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund year 3 of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of \$411,331 to establish a budget for the third year of the grant.

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher.

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. A request for continuation of year 3 of a 4 year grant in the amount of \$411,331 in FY 2016 that would cover the cost, to pay for six officers on DWI enforcement and training. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance. The City of Asheville and Buncombe County are responsible for a total grant match of 30% or \$123,399. The City's share of this match will total \$80,197 in FY 2016.

This grant proposal was reviewed at the Finance Committee meeting on September 22, 2015, and recommended it be forward to the full Council.

Pros:

- NCGHSP grant funds used to pay for training and pay 70% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond the first year.
- In year three (3), the City of Asheville will be required to match 30% of the personnel costs. The grant funding will incrementally decrease each year and after the four-year funding period, 100% of the personnel costs will be the City of Asheville's responsibility.

As noted above, the general fund impact in FY 2015-16 is \$80,197. This amount is already included in the Police Department's adopted FY 2015-16 budget. At the end of the grant, the general fund impact would be approximately \$267,325 per year to permanently add one sergeant and three officers to the APD roster, and to provide their equipment as needed. The chart below outlines the general fund impact over the remainder of the grant.

Year 3	FY 2016	\$80,197
Year 4	FY 2017	\$133,662
Year 5	FY 2018	\$267,325

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of \$411,311 to establish a budget for the third year of the grant.

## **ORDINANCE BOOK NO. 30 - PAGE 163**

### **E. RESOLUTION NO. 15-191 - RESOLUTION APPROVING CO-SPONSORSHIP OF THE AFFORDABLE CARE ACT OPEN ENROLLMENT KICK-OFF SPEARHEADED BY PISGAH LEGAL SERVICES**

Summary: The consideration of a resolution approving co-sponsorship with Pisgah Legal Services and other partners for the Affordable Care Act Open Enrollment event on November 7, 2015, at the US Cellular Center.

In November of 2014, the City of Asheville co-sponsored the Affordable Care Act Open Enrollment Event at the US Cellular Center. The event will again be hosted by The ACA Partners of WNC (Blue Ridge Community Health Services, Council on Aging of Buncombe County, Legal Aid of North Carolina, Mountain Projects, Inc., Pisgah Legal Services, Western Carolina Medical Society and Western North Carolina Community Health Services).

Pros:

- Continued partnerships with outside agencies.
- Opportunity for residents of Asheville and Buncombe County to get information about health insurance coverage.

Cons:

- None

Pisgah Legal Services is paying \$500 which is \$1000 less than the standard rate for the room during a normal event. All of the City's 'hard costs' are covered with this.

City staff recommends City Council approval of a resolution authorizing the City Manager to co-sponsor the Affordable Care Act Open Enrollment event on November 7, 2015, at the US Cellular Center.

## **RESOLUTION BOOK NO. 37 - PAGE 286**

### **F. RESOLUTION NO. 15-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH J & E CONCRETE CONSTRUCTION LLC FOR THE CONCRETE MAINTENANCE AND ADA IMPROVEMENTS FOR FISCAL YEAR 2016**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$165,448.50 with J & E Concrete Construction, LLC. for the project known as Concrete Maintenance and ADA Improvements FY16, City of Asheville Project #CPM-15-16-001, and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of \$200,000.

This contract is our annual Concrete Maintenance Contract. It will be used to address sidewalk issues primarily along Merrimon Avenue and its adjacent streets. This area has a number of issues and has not been heavily addressed with previous contracts. The project was advertised on July 30, 2015, and bids were opened on August 27, 2015, with the following results:

J & E Concrete Construction, LLC, Harmony, NC	\$165,448.50
Patton Construction Group, Arden, NC	\$233,176.00
Armen Construction, Charlotte, NC	\$237,749.00
Appalachian Paving and Concrete, Swannanoa, NC	\$287,280.00

Pros:

- Will correct a number of sidewalk issues, primarily on the Merrimon Avenue corridor.
- Addresses pedestrian safety by providing the required sidewalk maintenance.

Cons:

- Project management and contract administration will consume staff time.
- Will not address the complete backlog of sidewalk maintenance work orders.

\$200,000 was budgeted for concrete repair and maintenance in the general fund. This amount was approved by City Council and included in the Fiscal Year 2015-16 budget.

City staff recommends City Council adopt the resolution awarding the contract to J & E Concrete Construction, LLC. and authorizing the City Manager to execute a contract in the amount of \$165,448.50 with J & E Concrete Construction, LLC for the project known as Concrete Maintenance and ADA Improvements FY 16 and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of \$200,000.

#### **RESOLUTION BOOK NO. 37 - PAGE 287**

##### **G. RESOLUTION NO. 15-193 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES PA FOR THE 2015 MEDIAN MAINTENANCE PROJECT**

**Summary:** The consideration of a resolution authorizing the City Manager to execute a contract with McGill Associates, PA, for the amount of \$58,200.00 plus 10% contingency and any change orders within the project budget for the project known as 2015 Median Maintenance Project, City of Asheville Project # CPM-14-15-012.

The City of Asheville has many median and bulb-out locations in City rights-of-way that need landscape improvement and maintenance. This project will address these locations in stages, beginning with locations located within the City's Central Business District and with additional locations within the City addressed in subsequent years. For each site this project includes a basic schematic, an assessment of the existing vegetation, recommendations for appropriate plants, and development of a maintenance plan including care and maintenance of existing and proposed plantings. The maintenance plan will serve as the basis of a subsequent and separate landscape maintenance bid package.

A request for qualifications (RFQ) for this project was initially advertised on April 17, 2015, and responses were received from design teams led by the firms listed below.

Design Workshop	Asheville, NC
Equinox Environmental	Asheville, NC
McGill Associates	Asheville, NC
The Jaeger Company	Athens, GA

Following an evaluation process as described in the RFQ, McGill Associates was selected based on their company's experience and qualifications, the experience of their project manager and key personnel, and the company's project understanding and approach. Fee negotiations between the City and McGill Associates resulted in the contract price of \$58,200.00. Adding a 10% contingency, the total required budget for construction is \$64,020.00. The work produced from this contract would resolve issues associated with driving safety and pedestrian facilities. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 2, and Focus Area 3 Goal 1.

Pros:

- Ensures pedestrian and driver safety.
- Confirms investment in community infrastructure

Con:

- Project management and contract administration will consume staff time.

Funding for this contract was included in the FY 2015-16 adopted Public Works Department general fund budget.

City staff recommends City Council adopt the resolution awarding the contract to McGill Associates, PA, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$58,200.00 plus a contingency of 10% (\$5,820.00), for a total of \$64,020.00, with McGill Associates, PA for the project known as 2015 Median Maintenance Project.

#### **RESOLUTION BOOK NO. 37 - PAGE 288**

##### **H. RESOLUTION NO. 15-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION**

**Summary:** The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

This funding makes possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, and to develop programs required by the Federal Transit Administration for recipient and subrecipients to ensure compliance with federal regulations.

FY 2015-16 funding totals \$75,000. The subject grant will provide 80% of the anticipated funding (\$60,000), the North Carolina Department of Transportation will provide 10% (\$7,500), and the City will provide the remaining 10% (\$7,500). The grant funding and the City's local match in the amount of \$7,500 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for two existing positions.
- The subject grant enables the City of Asheville to use \$67,500 in Federal and State funds for transit planning activities. Transit planning activities include but are not limited to: analysis of transit data, implementation of the transit master plan, route development and scheduling; operational improvements, development of the Title VI and DBE programs;

development of specifications related to transit products; bus stop program and shelter installation.

Con:

- A 10% local match in the amount of \$7,500 is required.

The total grant funding for Fiscal Year 2015-16 is \$75,000. The City is required to provide a 10% local match in the amount of \$7,500. The anticipated grant funding and the City's local match in the amount of \$7,500 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2015-16.

#### **RESOLUTION BOOK NO. 37 - PAGE 289**

##### **I. ORDINANCE NO. 4457 - BUDGET AMENDMENT FOR ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES FEDERAL GRANT, SECTION 5310**

Summary: The consideration of a budget amendment in the amount of \$444,299 to set up the project budgets for the Enhanced Mobility of Seniors and Individuals with Disabilities Federal grant, Section 5310.

The City of Asheville is the designated recipient of the Enhanced Mobility of Seniors and Individuals with Disabilities program, which is a program of the Federal Transit Administration (FTA). This is a formula grant program oriented to improve mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options.

The projects to be funded include: the Call a Ride, Council on Aging program; the Senior Companion, a Land of Sky program; supplemental elderly and disabled transportation assistance, a Buncombe County program; paratransit services, a City of Asheville program, and the City of Asheville's administrative costs.

This is a new program of the Moving Ahead for Progress (MAP) 21 transportation bill passed by Congress in 2012 that consolidated the Elderly and Disabled program that distributed funds to the states and the New Freedom program that was a formula program in which the City was the region's designated recipient.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization (MPO), 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.

The plan was approved on March 29, 2012, by the French Broad River MPO's governing body (the Board), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the region's priorities and identifies needs; the projects were selected on April 23, 2015, through a competitive process led by the MPO.

The projects below were selected as city's sub-recipients for the 5310 program. The projects are listed as follows:

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Buncombe County	Supplemental elderly and disabled assistance	\$66,126	\$66,126
Council on Aging	Call a Ride	\$27,548	\$27,548
Land of Sky	Senior companion program	\$54,000	\$54,000
City of Asheville	ADA paratransit	\$99,401	\$24,850
City of Asheville	Program Administration	\$24,700	N/A

The city needs to set up project budgets in order to pass through the funds and will seek reimbursement directly from the FTA. The sub-recipients will be responsible for the match.

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use \$24,700 for administration purposes, which will cover the program management expenses for a period of one year.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The city can use \$24,700 for administration purposes.

Con:

- The project cost is \$444,299, of those \$271,775 are federal funds and the city will seek reimbursement from FTA.

The total financial impact for the subject projects is \$444,299 and it will be funded with Federal Funds. \$24,700 will be reimbursed to the city for administrative costs.

Staff recommends that City Council adopt a budget ordinance amendment in the amount of \$444,299 from Federal Funds to setup the project budget for Job Access and Reverse Commute project, including the administrative costs.

#### **ORDINANCE BOOK NO. 30 - PAGE 165**

**J. RESOLUTION NO. 15-195 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE CITY OF ROCKY MOUNT FOR THE PROCUREMENT OF TRANSIT BUSES**

Summary: The consideration of a resolution authorizing the Mayor to enter into an inter-local agreement with the City of Rocky Mount for the procurement of buses.

Local governments may team up with each other under the interlocal cooperation authority contained in Chapter 160A, Article 20, Part 1 of the North Carolina General Statutes. Under this authority, local governments can accumulate their requirements and obtain lower prices on buses that would not be affordable for one unit acting alone. .

The City of Rocky Mount Transportation Authority will issue an invitation for bids to procure replacement buses for its public transit fleet. The City of Asheville and its Management Company, First Transit has communicated with Rocky Mount as to the specifications and requirements for the City of Asheville transit fleet. Rocky Mount has incorporated the City of Asheville specifications and requirements into the cooperative bid document.

The City of Rocky Mount will act as the lead procuring agency and will handle the bid opening and award the contract to the successful Vendor in accordance with applicable North Carolina and Federal law.

This matter was presented to the Transit Committee on October 6, 2015, and they recommended to pursue this alternative. The matter will be presented to the Multi-Modal Commission on October 28, 2015.

Pros:

- Partnering with the City of Rocky Mount will save staff time and resources and will allow city staff to purchase a 35 foot bus immediately after the bid is awarded, as the city has already received funding to acquire the first one of these.
- The city is not committing financial resources in pursuing this opportunity and has the option to reject the award.

Con:

- None at this time.

This action does not have any fiscal impact.

City staff recommends City Council adopt the resolution authorizing the Mayor to enter into an Interlocal Agreement with the City of Rocky Mount to procure transit buses.

#### **RESOLUTION BOOK NO. 37 - PAGE 290**

#### **K. RESOLUTION NO. 15-196 - RESOLUTION ACCEPTING THE ANNUAL REPETITIVE LOSS AREAS ANALYSIS REPORT**

Summary: The consideration of a resolution accepting the annual Repetitive Loss Area Analysis report which identifies actions staff has taken since becoming a member of the Community Rating System (CRS) Program.

The City of Asheville joined the Community Rating System (CRS) program administered by the Insurance Services Office (ISO) last year. As required by the CRS program, a Repetitive Loss Area Analysis (RLAA) to supplement the Buncombe's County-wide All Hazards Mitigation Plan was prepared last year by the consultation firm of Brown and Caldwell.

A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than \$1,000 that have been paid by the National Flood Insurance Program (NFIP) within any 10-year period since 1978). The RLAA is a mitigation plan developed for those areas with the purpose of reducing damages and increasing awareness from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to reduce the consistent increase in flood insurance premiums that has been occurring for a number of decades.

The Community Rating System (CRS) is a program administered by the Federal Emergency Management Agency (FEMA). It provides lower insurance premiums under the National Flood Insurance Program. The premium reduction is in the form of a CRS Class. A 5 percent reduction is received by policy holders for each class reduction the community obtains. The classes are obtained by actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. The benefits of joining the Community Rating System has been a reduction of flood insurance premiums paid for by those citizens who have flood insurance. Currently, the citizens of Asheville receive a 10 percent reduction in their flood insurance premiums because Asheville is a participant in the CRS program.

In order to maintain the current status in the CRS program, staff is required to provide to council the annual report of the Flood Mitigation Actions Items that were part of the RLAA report from Brown and Caldwell adopted by Council on December 10, 2013. As highlighted in the report, staff continues to look for ways to reduce flooding and damage from floods through community awareness through our website and flyers, staff is working with the Army Corps of Engineers on opportunities within the Swannanoa River Basin for flood mitigation opportunities and city staff works with developers and property owner on ways to protect their properties from flooding.

Pros:

- The citizens of Asheville will continue to receive a 10 percent reduction on their flood insurance program.
- Provides higher level of protection through our current flood ordinance
- Promotes public education of the Special Flood Hazard Areas

Con:

- Considerable amount of staff time is necessary to maintain these requirements.

There is no additional fiscal impact to continuing the efforts necessary for the CRS program, staff time is currently programmed into the annual budget.

City staff recommends City Council adopt a resolution accepting the annual Repetitive Loss Area Analysis.

#### **RESOLUTION BOOK NO. 37 - PAGE 291**

#### **L. ORDINANCE NO. 4458 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR A NEW TRAFFIC SIGNAL POLE IN BILTMORE VILLAGE**

**Summary:** The consideration of a budget amendment in the General Fund in the amount of \$10,526.40 from insurance recovery funds from a damaged traffic signal pole to utilize towards the purchase of a new traffic signal pole.

On March 24, 2015, a City of Asheville (City) traffic signal pole was knocked down by a third-party in the Biltmore Village after which a temporary traffic signal control was installed for traffic safety purposes. Recently, the City settled the property damage claim for \$10,526.40 and the Transportation Department seeks to utilize the settlement funds to purchase a permanent traffic signal pole.

Pro:

- Provides funding for Transportation Department traffic signal pole purchase.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the General Fund, from which the traffic signal pole purchase will be made.

Staff recommends City Council adopt the budget amendment in the General Fund in the amount of \$10,526.40 from insurance recovery funds to be utilized towards the purchase of a traffic signal pole.

#### **ORDINANCE BOOK NO. 30 - PAGE 167**

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

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

#### **A. SIMPLICITY**

Director of Information Technology Jonathan Feldman recognized Business & Public Technology Manager Scott Barnwell, Analyst Cameron Carlyle and Media Specialist Dan Phairas for their assistance in the City's winning Technology Award for its SimpliCity search engine during the Code for America Summit Oct. 2 in Oakland, Calif.

Mr. Feldman then explained that launched in June, SimpliCity makes city data easy to find. SimpliCity's tagline is "city data simplified" and it provides easy access to city data through a single search bar.

Powered by open data and developed with Lean Startup and usability principles, the focus of SimpliCity is to answer questions of interest in the simplest manner possible. Citizens can track crime and development near their home, and get answers to simple questions. City employees can quickly determine if an address falls within city limits before issuing a permit. Both the citizen and employee experience is designed to be quick, simple, self-service and easy.

In the past, cities provided an overwhelming amount of information through dense and frustrating portals and PDFs. SimpliCity is so easy that anybody with a smart phone can use it.

#### **B. LEGISLATIVE UPDATE**

Mayor Manheimer said that the 2015 Long Session ended on September 30, 2015.

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

#### **A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 852 (9999) HENDERSONVILLE ROAD FROM HIGHWAY BUSINESS DISTRICT AND OFFICE DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A SELF-STORAGE FACILITY, WITH CONDITIONS MODIFYING REQUIREMENTS FOR THE LOCATION OF STREET TREES, REDUCING PARKING COUNTS, AND REDUCING BUILDING SETBACKS**

At the applicant's request, Councilman Bothwell moved to continue this public hearing until November 10, 2015. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

**B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 509 BILTMORE AVENUE FOR THE CONSTRUCTION OF A 12-STORY TOWER ADDITION TO THE MISSION HOSPITAL FACILITY**

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

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

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:20 p.m.

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 the applicant, Mission Health Inc. & Memorial Mission of Western North Carolina, is requesting review of site plans for the construction of a 12-story, 681,000 square foot tower addition to the Mission Hospital facility (Attachment to Exhibit 3 - Location Map). This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates review for institutional projects with more than 100,000 square feet of gross floor area. Level III projects are reviewed as Conditional Use Permits.

The site consists of three parcels with a combined area of over 30 acres (PINs 9648.43-8750; 9648.43-3912; 9648.44-5476), located at 509 Biltmore Avenue (Attachment to Exhibit 3 - Overall Master Plan). The project area (approximately 7.6 acres) has frontage on multiple City streets (Biltmore Avenue, Hospital Drive, Victoria Road) as well as internal private drives (Lily Carmichael Drive, Anna Woodfin Drive, Rose Chapman Drive) and is occupied by multiple hospital buildings and parking structures. The site and surrounding parcels are zoned Institutional.

The applicant is proposing to demolish several existing parking areas and structures to construct a new 12-story medical tower (10 levels above ground). The building is shown as 681,000 square feet with a height of approximately 214 feet. The proposal includes several new points of access into the site from Victoria Road as well as reconfiguration of internal vehicular flow, patient drop-off points and new parking for the emergency department and main hospital entrance.

Currently, access to the emergency department is from Biltmore Avenue and the primary entrance for the hospital by the public is from Victoria Road. The proposal creates a completely new emergency department in the new tower with a relocated vehicular entrance from Victoria Road (in the location of the current access off of Victoria Road). There would be a new main entrance for all other hospital users southwards on Victoria, across from Livingston Street (the City is undertaking an intersection improvement in this location as part of a separate project). This proposed main hospital entrance allows access to the new emergency department, to the surgery drop-off area, and to Lily Carmichael Drive, Anna Woodfin Drive and the main (west) parking deck.

Ambulances and emergency vehicles are shown to have an entrance/access to the emergency department that is separate from the main public entrance, and will enter via the MAHEC bridge over Biltmore Avenue (existing access points).

There is also a proposed access for service and delivery vehicles from Hospital Drive into the lower levels of the tower.

According to submitted plans, this project results in a net loss of approximately 130 parking spaces. The proposal adds approximately 101 public spaces at the new emergency department, eight spaces at the main entrance and 30 spaces at the ambulance drop-off, primarily for ambulances, doctors and emergency personnel (a total of approximately 139 spaces created). Plans indicate that the overall hospital parking count will be 4,070 at the completion of this project. Because the UDO does not provide an off-street parking category for hospital campus uses, an interpretation has been created using peer data and the American Planning Advisory Service Report Number 432 (Off-Street Parking Requirements, following the process in Section 7-11-2(c)(1) and as a result, parking is considered adequate and compliant.

There are existing sidewalks along all project frontages (Biltmore Avenue, Hospital Drive and Victoria Road). Additionally, there are new walkways shown into the site from Victoria Road to route pedestrians along the new main entrance. Currently the S1, S2, S3 and S5 bus routes serve the hospital and are proposed to remain.

Landscaping required for the project includes street trees, parking lot, parking deck and building impact landscaping as well as retaining wall screening.

The proposal includes significant new retaining walls along the Biltmore Avenue and Hospital Drive frontages for the new emergency department parking area as well as another significant wall around the new main entrance drop-off (up to 20 feet in height). Walls as shown along Biltmore Avenue and Hospital Drive reach up to approximately 28 feet in height and will be reviewed for detailed technical compliance at the Final Technical Review Committee (TRC) submittal.

The project proposes to comply with urban open space standards in the UDO, which require five percent of the project area to be designated and this is being accommodated in a number of hardscaped and landscaped plazas, courtyards and waiting areas around the new development.

A detailed staging plan has been provided, showing the anticipated phasing of vehicular and pedestrian access as well as crane locations. The phasing and construction staging will be an ongoing discussion between multiple City departments as the project continues through the review and permitting processes.

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.

This proposal was approved with conditions by the TRC on August 17, 2015, and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval (Attachment to City Exhibit 3 - Building Perspectives); (Attachment to City Exhibit 3 - Proposed Public Plaza Design); and (City Exhibit 4 - Marked Drawing No. 1 - Sketch of Corner of Biltmore Avenue).

The Planning & Zoning Commission reviewed the proposal at their meeting on September 2, 2015, and several Commissioners expressed concerns about the lack of activity and interaction of the proposal with Biltmore Avenue and Hospital Drive and the impact to the pedestrian experience on these frontages. Ultimately there was a unanimous recommendation to support the project but with added conditions to better conform with numbers four and five of the

conditional use permit standards. These are: 1) that the applicant work to address the pedestrian access from Biltmore Avenue; and, 2) that the applicant should address the proposed structure walls along Hospital Drive and Biltmore Avenue.

In response to staff and the Planning & Zoning Commission concerns, the applicant has revised the area along the corner of Biltmore Avenue and Hospital Drive to include a redesigned plaza with wider sidewalks, a planting strip along a portion of Biltmore Avenue, hardscaped courtyard areas with seating and wayfinding as well as space for a transit shelter. Staff's assessment of the overall project, including the proposed plaza, as related to the conditional use standards is described in further detail below.

Staff met with the applicant on numerous occasions in order to address the conditional use standards as described in further detail below.

Conditional Use Findings: 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 has concerns with the project's ability to fully comply with the following conditional use permit standards:

- *Standard One: That the proposed use or development of the land will not materially endanger the public health or safety.*
  - Staff has some concerns with pedestrian safety around the southernmost and eastern perimeters of the project area.
- *Standard Two: That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
  - There are grade changes in the immediate vicinity and in order to coordinate and connect the internal workings of the proposed tower with the existing hospital buildings, the proposed plan results in the building being set back from Biltmore Avenue/Hospital Drive 30-60', leading to retaining walls up to 28' with the raised parking surface above. Mitigation measures are needed to better integrate the proposed grade changes with the existing pedestrian environment.
- *Standard Four: That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
  - The character of area is institutional in nature and largely consists of medical and hospital uses and related offices. These uses flank both sides of Biltmore Avenue, Hospital Drive, Victoria Road and McDowell Street. Residential neighborhoods are located between McDowell and Biltmore, as well as behind the commercial and office uses that are located along the main arterials. Asheville High School is located southwest of the subject site. Biltmore and McDowell are connectors between the commercial nodes of the Central Business District and Biltmore Village and experience large vehicular volumes, and contain multiple transit routes. There is also considerable pedestrian traffic flowing along the Biltmore Avenue corridor, as well as related to the neighborhoods and the employees and visitors at the hospital and surrounding offices. This level of activity results in a character for the area that is busy throughout the day. The development in the areas varies from urban-style buildings at the back of the sidewalk as well as medical offices that follow a more suburban pattern with

parking in between the building and the street. There are larger parcels along Biltmore Avenue heading north towards downtown, currently larger expanses of surface parking, where redevelopment is anticipated in the future.

- The proposed development faces internally, along Victoria Road, leaving an undeveloped, un-activated corner at Biltmore and Hospital Drive. While there are some examples of larger setbacks and inactive frontages in the general area, these are more from an outdated development pattern and do not reflect the active nature of this urban neighborhood corridor.
- The tower building is proposed to be approximately 214 feet in height, or 12-stories (10-levels above ground) and approximately 681,000 square feet. This structure is significantly larger than any building in the vicinity. The adjacent hospital building is 5-7 stories and most of the buildings in the area vary between one and five levels. This proposal can be considered as out of scale with the area in which it is located but staff recommends mitigating the increase in scale by ensuring a human-scale is respected at the ground level. There are large, vegetated setbacks and retaining walls up to 28 feet along Biltmore Avenue, Hospital Drive and Victoria Road which limits integration of the project with the pedestrian realm.
- *Standard Five: That the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the city.*
  - The land use and transportation section of the 2025 Asheville City Development Plan notes that Biltmore Avenue at this location is considered an “Urban Neighborhood Corridor” which “connects neighborhoods with each other, with employment centers, with institutional uses and with major thoroughfares. Mixed-use structures, typically 2-4 stories in height, contain retail, office and residential uses that serve and are completed by adjacent neighborhoods. Sidewalks, streetscape and building design acknowledge and provide a safe environment for the significant pedestrian users of the urban/neighborhood corridor”. Also, the smart growth policies throughout the comp plan highlight infill development, mixed-use buildings and thoughtful use of spaces for pedestrians and transit users as well as encouraging “human-scale design, compatibility with the existing urban context”. Development along the corridor is encouraged to be mixed-use, buildings permitted to front on the street, follow urban-style of architecture and provide a high-quality intentional streetscape design.
- *Standards, Two, Four and Five:*
  - Related to the ability to comply with standards two, four and five, staff has concerns with the void of pedestrian activity or human-scale interest created by the large setbacks and tall structure walls along Biltmore Avenue and Hospital Drive and how that impacts character, scale, compatibility and interconnectivity especially from the pedestrian perspective along this urban neighborhood corridor as described in multiple sections of the 2025 Comprehensive Plan.
- *Standard Six: That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
  - There are multiple routes in the immediate area but no existing shelters.

To lessen the impacts of this development and to better comply with the standards referenced above:

- Staff recommended the redesign of the southwest corner of Biltmore Avenue and Hospital Drive in order to allow for greater activation and interaction, such as a liner building, an urban plaza space and aesthetic treatments to the retaining walls to maintain a consistent and more urban streetscape along Biltmore

Avenue, improve the pedestrian experience, and mitigate the large scale of the proposed tower and associated retaining wall at this location. Understanding the challenges with providing a liner building at this time, the applicant has agreed to work with the city to evaluate future opportunities along the Biltmore Avenue corridor that enhance the pedestrian environment, street-level activity and human-scale interest.

- In response to this recommendation, the applicant has proposed a hardscaped public plaza with widened sidewalks, street trees within a buffer planting strip between the sidewalk and street, seating opportunities with specialty paving and benches, possible wayfinding and public art, and an integrated bus shelter. Staff acknowledges that creating a direct pedestrian access from the street level up into the parking area above is problematic on several levels including topographic challenges, security and pedestrian safety, and as such, this has not been included in the applicant's redesign.
- Staff suggests that regarding the retaining/structural walls along Biltmore Avenue, Hospital Drive and Victoria Road, for sections of wall with a height greater than 10 feet, not less than 40 percent of the wall area will be treated with aesthetic measures to mitigate the mass and scale (treatments may include, but are not limited to, green-screen, change in materials, articulations or variations in the plane of the face of the wall, fenestrated openings, etc.)
- Staff suggests that the applicant create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south.
- Staff recommended that a transit shelter be incorporated into the design on Biltmore Avenue, south of Hospital Drive. The applicant currently shows this shelter on the proposed plaza drawing.
- Additionally, because the main entrance to the hospital will be from Victoria Road, staff recommends that the hospital partner with the City and provide a transit shelter at the stop at Livingston Street to address the transit needs from this side of the project area.

Staff's finds that the project as proposed can be considered technically compliant with the UDO (or can be made so through the clarifications as listed in the TRC staff report). However, as noted above, there have been concerns expressed regarding context, character and compatibility along the Biltmore Avenue corridor and Hospital Drive and staff has provided suggested mitigation conditions above as allowed for in Section 7-16-2 of the UDO.

When Mayor Manheimer suggested a stairwell from the parking area to the urban plaza space at the intersection of Biltmore Avenue and Hospital Drive, Ms. Bernstein said that staff met with the developer to see how that could be accomplished. However, it would be approximately 28 feet from the parking area to the plaza, which would require significant stairwells and a challenge to get those stairs in within the allotted space. In addition, the second challenge would be that the top of the pedestrian stairs would dump pedestrians into the Emergency Room parking lot, which would cause safety and security challenges.

In response to Vice-Mayor Hunt, Ms. Bernstein showed how pedestrians have to access the Emergency Room, which is no change from now from Biltmore Avenue (approximately a 5 minute walk). However, there is another transit line on Livingston Street and with the proposed changes to Livingston Street, staff proposed to the applicant if they would fund a transit shelter at that location and they were amenable to that. There are other opportunities to get to the Heart Center from other locations on Biltmore Avenue, but not to the Emergency Room.

When Vice-Mayor Hunt asked which of staff's recommendations are still outstanding, Ms. Bernstein said that it was her understanding the only outstanding item is the suggestion that the applicant create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south.

City Attorney Currin confirmed that a number of the suggested conditions of staff appear in City Exhibit 4 (Drawing No. 1). Ms. Bernstein said that the only suggested conditions not reflected on the official submitted plan documents are (1) the green screen treatment; (2) the crosswalks at the driveway entrance at Granby, etc.; and (2) the transit center on Livingston Street, because it is actually off-site.

Councilman Bothwell felt that the City should revisit the way parking is calculated for large (in this case, hospital campus uses) in the future.

Mr. Derrick Allen, attorney representing Mission Hospital, asked to submit City Exhibit 4 (Drawing No. 1) as a part of the conditions that they want a part of their conditional use permit application.

Ms. Sonya Greck, Senior Vice-President of Operations at Mission Hospital, explained that this is a replacement hospital to provide the best patient care possible.

Mr. Allen explained the replacement project, noting that it will be better from a pedestrian, vehicular, visual, and inside of the building state of the art technology standpoint. He explained that their directive was to activate the corner of Biltmore Avenue and Hospital Drive, which City Exhibit 4 addresses. In addition, he also reiterated Ms. Bernstein's concerns regarding having a stairway from the plaza space up to the Emergency Room parking lot. He then reviewed the seven condition use standards and why the project met those conditions.

In response to Councilwoman Wisler, Mr. Toby Kay, project director, said that they are willing to add a condition that they create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south. The plans will be modified to address that condition.

Mr. Allen agreed to the condition that the retaining/structural walls along Biltmore Avenue, Hospital Drive and Victoria Road, for sections of wall with a height greater than 10 feet, not less than 40 percent of the wall area will be treated with aesthetic measures to mitigate the mass and scale (treatments may include, but are not limited to, green-screen, change in materials, articulations or variations in the plane of the face of the wall, fenestrated openings, etc.) and plans will be modified to address that condition.

Ms. Bernstein noted that the Livingston Street transit shelter is off-site and cannot be shown on the site plan. Mr. Allen agreed to the condition that the applicant provide transit improvements on Livingston Street or the surrounding area based on actual costs, not to exceed \$30,000, paid to the City upon issuance of the Certificate of Occupancy.

Mayor Manheimer explained how the City is trying to move Biltmore Avenue into an urban corridor, with pedestrian friendly corridors. Mr. Allen agreed with the concept, however, this is a very special building in terms of how it is being used and how it is integral into other hospital buildings.

Councilman Bothwell felt that this project is lowering the carbon footprint of Asheville; and hoped that the St. Joseph's site can include a mixed use project.

Mayor Manheimer closed the public hearing at 6:01 p.m. after no one from the public commented.

Councilman Bothwell moved to recommend approval of the conditional use permit for Mission Hospital Tower located at 509 Biltmore Avenue, including the conditions discussed, agreed upon by all parties, and added to the site plan, including the funding of the transit stop on Livingston Street, because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Smith and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the October 27, 2015, agenda.

**C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS**

Councilwoman Wisler moved to continue this public hearing until November 24, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

**V. UNFINISHED BUSINESS:**

**A. CONFIRMATION OF PLANNING & ZONING COMMISSION CANDIDATES**

Vice-Mayor Hunt said that the following individuals have applied for a vacancy on the Planning & Zoning Commission and have completed the essay question responses: John S. Brigham, Joseph Archibald, Joshua Nielsen, Tony Hauser, Guillermo Rodriguez, Thomas Edward Muncy, Barber Melton, Robert Moore and Sage Turner.

After City Council reviewed all applications and essay question responses, it was the consensus of Council to interview Tony Hauser, Guillermo Rodriguez, Thomas Edward Muncy and Sage Turner. Those interviews will be on Tuesday, October 27, 2015. Because Ms. Turner will be unavailable on October 27, Council suggested she contact Council members individually to discuss her interests.

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 15-197 - RESOLUTION ADOPTING A NEIGHBORHOOD SIDEWALK POLICY**

Mr. Jim Grode, Chair of the Multimodal Transportation Commission said that City Council has created a neighborhood sidewalk project line item in the capital budget, and staff was directed to create a policy to use in choosing new sidewalk projects for the funding. Before coming to this body, this proposed policy was reviewed and recommended for full Council consideration by the Council Planning and Economic Development Committee, and endorsed by the Multimodal Transportation Commission (MMTC) and Neighborhood Advisory Committee (NAC).

City Council has created a neighborhood sidewalk project line item in the capital budget, and in order to prioritize the potential projects in an objective and transparent way, the policy is being proposed.

The policy identifies initial and secondary screening factors for the selection process. Initial screening is done using elements that can be obtained and quantified via geographic information systems (GIS). The elements selected as the initial screening factors are: proximity to transit stops and community destinations, areas zoned for small lot or multi-family residential use, prevalence of low-income households and of households without motor vehicles, and two measures of safety: traffic volume and pedestrian crash history.

A set of secondary screening factors will be applied to the top-ranking projects as determined by the initial screening process. The secondary screening criteria are not ones that can be reliably screened via GIS. They are: connectivity to the transportation system, whether sidewalk is already present on one side of the street, construction feasibility, and if a choice must be made from two or more similarly ranking projects, geographic distribution of projects.

The policy proposed was created under the direction of a four-person Neighborhood Sidewalk Committee, made up of members of the MMTC, and including the NAC representative to the MMTC. Considerable committee member and staff time and energy have been invested in this project, including by Information Technology Department staff. All involved believe that the policy achieves the goal of clearly identifying sidewalk projects that would be included in the universe of potential projects, and outlining the factors that will be used to prioritize those potential projects.

This work was advised by public input in the form of a survey and interaction with residents and representative groups. Input was gathered at the NAC Festival of Neighborhoods via face-to-face input and a short survey to complete and return. Additional survey opportunities were promoted via the city's neighborhood, transit and bicycle and pedestrian mailing lists, and through other contacts.

Pro:

- The policy provides guidance for project selection for neighborhood sidewalk construction and allows staff to move to selection of projects under the program.

Con:

- This policy, like all that guide a selection process, has limitations; however, the policy includes provisions for review and revision if needed.

He, along with City staff, recommends City Council adopt a resolution authorizing the City Manager to have staff implement the policy for selecting neighborhood sidewalk projects.

In response to Councilman Bothwell, Mr. Grode said that there is \$350,000 budgeted for this coming year, which is enough for 1,000 feet of sidewalk (approximately 90 miles needed). If the City has to buy right-of-way, the project would be bumped out of this program.

Mayor Manheimer said that this special program is intended to fit in missing linkages in neighborhoods, and not the state roads where we need to partner with the N.C. Dept. of Transportation. She also noted that there are sidewalks associated with different capital improvement projects.

Councilman Pelly was concerned about the density consideration, fearing that it would knock out some less tightly packed areas from consideration. Mr. Grode acknowledged amended language would make sure to reflect that those areas could qualify, they just might not be at the top of the list.

In response to Councilman Pelly's concern, Director of Transportation Ken Putnam asked for the following three amendments to the policy: (1) Under the minimum requirements for consideration, the first sentence read "This policy applies to all residential streets that are identified as a needed linkage in the approved Pedestrian Master Plan"; (2) Under the initial screening factors, the first sentence read "Streets that meet the minimum requirements for consideration above will then be screened to prioritize the factors described below; and (3) Under public input, the second sentence read "The public shall be consulted at reasonable intervals to ensure that the Policy continues to reflect the community's vision."

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.

Councilwoman Wisler moved for the adoption of Resolution No. 15-197, with amendments suggested by Mr. Putnam. This motion was seconded by Councilman Pelly and carried unanimously.

#### **RESOLUTION BOOK NO. 37 – PAGE 294**

##### **B. BOARDS AND COMMISSIONS**

Regarding the Affordable Housing Advisory Committee, the following individuals have applied for the vacancies: Eric McDaniel, Kama Ward, Zachary Eden, Sage Turner, Laura Collins, Charlene Jones, Arthur Myers and Emily Coleman-Wolf. It was the recommendation of the Boards & Commission Committee, and consensus of City Council, to postpone appointments until after the Affordable Housing Summit in mid-November, at which time the vacancies will be re-advertised with a specific interest in appointing development professionals, along with diversity in the community.

Regarding the Homeless Initiative Advisory Committee, the following individuals have applied for the vacancy: Eric McDaniel, Charlene Jones and Arthur Myers. It was the recommendation of the Boards & Commissions Committee, and consensus of Council, to re-advertise and wait for a recommendation from the Homeless Initiative Advisory Committee.

#### **RESOLUTION NO. 15-198 - RESOLUTION APPOINTING MEMBERS TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY**

Due to a conflict of interest, Councilman Smith moved to recuse Mayor Manheimer from participating in this issue. This motion was seconded by Councilman Davis and carried unanimously.

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Buncombe County Tourism Development Authority.

The term of Bob Patel (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less than 100 rental units) expired on August 30, 2015. Mr. Patel is not eligible for reappointment.

Session Law 2015-128, House Bill 347, amended the membership of the Buncombe County Tourism Development Authority, to allow City Council to appoint two members who must be an owner or operator of hotels, motels, bed and breakfasts, or vacation rental management companies with more than 100 rental units.

The following individuals have applied for this vacancy: Kelly Prime, Gary Froeba, Michael Adams, John Luckett, Himanshu Karvir and Dennis Hulsing.

On September 22, 2015, it was the consensus of Council to interview all eligible candidates - Mr. Froeba, Mr. Luckett, Mr. Karvir and Mr. Hulsing. Mr. Hulsing and Mr. Froeba were unable to attend the interview.

Councilman Smith moved to appoint Himanshu Karvir to the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with more than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2018, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Pelly moved to appoint John Luckett to the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with more than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2018, or until his successor has been appointed. This motion was seconded by Councilwoman Wisler and carried on a 5-1 vote, with Councilman Smith voting "no".

**RESOLUTION BOOK NO. 35 – PAGE 299**

**RESOLUTION NO. 15-199 - RESOLUTION APPOINTING REPRESENTATIVES TO THE MULTIMODAL TRANSPORTATION COMMISSION**

Vice-Mayor Hunt said that the Neighborhood Advisory Commission has requested Philip Lenowitz be appointed as their non-voting, ex-officio representative to the Multimodal Transportation Commission (replacing Robert Roepnack), to serve until July 1, 2016. The Sustainability Advisory Committee on Energy & the Environment (SACEE) felt that their vacant non-voting, ex officio seat left by Lael Gray (term to expire July 1, 2016), on the Multimodal Transportation Committee, is not necessary. The Boards & Commissions concurred with the Neighborhood Advisory Committee recommendation to appoint Mr. Lenowitz; however, it was their recommendation to have the seat remain open for a SACEE representative, said open seat to be reviewed at a later date.

Councilman Pelly moved to (1) appoint Philip Lenowitz (representative of the Neighborhood Advisory Committee) as a non-voting, ex officio on the Multimodal Transportation Committee, to serve the unexpired term of Mr. Roepnack, term to expire July 1, 2016, or until his successor has been appointed; and (2) have the non-voting ex officio SACEE seat on the Multimodal Transportation Commission remain open to be reviewed at a later date. This motion was seconded by Councilman Davis and carried unanimously.

**RESOLUTION BOOK NO. 37 - PAGE 300**

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

Ms. Helaine Greene, along with Mr. Jonas Gerard, presented City Council with a petition for the City to revisit the RADTIP 65% plans in order to accommodate the existing Riverview Station's parking plans as prepared by SiteWorks Studios. City Attorney Currin said that she is working with the attorney for Riverview Station.

Mr. Christopher Chiaronmonte spoke on various topics, one being the loss of the water lawsuit.

Councilman Bothwell was concerned about the City's enforcement on short term rentals and homestays, especially since the homestay issue is still being reviewed.

Councilman Smith said that there is some interest in seeing Asheville consider a local renaming of Columbus Day to "Indigenous Peoples Day." As part of that effort he has reached out to Cherokee Chief Lambert for his perspective.

**Closed Session**

At 7:15 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(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to

which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to a lawsuit with the following parties: State of North Carolina and the City of Asheville; The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); (3) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment of an individual public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:55 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 7:55 p.m.

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CITY CLERK

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MAYOR