

Tuesday – January 26, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; 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.

On behalf of City Council, Mayor Manheimer thanked City staff for their hard work and dedication during the recent snow storm.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Young, Consent Agenda Item "I" was removed from the Consent Agenda for discussion and/or individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 12, 2016**
- B. RESOLUTION NO. 16-25 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT AND SIGN AN EASEMENT AT 152 SHELBURNE ROAD FOR THE HOMINY CREEK GREENWAY**

Summary: The consideration of a resolution authorizing the Mayor to accept a greenway easement that was granted by Ms. Jessie M. Corpening of Shelburne Road in Asheville.

In 2011, the City of Asheville, in partnership with Buncombe County and local non-profits acquired approximately 10 acres of property formerly owned by Sue B. Waller heirs along Hominy Creek. This tract of land is an important connection of the Hominy Creek Greenway that runs from Carrier Park to the county park nearby. A well-worn path along the creek shows how popular this area is with the public. At this time, the City is designing improvements to the property, such as paving a permanent greenway path to comply with the Americans with Disabilities Act and to facilitate regular maintenance. As shown on the attached map, the property narrows at a bend in the creek and in order to accommodate the future greenway trail, the City needed an easement from the adjacent private property owner, Jessie Corpening.

Ms. Corpening has agreed to grant a permanent greenway easement on the creek side of her property (PIN #9628-90-2700) at 152 Shelburne Road to the City of Asheville. The easement contains 4,484 square feet or 0.10 acres and varies in width from 60 feet to 0 feet. Staff requests that Council authorize the Mayor to formally accept the easement dedication for the purpose of implementing the Hominy Creek Greenway

Pros:

- Accepting the easement will provide legal access to the land needed for the Hominy Creek Greenway.
- Ms. Corpening donated the easement to the City.

Cons:

- None noted.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the Mayor to accept and sign a 4,484 square foot easement on private property for purposes of continuing the Hominy Creek Greenway.

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C. RESOLUTION NO. 16-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT TO THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY FOR THE BYPASS PUMP STAGING AREA AT AMBOY ROAD AND RIVERVIEW DRIVE PARALLEL TO THE FRENCH BROAD RIVER

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) for the Bypass Pump Staging Area at Amboy Road and Riverview Drive parallel to the French Broad River.

The City of Asheville owns two parks near the intersection of Amboy Road and the Carrier Bridge, known as the Amboy Road River Park and the French Broad River Park. Within the past few years, the City acquired two small parcels of property to connect these parks under the Carrier Bridge via the French Broad River Greenway. An existing sewer line runs across these two parcels, in parallel to the French Broad River and the City's greenway. At this time, MSD has approached the City with a request to obtain an easement on these two parcels in order to install a bypass pump staging area to serve MSD's sewer infrastructure.

Directly adjacent to the City's French Broad River Park, MSD operates a main pump station that receives wastewater from West Asheville. This station pumps 8 billion gallons per day from the west side of the French Broad River through a 24 inch force main to a gravity line on the east side of the river towards MSD's Woodfin plant. With this easement request, MSD intends to develop a bypass pump staging area so that periodically they may take the main station offline as needed. In the event of an emergency, or for the purposes of future maintenance, a bypass pump station will allow MSD to divert the wastewater from the main station while repairs or improvements are completed. Having a backup station further insures that a direct spill into the river does not occur by providing critical backup infrastructure in case of failure at the main station.

MSD is requesting an easement to install a 19' x 12' concrete pad on the City's property to operate the emergency bypass pump. The physical pump equipment will not be installed onsite, but will be transported to the site as needed. The concrete pad and a connection to the existing sewer line are the only improvements that MSD needs to perform. The MSD design engineer has conducted a site visit with Al Kopf of Parks and Recreation and Lucy Crown, the Greenway Coordinator in Transportation Department. City staff supports the need for the project and do not see any conflicts with the greenway after construction is complete.

In addition, MSD is also requesting a permanent easement along its existing sewer line that is primarily 12 ½ feet on either side of the line. Only permanent easement is being requested and the total area including the line and the staging pad is approximately 8,342.5 total square feet. Refer to the attached plat, maps and photos of the bypass pump for additional details. The French Broad River Greenway will only be disrupted during installation of the

improvements. MSD's construction is planned for the early 2016 and should not take longer than ten days to two weeks.

Pros:

- Granting of the easement will allow MSD to install redundant systems that would operate in case of emergency or if the nearby pump station needed to be taken off line for scheduled maintenance.
- Granting of the easement will not permanently interfere with the greenway planned for the area.
- MSD has agreed to remove a straight pipe to the river that is sealed but looks unsightly.
- This project reduces the likelihood that a wastewater spill would affect public health and/or impact the environment.

Cons:

- Greenway would be temporarily impacted during construction of the concrete pad and pipe intake.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to convey an 8,342.5 square foot permanent easement to MSD across two city owned parcels at Amboy Road and Riverview Drive and Carrier Bridge.

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D. RESOLUTION NO. 16-27 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A CONSERVATION EASEMENT ALONG THE FRENCH BROAD RIVER LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO THE CAROLINA MOUNTAIN LAND CONSERVANCY FOR CONSERVATION AND GREENWAY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey a conservation and greenway easement on 16.50+/- acres of real property along the French Broad River located at the Asheville Regional Airport to the Carolina Mountain Land Conservancy (CMLC) for conservation and greenway purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey any interest in real property at this location, the City of Asheville must sign the deeds or easements of conveyance. In turn, the Federal Aviation Administration (FAA)—in consultation with the Airport—must “release” the property from FAA use restrictions.

Airport Authority staff has been working with the CMLC to establish conservation and greenway easements on airport property along the French Broad River. The airport property that is being recommended for the conservation easement is within the flood plain/flood way of the French Broad River and therefore would have limited development possibilities in the future. The establishment of the greenway easements on airport property would help to tie together other property along the French Broad River to enable the development of a future trail system.

The CMLC proposes to purchase conservation and greenway easements of approximately 16.50+/- acres of airport property on the French Broad River. In accordance with FAA regulations, the easements must be purchased for fair market value. A grant in the amount of \$107,000 has been awarded through the NC Clean Water Management Trust Fund to the CMLC for the acquisition of conservation and greenway easements on Airport property.

Because the airport property was originally acquired with FAA financial assistance, all financial proceeds associated with the real property are subject to FAA regulations governing the allocation of these proceeds. This FAA regulation states that proceeds of sale (or granting of easement in this case) must be delivered to FAA as a reimbursement for the initial acquisition of said property – or the proceeds must be utilized for airport purposes in the same proportion as the initial contribution to the purchase price. This being the case, the payment will be handled in this manner and the City will receive no financial share in this payment.

This request was reviewed and approved by Asheville City Council in September of 2014 for a total of 8.3 acres of easement area. Since then, more detailed surveying has been completed and the size of the easement has grown to 16.50+/- acres, and this substantial change requires Council approval.

Pro:

- This conservation and greenway easement will protect public lands with the floodway and support a future trail system along the French Broad River.

Con:

- None.

There is no direct financial impact to the City. All financial proceeds associated with the conservation easement are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property and/or must be utilized for airport purposes.

City staff recommends adoption of the resolution to convey an 16.50+/- acre conservation and greenway easement at the Asheville Regional Airport to the Carolina Mountain Land Conservancy.

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E. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR GIVENS CREEKSIDE, PHASE 3

Summary: This public hearing was held on January 12, 2016.

F. MOTION ADOPTING THE 2016-17 BUDGET CALENDAR

Summary: The consideration of a motion adopting the Fiscal Year 2016/2017 Budget Calendar.

As a part of the Fiscal year 2016/2017 Operating and Capital Budgets development process which began internally in the Fall of 2015, staff is proposing a budget calendar which encompasses the following:

- series of Budget Worksessions with City Council beginning in March 2016,
- formal presentation of the City Manager's Proposed Budget on May 10, 2016, and
- eventual budget adoption on June 14, 2016.

Staff recommends that City Council review the proposed Fiscal Year 2016/2017 Budget Calendar, make changes as needed, and approve the motion to adopt the Fiscal Year 2016/2017 Budget Calendar.

G. ORDINANCE NO. 4477 - ORDINANCE TO ENACT A 25 MPH SPEED LIMIT ON CALEDONIA ROAD FROM BILTMORE AVENUE TO SWANNANOA RIVER ROAD, CROWELL FARMS DRIVE FROM WEST OAKVIEW ROAD TO WEST POINTE DRIVE, HAMPTON STREET FROM CARIBOU ROAD TO BROOKLYN ROAD, AND SHERWOOD ROAD FROM FOREST HILL DRIVE TO THE END OF CITY MAINTENANCE

Summary: The consideration of an ordinance to enact a 25 mph speed limit on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit would be reasonable and safe on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about \$500.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about \$500 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 25 mph speed limit on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

ORDINANCE BOOK NO. 30 - PAGE 219

H. RESOLUTION NO. 16-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GIFT MEMORANDUM OF UNDERSTANDING AND ACCEPT A DONATION FO \$250,000 FROM THE MCKIBBON HOTEL GROUP, INC. FOR THE CITY'S AFFORDABLE HOUSING TRUST FUND

Summary: The consideration of a resolution authorizing the City Manager to execute a Gift MOU and accept a donation of \$250,000 from the McKibbon Hotel Group, Inc. for the City's Affordable Housing Trust Fund.

The McKibbon Hotel Group, Inc. owns several hospitality related developments in downtown Asheville including the Aloft Hotel, the AC Hotel which is currently under development, and the recently approved One West Tower at Pack Square renovation project. Through this investment in and familiarity with the City of Asheville, McKibbon has recognized firsthand, the fact that the City has an affordable housing crisis and therefore, has offered to make a donation of \$250,000 to the City's Housing Trust Fund.

The Housing Trust Fund is the primary City-funded investment tool to incentivize affordable housing production. Since creating the Fund in 2001, The City has investment almost \$10 million toward the production of almost 1,000 units of affordable housing in Asheville. Demand for the fund exceeds the amounts available to lend. \$1.6 million in requests were received this year with less than \$1 million available to lend from the Housing Trust Fund.

The McKibbon Hotel Group, Inc. has provided a Gift Memorandum of Understanding which needs to be executed by the City to accept the donation. Per the terms of this MOU, upon issuance of the certificate of occupancy for One West Tower at Pack Square Renovation project (anticipated Spring 2018-check), McKibbon shall transmit, as an irrevocable gift/donation, the sum of \$250,000.00 to the City for the City of Asheville Housing Trust Fund for the sole use and purpose of providing affordable housing within the corporate limits of the City.

Pro:

- Provides a significant additional contribution to City's Housing Trust Fund; may encourage other private investors to make similar donations

Con:

- None

This will add \$250,000 to the City's Housing Trust Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the Gift Memorandum with the McKibbon Hotel Group, Inc. and accept a donation of \$250,000 for the City's Housing Trust Fund.

RESOLUTION BOOK NO. 37 - PAGE 375

I. RESOLUTION TO SUPPORT THE "BAN THE BOX" INITIATIVE BY AMENDING THE CITY EMPLOYMENT APPLICATION TO NO LONGER REQUIRE DISCLOSURE OF PAST CRIMINAL HISTORY DURING THE INITIAL JOB APPLICATION PROCESS FOR CERTAIN POSITIONS WITHIN THE CITY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

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

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

ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTE

I. RESOLUTION NO. 16-29 - RESOLUTION TO SUPPORT THE "BAN THE BOX" INITIATIVE BY AMENDING THE CITY EMPLOYMENT APPLICATION TO NO LONGER REQUIRE DISCLOSURE OF PAST CRIMINAL HISTORY DURING THE INITIAL JOB APPLICATION PROCESS FOR CERTAIN POSITIONS WITHIN THE CITY

Summary: Over the past several months Human Resources Staff has been reviewing the City's Personnel and related administrative policies, evaluating best practices and trends among other local government and private sector employers. This review has included recruitment and selection policy and associated practices and processes, and this memo specifically addresses the City's practice of asking applicants about criminal convictions at the time of application submittal.

There is a national movement widely known as "ban the box", that continues to gain momentum. These initiatives provide applicants a fair chance by removing the conviction history question on the job application and delaying the background check inquiry until later in the hiring process; thus employers consider a job candidate's qualifications first, without the stigma of a conviction record. While there is variety in how "ban the box" policies have been applied and implemented, they generally establish parameters for when, and to what extent, an employer may ask about or use criminal history for employment purposes. Generally, they require postponing the inquiry until an applicant has an opportunity to be considered (after an interview or once an applicant is a finalist or has received a conditional offer) and after the employer has determined in good faith that the specific components of a background check that are appropriate. Most include exceptions if the position is of a sensitive nature or if a background check is required by another law (such as jobs involving child care, financial services, education and law enforcement). In 2012, the U.S. Equal Employment Opportunity Commission (EEOC) endorsed removing the conviction question from job applications and deferring inquiries about criminal history until after the application phase as a best practice.

The City's current application asks the following questions:

- Have you ever been convicted of an offense against the law other than a minor traffic violation? Failure to report a conviction will exclude you from consideration. Please do not disclose any conviction that has been expunged from your record.
- If you answered "yes" to the above conviction question please explain the nature of the conviction and the date. Please include if the conviction was a felony or a misdemeanor. It is important to disclose all convictions that have not been expunged from your record. Failure to report a conviction will exclude you from consideration.

Based on the review, the City is prepared to make changes to its current application process and remove questions regarding criminal history from the employment application for those jobs that do not have a public safety or statutory requirement. This change is anticipated to be implemented by the end of January 2016.

To address public safety/statutory requirements of some jobs, the actual job posting will include additional information on automatic disqualifiers and the application process will include supplemental questions based on these qualifications – which will help identify candidates who do not meet those requirements.

In addition to the electronic changes to the application, HR staff will communicate with and/or train all Department hiring managers, and other appropriate staff, to inform them of the change.

The City will not change the policy of conducting a background check on all final candidates for employment. The goal remains to ensure the safety and security of the public and

employees while providing an opportunity to our citizens, recognizing the relationship of employment to reduced rates of recidivism.

Next Steps:

- Testing of the removal and implementation of the removal of conviction history questions from the employment application. This includes removal of questions and response from previous applications.
- Review and update of appropriate administrative policies to reflect the change in practice and process.
- Training provided to appropriate staff on updated administrative policies and changes implemented.
- Review and modify, if necessary, the general information on the City's Employment website.
- Review of job posting details and the use of supplemental questions to identify opportunities to enhance recruitment and selection efforts.
- Finalize any additional language that may need to be included in the job postings and additional language on the application to inform applicants that a background check will be conducted.
- Post implementation evaluation to ensure no further adjustments or revisions are needed.
- Post implementation report to City Manager's Office 60 to 90 days after implementation.

The following is the current language candidates are asked to accept and certify prior to submitting their application.

- By clicking on the "Accept" button, I hereby certify that every statement I have made in this application is true and complete to the best of my knowledge. I understand that any false or incomplete answer may be grounds for not employing me or for dismissing me after I begin work. I understand that I will have to produce documentation verifying identity and employment eligibility in the U.S. I understand that I may be required to verify any and all information given on this application. I understand that this completed application is the property of the City of Asheville and will not be returned. I understand City of Asheville may contact prior employers and other references. I understand that I must notify the Human Resources Division of any changes in my name, address, or phone number.

Below is draft of the language that will be added to the certification and acceptance portion of the application process:

The City's Policy requires background checks to be conducted on final internal or external candidate(s) applying for any position with the City of Asheville. The type of information that will be collected as part of a background check includes, but is not limited to: reference checks, social security verification, education verification, criminal conviction record check, and, if applicable, a credit history check, sex offender registry and motor vehicle records check.

Background checks must be in compliance with all federal and state statutes, such as the Fair Credit Reporting Act (FCRA). The checks must be consistent with the guidelines set forth by these laws requiring organizations to obtain a candidate's written authorization before obtaining a criminal background report, motor vehicle records check or credit report; and to properly store and dispose of information derived from such reports.

Councilman Young said that this resolution embodies a roadmap that our City will collectively follow and hopefully municipalities around the state will follow the direction that this

ban the box initiative is moving. He felt this will help formerly incarcerated families heal and move forward as everyone deserves an opportunity for gainful employment.

Ms. Dee Williams thanked Councilman Young for helping achieve this effort and spoke in support of the resolution.

Councilman Bothwell said that we used to consider our prisons as correctional institutions and realized when people had served their time they had hopefully found a better way to live their lives. This is an important step to let people get through the application process and then explain their situation.

Councilman Young moved for the adoption of Resolution No. 16-29. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 376

III. PRESENTATIONS & REPORTS:

A. EQUITABLE DEVELOPMENT REPORT - BUILDING BLOCKS FOR SUSTAINABLE COMMUNITIES

Urban Planner Sasha Vrtunski said that Asheville was selected in early 2015 to receive technical assistance from the Environmental Protection Agency (EPA) in the form of a 2-day workshop on Equitable Development. Equitable development is an approach for creating communities and regions where residents of all incomes, races, and ethnicities participate in and benefit from decisions that shape the places where they live. In July, several EPA staff and their consultant, as well as other federal officials, visited Asheville and toured the East of the Riverway area. A community meeting was held in the evening at the Dr. Wesley Grant Sr. Center. This was followed the next day by a workshop with a smaller group of community stakeholders and partners.

The report is a summary of that workshop and an analysis of the community input. The purpose of the workshop was to educate participants on equitable development as a tool to address sustainable, affordable and livable communities and to provide a forum for input on how equitable development might be applied in Asheville. Workshop outcomes included participants (1) learning about equitable development and examples in other places; and (2) brainstorming ideas about how to move our community forward around four main goal areas. The purpose of the report is to summarize the input of community workshop participants, and provide best practices for city staff and community agencies to consider in projects as our community continues to grow. The report gives an opportunity to explore the perspective of subject matter experts from outside of the Asheville community.

The report summary contains a summary of ideas from a community meeting and 30 workshop participants. It recommended best practices from around the United States, and included roles for local government, anchor institutions, citizens groups and non-profits. The small groups focused on 4 main areas resulting in recommendations: (1) communication and engagement; (2) affordable housing; (3) local investment; and (4) preserving and celebrating history through the arts.

In the focus area of improve community engagement and enhance communication, an example is that several historically African-American neighborhoods have been meeting to look at community based economic development strategies. An opportunity would be in the upcoming Comprehensive Plan, which will offer opportunities for the City and neighborhood residents to build relationships and engage in a dialogue around development.

In the focus area of preserving existing and providing more affordable housing choices, an example would be at the Glen Rock at 372 Depot Street - mixed use, affordable housing projects that provide units within reach of folks below 60% AMI. An opportunity would be that community members are exploring a Community Land Trust model which could develop permanently affordable housing.

In the focus area of local investment and community-building commitments by existing and new community institutions and businesses, an example would be that Green Opportunities work with local employers to connect their trainees with jobs. An opportunity is that City and local anchor institutions work with local contractors to identify barriers to hiring local workers for major construction projects.

In the focus area of preserving community identity by promoting the arts community and celebrating local African-American history, an example would be that Town Branch Greenway will incorporate local history along the trail with educational signage. An opportunity is that public art installations as a part of the RADTIP could connect local artists, community members with adjacent neighborhoods.

The ideas in the report were suggested by workshop participants and EPA's consultants and have not been analyzed by City staff to determine their feasibility or legality in North Carolina.

City staff intends to analyze the report's suggested strategies for applicability in Asheville and integrate the report's strategies and approaches, to the extent possible, in city projects, planning and engagement efforts. Staff will share the document with workshop participants and the broader community to maximize the potential for strategy integration in not only city government projects but all sectors of the community.

Ms. Vrtunski responded to various questions raised by Councilman Smith.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AMENDMENT TO THE 2015-16 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

RESOLUTION NO. 16-30 - RESOLUTION TO AUTHORIZE SUBSTANTIAL AMENDMENT #1 TO THE 2015-16 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Community Development Manager Heather Dillashaw said that this is the consideration of a resolution to authorize substantial amendment #1 of the City's 2015-16 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME Funds to the U.S. Dept. of Housing & Urban Development. . This public hearing was advertised on January 15 and 22, 2016.

Nine hundred and twenty-eight thousand, sixty-four dollars of HOME funds awarded in the FY15-16 cycle need to be reallocated, due to development projects not moving forward. Community Development staff, at the direction of the Asheville Regional Housing Consortium, sought proposals from HOME-eligible subrecipients and for developments proposed by Community Housing Development Organizations (CHDOs). Six applications were received requesting a total of \$1,566,817.

After reviewing applications, hearing presentations by applicants and Board discussion, the Consortium recommends the following allocations:

Applicant	Project	Request	Recommended
Givens Estate	Gerber Village Phase I	\$463,000	\$150,000
Henderson County Habitat for Humanity	Dodd Meadows Phase III	\$125,000	\$50,000
Housing Assistance Corporation	Oklawaha Village	\$425,000	\$375,000
Madison County	Rural Rehabilitation	\$100,000	\$53,064
Mountain Housing Opportunities & Farmbound Holdings, LLC	Pinnacle Point	\$425,000	\$300,000
TOTALS		\$1,566,817	\$928,064

1. Givens Estate Gerber Village Phase I. 120 units of affordable housing will be built in Phase I, for households at 60% or less AMI. This recommendation is to add \$150,000 to an original HOME grant award of \$100,000. Construction costs increased unexpectedly during initial phases of construction
2. Henderson County Habitat for Humanity. Dodd Meadows Phase III adds an additional 3 homes to the existing Dodd Meadows subdivision. These homes will be sold to households between 30% and 80% AMI for Henderson County. This recommendation is to add \$50,000 to an original HOME grant award of \$109,528.
3. Housing Assistance Corporation. This Community Housing Development Organization project is a 78 unit multi-family development in the city of Hendersonville. 16 units will be occupied by households at 80% or less of AMI; 62 will be occupied by households at 90% or less of AMI for Henderson County. The recommended award is \$375,000.
4. Madison County, Rural Housing Rehabilitation. Madison County will contract with the Community Housing Coalition of Madison County to rehab 2-4 homes belonging to low and very-low income homeowners to eliminate the threat to life, health or safety and incorporate energy efficiency improvements. The recommended award is \$53,064.
5. Mountain Housing Opportunities and Farmbound Holdings, LLC, Pinnacle Point. 60 unit multi-family development to be built in South Asheville. 12 units will be affordable to households at 60% AMI or less. 48 will be affordable to households at 100% AMI or less. The recommended award is \$300,000.

In accordance with the City's Citizen Participation Plan, the proposed allocations have been available for public review and comment for 30 days. Contracts for HOME are executed only with the project is ready for implementation and all other funding is firmly committed. Disbursement of grant funds occurs after contracts are signed, and on a reimbursement basis.

These proposed projects directly support Council's 2015-2016 Strategic Plan in Focus Area 2, Affordability and Economic Mobility. Significant funding for affordable housing is a major characteristics of the 2015-2016 Annual Plan. Of special note are the allocations for tax credit rental projects that would create 120 units for low income persons in Asheville (Gerber Village Phase I), 12 non-tax credit units in Asheville for low income persons (Pinnacle Point) 78 units for families in Henderson County (Oklawaha Village).

Pros:

- The development projects will create 151 new units of affordable housing for low-income households in the Consortium area and provide significant construction employment.
- Additionally, 4 low-income households will be able to preserve the affordability of their homes.

- Reflects the carefully considered recommendations of the Asheville Regional Housing Consortium.
- The recommendations are consistent with the priorities in the 2015-2019 Asheville Regional Consolidated Plan for the Use of HOME and CDBG Funds.

Con:

- It is not possible to fund all the applications received, nor to fund fully each request. Applicants may need to seek additional funds from other sources to make their projects feasible.

All funds being reallocated in this process are federal HOME funds received by the City of Asheville for the purpose of affordable housing. No City of Asheville general funds are affected by this process.

The Asheville Regional Housing Consortium recommends that the City Council approved the proposed Substantial Amendment to the 2015-16 Annual Action Plan for CDBG and HOME funds.

Mayor Manheimer opened the public hearing at 5:25 p.m. and when no one spoke, she closed the public hearing at 5:25 p.m.

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

Councilman Smith moved for the adoption of Resolution No. 16-30. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 377

B. PUBLIC HEARING TO CONSIDER A MODIFIED CONDITIONAL ZONING SITE PLAN FOR PROPERTY LOCATED AT 329 ROCKWOOD ROAD FOR THE DEVELOPMENT OF AN 108 ROOM HOTEL CONTAINED IN A 7-STORY BUILDING WITH ASSOCIATED PARKING AND SITE-WORK

ORDINANCE NO. 4478 - ORDINANCE TO MODIFY A CONDITIONAL ZONING SITE PLAN FOR PROPERTY LOCATED AT 329 ROCKWOOD ROAD FOR THE DEVELOPMENT OF AN 108 ROOM HOTEL CONTAINED IN A 7-STORY BUILDING WITH ASSOCIATED PARKING AND SITE-WORK

Principal Planner Shannon Tuch said that this is the consideration of a request to modify a conditional zoning site plan for property located at 329 Rockwood Road for the development of an 108 room hotel contained in a 7-story building with associated parking and site-work. This public hearing was advertised on January 15 and 22, 2016.

The applicant is requesting review of an amendment to a previously approved Highway Business conditional zoning (HB-CZ) and site plan approval (Ord. No. 4242), in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO), for a 7-story, 108-room hotel and related site improvements.

The subject property is located at 329 Rockwood Rd. approximately .7 miles from the Asheville Regional Airport and identified in the Buncombe County land records with the PIN 9643-75-1885. The site is 2.05 acres and was previously graded and prepared for development before a lease was secured and land use determined. The site rises in elevation from Rockwood Road to the prepared building pad approximately 20-feet above the road. Like the subject property, the surrounding properties are all zoned HB and support typical auto-oriented business including the high turnover restaurant to the west, and other similar land uses. The property owner is PMHB,

LLC and the applicant is Justin Church.

The project consists of a single 7-story, 108-room hotel with lobby and amenity areas for guests. The total square footage for the building is 71,367 square feet with a height of 82'-6". The current proposal is a modest increase over a previously approved plan that included a 60,474 square foot building supporting 100 rooms resulting in a difference of 10,893 square feet and eight rooms. Both proposals included seven stories and limit the height to 82'-8". A modification for the height of the building to exceed the 60-foot normally allowed in HB was the primary reason for the original 2013 conditional zoning request. Other than the removal of four parking spaces needed to accommodate changes to the building footprint and surrounding hardscaped areas, the site plan for the project is unchanged and includes landscaping, sidewalk, a new retaining wall and parking lot improvements.

The property is accessed off of Rockwood Rd. through a driveway that is shared with the restaurant to the west. The shared driveway rises approximately 20-feet from Rockwood Road to the base floor elevation of the hotel and helps to terrace the site with the use of block retaining walls on either side of the driveway. The city standard sidewalk along Rockwood Road is proposed and included in the site plans, however, an accessible route from the hotel to Rockwood Rd. was found to be infeasible with this modification carried over from the previous approval. An area of safe dispersal will be required as an alternative within the project site.

Off-street parking requirements for a 108-room hotel requires a minimum of 54 spaces but permits up to a maximum of 108 spaces. The proposed project includes 95 total spaces, falling within the permissible range. Handicap accessible and bicycle parking are also provided.

A variety of landscape improvements are required with this project including: street trees, parking lot, building impact, retaining wall and dumpster screening. Open space is also required at a rate of 15% of the total site area or 13,068 square feet. Open space requirements may be satisfied by either providing adequate space on-site or through paying a fee in lieu (or a combination of the two).

The October 22, 2013, approval included two modifications which still apply. These include:

- 1) Approval to exceed the maximum height allowed for a building in the HB zoning district from 60'-0" to 82'-8"
- 2) An exemption from the requirement for an accessible sidewalk from the hotel to Rockwood Rd.

Additionally, given the project's proximity to the Asheville Regional Airport and the proposed height of the structure, a determination of "No Hazard to Air Navigation" from the Federal Aviation Administration (FAA) is recommended to be required prior to the issuance of any development permits. This determination was previously obtained with the former project approval but has since expired. The applicant is actively seeking renewal of that determination.

This proposal was approved with conditions by the Technical Review Committee on December 21, 2015, and the Planning & Zoning Commission reviewed this request at their meeting on January 6, 2016, and voted unanimously in support of the project.

No communication has been received from the public as of the writing of this report. This project requires review by the City Council and Final TRC prior to zoning approval.

In 2013 the property owner, PMHB LLC, requested a conditional zoning from the existing HB zoning to HB-CZ for the sole purpose of modifying the height for a new multi-story hotel. The modification request proposed to exceed the 60-foot height maximum normally allowed in the HB zoning district to allow a building height of 82'-8". The conditional zoning was approved and the

height modification was granted and remains in effect today. The current amendment seeks to change the approved site plan that went with the 2013 conditional zoning in order to increase the size of the hotel building and number of rooms.

There have been no recent zoning actions in the area.

The subject property is surrounded on all sides by HB zoning supporting a number of different suburban, automobile-oriented businesses including strip retail and service businesses, a high turnover restaurant and light manufacturing. The proposed hotel building will be taller than all the buildings in the immediate area but is less than 0.70 mile (as the crow flies) to the Asheville Regional Airport terminal and tower. A number of other multi-story hotels are within a reasonable proximity of the airport, most of which are between 3-5 stories tall.

The proposed project is compliant with the *Asheville City Development Plan 2025* in that it: 1) provides appropriately-scaled commercial infill development where there is existing infrastructure; and 2) it supports the growth of the Asheville Regional Airport consistent with the general aviation and commercial air traffic demands as well as the operational needs of the Airport.

The proposed project most closely aligns with the 2015-16 Strategic Plan Focus Area of Economic Growth and Sustainability by supporting an economic development and community investment opportunity.

Considerations:

- Current proposal expands the previously approved plan by increasing the square footage of the building by 10,893 square feet from 60,474 to 71,367 (an increase of approximately 18%), and from 100 rooms to 108 rooms (an increase of 8%).
- A modification to exceed the height limit in the HB zoning district and to waive a sidewalk connection from the hotel to Rockwood Rd. was granted in 2013 and is not under consideration as part of this application.
- Changes to parking lot layout and other site improvements are minor.
- The subject property is less than a mile from the Asheville Regional Airport terminal entrance and less than 1000 feet to the nearest edge of the property.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request to be reasonable and in furtherance of the public interest and recommends support of the proposed conditional zoning amendment as proposed.

Councilman Young confirmed that this project was already approved in 2013, but they had to find a new flag to represent them which required them to add 8 more rooms and an additional 10,893 square feet.

Mayor Manheimer opened the public hearing at 5:31 p.m.

Mr. Justin Church, civil engineer for the project representing the developer, said that that is basically the same project that was approved in the fall of 2013. After approval, the developer ran into some issues with the franchise and they had to look for another flag company. He explained the changes are because each franchise has a prototype and that is why there are minor building changes.

Mr. Timothy Sadler suggested Council add conditions that the applicant build a better building that will reduce Co2 emissions and that they prioritize procuring local food for their hotel.

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

Councilman Smith said that when Council offers a height variance they often seek what is the community benefit to allow that variance. Ms. Tuch responded that in this case, the only reason for the conditional zoning was for the height modification. The property was zoned Highway Business already. In this particular case because the project is in close proximity to the Airport and it will help serve that particular economic hub for North Carolina, she felt it was deemed appropriate to grant that additional height modification.

Councilman Smith said that recently Council approved a hotel for downtown where the developer worked with the City and agreed to provide living wages to full-time employees, include local business in any retail, contribute to the Housing Trust Fund, and be an advocate for an equitable distribution of the occupancy tax in the area. He asked if the developer would be willing to condition and agree to any of these actions.

Mr. Church, who is only representing the developer, said that he could not commit to any of those conditions. He said that when the height modification was granted, their stance was that the existing height was not consistent with some of the adjacent structures.

Councilman Bothwell agreed that it would be nice to get some additional community benefits from the developer; however, the project has already been approved with essentially the same plan.

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

Councilman Bothwell moved to approve the Highway Business Conditional Zoning (HB-CZ) amendment request seeking to increase the size and number of rooms of a previously approved hotel development plan from 60,474 square feet to 71,367 square feet, and from 100 rooms to 108 rooms, with the submitted conditions, site plan and elevations, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: 1) it provides appropriately-scaled commercial infill development where there is existing infrastructure; 2) it supports the growth of the Asheville Regional Airport consistent with the general aviation and commercial air traffic demands as well as the operational needs of the Airport; and 3) it supports an economic development and community investment opportunity. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Smith voting "no."

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C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

At the applicant's request, Councilman Bothwell moved to continue this public hearing until April 26, 2016. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

Regarding the HUB Community & Economic Development Alliance, it was the consensus of Council to readvertise for the seat since three of the four candidates withdrew from consideration.

A. RESOLUTION NO. 16-31 - RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that there currently exists three vacancies on the Affordable Housing Advisory Committee.

Mr. James Mastrogiacomo resigned from the Committee, thus leaving an unexpired term until September 1, 2017; Robin Raines resigned from the Committee, thus leaving an unexpired term until September 1, 2016; and Ms. Laura Simmelink has resigned from the Commission, thus leaving an unexpired term until September 2, 2017.

The following individuals have applied for the vacancies: Eric McDaniel, Kama Ward, Zachary Eden, Sage Turner, Laura Collins, Charlene Jones, Arthur Myers, Emily Coleman-Wolf, Barry Bialik, Richard Fort, John Brigham, Rita Yerby, Jo Ikelheimer, Mark Collins and Amy Murphy-Nugen.

On January 12, 2016, Councilman Bothwell moved to appoint Jo Ikelheimer and interview Barry Bialik, Laura Collins and Richard Fort. This motion was seconded by Councilman Smith and carried unanimously.

After Council spoke highly of all candidates, Barry Bialik received 5 votes; Laura Collins received 7 votes; and Richard Fort received 2 votes. Therefore, Barry Bialik was appointed to serve the unexpired term of Mr. Mastrogiacomo, term to expire September 1, 2017, or until his successor has been appointed; (2) Laura Collins was appointed to serve the unexpired term of Ms. Simmelink, term to expire September 1, 2017, or until her successor has been appointed; and (3) per the motion on January 12, 2016, Jo Ikelheimer was appointed to serve the unexpired term of Ms. Raines, term to expire September 1, 2016, and then a full three-year term, term to expire September 1, 2019, or until her successor has been appointed.

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B. RESOLUTION NO. 16-32 - RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Brent Campbell, Rebecca Hecht, Dane Barrager and Pam Winkler, as members on the Downtown Commission, expired on December 31, 2015.

The following individuals have applied for the vacancy: John Menkes, Constance Richards, Drea Jackson, Audra Gaiziunas, Rae Geoffrey, Kelly Prime, Carter B. Webb, Sage Turner, Mike Marcus, Franzi Charen, Andrew Fletcher, Taryn Gentry, John Monroe and John Kloeckner.

On January 12, 2016, Vice-Mayor Wisler moved to reappoint Dane Barrager, Brent Campbell and Pamela Winkler and interview Franzi Charen, Sage Turner, Andrew Fletcher and Mike Marcus. This motion was seconded by Councilman Young and carried unanimously.

After Council spoke highly of all candidates, Sage Turner received no votes; Mike Marcus received no votes; Andrew Fletcher received two votes; and Franzi Charen received 5 votes. Therefore, (1) Franzi Charen was appointed to serve a three-year term, term to expire December 31, 2018, or until her successor has been appointed; and (2) per the motion on January 12, 2016, Brent Campbell, Dane Barrager and Pam Winkler were each reappointed to each serve a three-year term respectively, terms to expire December 31, 2018, or until their successors have been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Vicki Meath spoke to Council about transit reform and the 2015 survey summary of riders and businesses showing that there is strong support for evening bus service. Additional research should focus on the specific routes and times for extending bus service. She asked Council to look for funding to extend that evening service.

Mr. Vijay Kapoor, south Asheville resident, thanked Council for their patience in working with the south Asheville residents regarding the rapid growth and lack of a transportation plan associated with the proposed conditional zoning for 60 Mills Gap Road, which public hearing has been continued until April 26, 2016.

Ms. Priscilla Ndiaye urged City Council to work on a plan to renovate the Walton Street Park and Pool.

Ms. Dee Williams urged Council to continue to seek community benefits in projects.

Mr. Timothy Sadler supported expanding evening bus service, and hoped that Council will work with the community employers to market the Passport Program which will help support the additional funding needed for expanding evening bus service.

Ms. Carmon Ramos-Kennedy spoke in support of the ban the box resolution; and clarified that the 2015 survey Ms. Meath spoke about said that Just Economics is not advocating raising the fees to pay for the evening service.

Closed Session

At 6:07 p.m., Councilman Young 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. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 6:41 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Wisler adjourned the meeting at 6:41 p.m.

CITY CLERK

MAYOR