

Tuesday – October 27, 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 Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Councilman Christopher A. Pelly

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER, 2015, AS "ADOPTION AWARENESS MONTH"

Mayor Manheimer read the proclamation proclaiming November, 2015, as "Adoption Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Angie Garner, Foster Care Program Manager for Buncombe County Health and Human Services, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request Mayor Manheimer, Consent Agenda Item "E" was removed from the Consent Agenda to be rescheduled on November 10, 2015.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 13, 2015

B. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR 509 BILTMORE AVENUE FOR THE CONSTRUCTION OF A TOWER AT MISSION HOSPITAL FACILITY

C. RESOLUTION NO. 15-200 - RESOLUTION APPROVING THE COMMUNITY CLEAN ENERGY POLICY FRAMEWORK

Summary: The consideration of a resolution to adopt a Community Clean Energy Policy Framework in response to City Council's adoption of Resolution 13-22, Supporting Clean Energy Economy.

On October 23, 2013, Asheville City Council adopted the Resolution 13-228 Supporting Clean Energy Economy which includes the following six action items:

1. Support a local clean energy future for the City and the region;
2. Call on Duke Energy Progress to partner with the City to help meet its carbon reduction goals by decreasing reliance on fossil fuels including transitioning from coal to electricity provided by clean, renewable energy sources while continuing to meet the company's obligation to provide affordable and reliable electricity to all customers 24 hours a day, 7 days a week;
3. Call on Duke Energy to continue and expand its investments in and programs supporting renewable energy, energy efficiency and energy conservation;

4. Call on Duke Energy to stop the spread of coal ash pollution and remediate existing coal ash pollution;
5. Develop a Clean Energy Partnership Progress Report that documents the achievements of this new partnership with Duke Energy, and;
6. Seek input from a variety of stakeholders when identifying collaboration opportunities for this partnership, which was adopted as an amendment to the Resolution as it was presented (this was added as an amendment to the resolution by Mayor Terry Bellamy as reflected in the meeting minutes).

After the resolution was adopted, the Sustainability Advisory Committee on Energy & the Environment (SACEE) formed a Clean Energy Task Force and invited stakeholders to participate in a community input process. Two sessions were held in August and September 2014, and a final session in July 2015. During the first input session participants were asked to brainstorm action items on what a community clean energy plan would address; including areas of focus in policy, programming, education outreach and projects. Participants were able to prioritize action items through a survey and results were vetted during the second session. The final session in July 2015, the participants were given the framework in which the prioritized action items were developed into the Community Clean Energy Plan.

The Community Clean Energy Plan is a guide for ongoing policy decisions and City staff workplans; consistent with City Council's Resolution to Support a Clean Energy Economy. Adoption of the Community Clean Energy Plan will guide City staff's work and upcoming planning processes, including updating the City's Comprehensive Plan. A near term action item included in the Community Clean Energy Plan is to launch a collaborative partnership with Duke Energy Progress to build a foundation for a longer term community energy efficiency, clean renewable energy sources; decreasing the City's reliance on fossil fuels.

This direction aligns with the City's 2014-2015 Strategic Plan, Economic Growth and Sustainability (FA1, G4): *"Continued sustainability efforts including carbon footprint reductions and clean energy economy – Clean Energy Partnership with Duke Energy."*

Council's Planning and Economic Development unanimously approved the framework on October 20, 2015. The Governance Committee recommended the letter to Duke Energy Progress at their October 13, 2015, meeting.

Pros:

- Aligns with City's 2014-2015 Strategic Plan, Economic Growth and Sustainability
- Funding for the temp/seasonal staff is available in the Green CIP

Con:

- None

Based on the Resolution 13-22 adopted by City Council, City staff evaluated the resources necessary to implement the Community Clean Energy Plan. A part time hourly position, funded from Fiscal Year 2016 Green Capital Improvement Program, will be used to help implement the short term goals of the plan that have a timeline of 12 -18 months for implementation.

Temporary/Seasonal \$16.00/hr.	12 Months		18 Months	
	Salary	\$16,640	Salary	\$24,960
FICA	\$1,273	FICA	\$1,910	
Total	\$17,913	Total	\$26,870	

Long term goals within the plan will be factored into the update of the City's Comprehensive Plan.

Staff recommends Council accept the PED recommendation to adopt the Community Clean Energy Policy Framework in order to continue sustainability efforts including carbon footprint reductions and clean energy economy through a partnership with Duke Energy.

Councilman Bothwell was pleased to see this action taken and hoped that we encourage Duke Energy Progress to get off of fossil fuels. The planned expansion of the Lake Julian Plant and the conversion to gas is not getting us away from fossil fuels.

Ms. Kelly Martin, representing the Sierra Club, highlighted some particular items out of the Policy Framework that she hoped Council would support and provide resources to move forward. She also urged Council to reiterate their support for clean renewal energy development in the area.

RESOLUTION BOOK NO. 37 - PAGE 301

D. ORDINANCE NO. 4459 - BUDGET AMENDMENT FOR AN ALLOCATION FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER ANNUAL GRASSROOTS COLLABORATIVE GRANT AWARD

Summary: The consideration of a budget amendment in the amount of \$67,336 for an allocation from the N.C. Dept. of Commerce (Department of Commerce) for the Western North Carolina Nature Center (Nature Center).

Each year the Department of Commerce allocates funds to museums, science centers and zoos in North Carolina. The Nature Center is eligible to annually receive an allocation to be used for capital improvements, animal exhibits, materials, and goods and services.

The allocation, intended to support the 20/20 Vision Site Plan for the WNC Nature Center, will be used to support the purchase of animal health care equipment, small deferred maintenance projects and minor upgrades to exhibits within the Appalachian Station area.

Pros:

- Provides funds to support improvements at the Nature Center.
- Provides funds to support improvements in animal care.
- Provides funds to enhance special projects and services to Nature Center visitors.
- Provides funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums.

Con:

- None

The budget for one-time equipment purchase and facility improvements at the WNC Nature Center will increase by \$67,336.00. Since this increase is funded by an allocation from the State of North Carolina Department of Commerce, there is no impact to the City's General Fund budget.

Staff recommends City Council approval of a budget amendment authorizing the City Manager to (a) accept funds from the North Carolina Department of Commerce, and (b) establish a budget by \$67,336.00 for equipment and facility improvements at the WNC Nature Center.

ORDINANCE BOOK NO. 30 - PAGE 169

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE ECONOMIC DEVELOPMENT COALITION

This item was removed from the Consent Agenda, to be considered at the November 10, 2015, meeting.

F. RESOLUTION NO. 15-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH BROWN AND CALDWELL FOR THE WATER TREATMENT PLANT UPGRADES PROJECT

Summary: The consideration of a resolution by City Council (Council) authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with Brown and Caldwell for the proposed amount of \$354,000 plus a contingency amount of \$10,000 for a total project budget in the amount of \$364,000 for the Water Treatment Plant Upgrades Project.

On August 11, 2014, the Water Resources Department (WRD) issued a Request for Qualifications (RFQ) for On-Call Professional Services for Water Treatment Plant (WTP) Projects. In response to the RFQ, seven engineering firms submitted Statements of Qualifications (SOQ). A WRD review team selected three engineering firms with proven experience and expertise to provide professional and engineering services for various water treatment plant repair, replacement, and/or expansion projects: Brown and Caldwell, CDM Smith, and GHD Consulting Services. With guidance from the City's Legal and Purchasing Departments, the WRD executed Master Agreements with all three firms to establish initial contractual terms. Specific projects would be authorized under a separate Supplemental Agreement between the WRD and individual engineering firm. The WRD desires to enter into its first Supplemental Agreement with Brown and Caldwell for the WTP Upgrades Project.

The purpose of the WTP Upgrades Project is to conduct a variety of upgrades at the North Fork and Mills River WTP's. The various upgrades will be investigated, designed, and then constructed. Upon execution of a Supplemental Agreement, Brown and Caldwell will perform the following tasks for existing conditions at the WTP's: (1) an evaluation of the existing leaking seal at the clearwell influent pipe; (2) a structural evaluation and provide initial repair recommendations for select locations at the North Fork WTP; (3) engineering services to prepare bidding documents for the repair of the clearwell seal, filter valve and actuator replacement, extension of the existing high pressure water supply distribution system at the North Fork WTP, and for the installation of open channel flow meters at the backwash lagoons at the North Fork and Mills River WTP's; (4) assistance during the bidding process; (5) construction administration services and design engineer services; and (6) project administration and management during the performance of this project. All tasks are expected to be completed within one year of contract execution.

Pro:

- This project will identify problems, design solutions, and oversee repairs that need to be made to the North Fork and Mills River WTP's in order to operate the plants at the most efficient level possible.

Con:

- A delay in award of an engineering services agreement for this project would postpone needed repairs to the North Fork and Mills River WTP's.

The funding needed for this agreement is currently allocated within the Water Treatment Plant Improvements Project in the Water Resources Capital Improvement Projects (CIP) Fund.

Staff recommends Council approval of a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with Brown and Caldwell

for the proposed amount of \$354,000 plus a contingency amount of \$10,000 for a total project budget in the amount of \$364,000 for the Water Treatment Plant Upgrades Project.

RESOLUTION BOOK NO. 37 - PAGE 313

G. RESOLUTION NO. 15-203 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR 2016 EMERGENCY SOLUTIONS GRANT FUNDS FROM THE N.C. DIVISION OF AGING AND ADULT SERVICES, HOUSING AND HOMELESS UNIT

Summary: The consideration of a resolution to apply for Fiscal Year (FY) 2016 Emergency Solutions Grant funds in order to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services, Housing and Homeless Unit.

The City of Asheville has been the fiscal sponsor for Emergency Solutions Grant funding since the 2012 ESG grant cycle. Through the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit these funds are made available to a regional fiscal sponsor to fund local agencies with capacity to provide emergency shelter and rapid rehousing services for individuals and families. Funding recommendations are made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations follow a process that includes submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

We have been informed that for the FY 15-16 ESG Grant cycle, the City of Asheville is eligible to apply for \$118,965. In the FY14-15 cycle, the City of Asheville received an initial allocation of \$144,492, and 2 additional allocations totaling \$80,188 to further expand Rapid Rehousing services and provide Homeless Management Information System (HMIS) support.

Staff has made an inquiry to the State regarding the amount of this year's allocation (\$118,965), since it is less than last year's. A different formula was used for this year's eligible allocations across the State, causing a variation in amounts in multiple Continuum of Care, including Asheville-Buncombe.

Award of funds is conditional on the application being approved by the State. These conditions will include, but are not limited to, adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City), except in the case of the proposed allocation to the City. That allocation will support the administration of the Homeless Information Management System (HMIS), and the City provides matching funds through its annual allocation of general funds for the Homeless Initiative.

Pro:

- ESG funding is a key funding resource for emergency shelter and for rapid rehousing of persons experiencing homelessness.

Con:

- FY16 base funding level is less than last year's. Unless this grant is supplemented during the year (as it has been in other years), funded agencies will have fewer resources to assist homeless households.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the Housing and Community Development Committee's recommendation to adopt the resolution authorizing the City to apply for Emergency Solutions Grant funding in order to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

RESOLUTION BOOK NO. 37 - PAGE 314

H. RESOLUTION NO. 15-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXERCISE THE THIRD-YEAR OPTION OF A CONTRACT WITH LANDMARK LANDSCAPES FOR GROUND MAINTENANCE SERVICES AT VARIOUS PARKS, GREENWAYS AND FACILITIES IN THE CENTRAL PARK DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to exercise the third-year option of a contract with Landmark Landscapes for ground maintenance services at various parks, greenways and facilities in the City of Asheville (City) Central Park District for the third year renewal based on contractor performance in the cumulative amount of \$143,040.

The City's Parks and Recreation Department (Department) contracts with multiple vendors for ground maintenance services for the six districts within the City's park system. On August 12, 2013 the City issued an Advertisement for Bids for ground maintenance services within the districts that comprise the City's park system to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest responsive and responsible bidders. Landmark Landscapes, located in Arden was awarded a one-year contract with option to renew for two consecutive years based upon contractor performance for the Central Park District. By electing to exercise the third and final year of the three-year contract based on the contractor's performance, the cumulative amount of the contract, \$143,040, exceeds the City Manager's authority to execute the third-year contract. All existing mowing contracts in the six park districts continue through Fiscal Year 2015-2016 at which time will be put back out to bid.

Pro:

- Supports the efficient delivery of core park maintenance services.

Con:

- None

The funding required to support this ground maintenance contract is budgeted in the Fiscal Year 2015-2016 Department operating budget as part of the Parks Maintenance division budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to exercise the third-year option of a contract with Landmark Landscapes to provide ground maintenance services in the various parks, greenways and facilities in the City's Central Park District for the third-year renewal in the cumulative amount of \$143,040.

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I. RESOLUTION NO. 15-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXERCISE THE THIRD-YEAR OPTION OF A CONTRACT WITH DALTON'S LAWN & LANDSCAPING FOR GROUND MAINTENANCE SERVICES AT VARIOUS PARKS, GREENWAYS AND FACILITIES IN THE WEST I PARK DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to exercise the third-year option of a contract with Dalton's Lawn & Landscaping for ground maintenance services at various parks, greenways and facilities in the City of Asheville (City) West I Park

District for the third year renewal based on the contractor's performance in the cumulative amount of \$97,150.

The City's Parks and Recreation Department (Department) contracts with multiple vendors for ground maintenance services for the six parks districts within the City's park system. On August 12, 2013 the City issued an Advertisement for Bids for ground maintenance services within the districts that comprise the City's park system to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest, responsive and responsible bidders. Dalton's Lawn & Landscaping, located in Asheville, was awarded a one-year contract with option to renew for two consecutive years based upon contractor performance for the West I Park District. By electing to exercise the third and final year of the three-year contract based on the contractor's performance, the cumulative amount of the contract, \$97,150, exceeds the City Manager's authority to execute the third-year contract. All existing mowing contracts in the six park districts continue through Fiscal Year 2015-2016 at which time will be put back out to bid.

Pro:

- Supports the efficient delivery of core park maintenance services.

Con:

- None

The funding required to support this ground maintenance contract is budgeted in the Fiscal Year 2015-2016 Department operating budget as part of the Parks Maintenance division budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to exercise the third-year option of a contract with Dalton's Lawn & Landscaping for ground maintenance services at various parks, greenways and facilities in the City's West I Park District for the third year renewal in the cumulative amount of \$97,150.

RESOLUTION BOOK NO. 37 - PAGE 316

J. RESOLUTION NO. 15-201 - RESOLUTION AMENDING THE 2015 CITY COUNCIL MEETING SCHEDULE TO ADD A REGULAR FORMAL MEETING ON NOVEMBER 17, 2015, AND CANCEL THE REGULAR FORMAL MEETING ON NOVEMBER 24, 2015

Summary: City Council will (1) A regular formal meeting will be held on Tuesday, November 17, 2015, in the Council Chamber, located on the 2nd floor of City Hall, at 5:00 p.m. In addition to other City Council matters, the following public hearings will be held on November 17, 2015: (a) Public hearing to consider an amendment to Chapter 7 of the Code of Ordinances to establish requirements for utility substations; and (b) Continuation of public hearing to consider amending Sections 7-2-5, 7-8-1, 7-16-1(c)(9) and 7-18-2(b) of the Unified Development Ordinance relating to the definition of "Homestay" and the districts in which Homestays are permitted in the Table of Permitted Uses; and the standards required for Homestays which are designated as a use by right subject to special standards; and (2) The regular formal meeting on Tuesday, November 24, 2015, has been cancelled.

Councilman Bothwell was disappointed that the seated Council did not manage to conclude the homestay issue before the election as there seems to be mixed messages going to our residents. He asked that the last City Council Planning & Economic Development Committee minutes be posted as soon as possible.

RESOLUTION BOOK NO. 37 - PAGE 312

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

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

III. PRESENTATIONS & REPORTS:

A. SISTER CITIES UPDATE

Ms. Karon Korp provided City Council with their 2015 Annual Report, which highlighted the many activities and projects throughout the year.

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-206 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Vice-Mayor Hunt said that the terms of Holly Shriner and Joe Minicozzi, as members on the Planning & Zoning Commission, expired August 14, 2015.

After an extensive process, on October 13, 2015, City Council voted to interview Thomas Muncy, Guillermo Rodriguez, Tony Hauser and Sage Turner. Ms. Turner has withdrawn from consideration.

Council thanked Ms. Shriner and Mr. Minicozzi for their dedication to the Planning & Zoning Commission.

After Council spoke highly of all candidates, Mr. Muncy received 1 vote; Mr. Hauser received 6 votes; and Mr. Rodriguez received 5 votes. Therefore, Mr. Hauser and Mr. Rodriguez were appointed as members of the Planning & Zoning Commission, terms to expire August 14, 2018, or until their successors have been appointed.

RESOLUTION BOOK NO. 36 – PAGE 317

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jerry Sternberg spoke about the need to preserve property rights and business operations in the River Arts District and provided Council with a resolution from the Asheville Area Riverfront Redevelopment Commission regarding form based code zoning in the River District. Said resolution supported the River District property owners and requested removal of the part of the property contained in the code based planning lying west of the Norfolk Southern railroad tracks and fronting on and/or adjacent to the French Broad River be removed from consideration for any zoning changes at this time.

Closed Session

At 5:33 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);

(2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: State of North Carolina and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) 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 Bothwell and carried unanimously.

At 6:55 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:55 p.m.

CITY CLERK

MAYOR