

Tuesday – March 8, 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.

ANNOUNCEMENTS

Mayor Manheimer was pleased to announce the UNC-Asheville Big South Men's Basketball Championship and also the UNC-Asheville Women's Basketball Big South regular season crown. She also said that the City of Asheville enjoyed hosting the Southern Conference Basketball Championship and Wrestling Tournament last weekend.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 10, 2016, AS "ZELDA FITZGERALD DAY"

Mayor Manheimer read the proclamation proclaiming March 10, 2016, as "Zelda Fitzgerald Day" in the City of Asheville. She presented the proclamation to Mr. James MacKenzie, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

At the request of Vice-Mayor Wisler, Consent Agenda Item "E" was removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 23, 2016

B. RESOLUTION NO. 16-46- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO PROVIDE A SECTION 5307 CAPITAL GRANT TO BE USED FOR THE STATE MATCH TO PURCHASE A REPLACEMENT VAN FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to provide a Section 5307 Capital Grant in the amount of \$5,112 to be used for the State match to purchase a replacement van for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding

administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with Federal funds.

The estimated total cost of the subject project is \$51,128. Federal funds will provide \$37,834, covered with grant NC-90-X395; this grant requires a match of \$13,294, \$5,112 provided by NCDOT and the remaining \$8,182 provided by Henderson County. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 74% of the total estimated project cost.
- Henderson County provides 16% of the total estimated project cost and NCDOT provides the remaining 10%.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

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

The total estimated project cost is \$51,128, with 74% or \$37,834 coming from Federal funds, 26% or \$13,294 coming from Henderson County and the NCDOT. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation in the amount of \$5,112, as State match to purchase one van for Henderson County.

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C. RESOLUTION NO. 16-47 - RESOLUTION TO ACCEPT EMERGENCY SOLUTIONS GRANT FUNDS FOR FISCAL YEAR 2016 AND PROVIDE FUNDING TO SELECTED AGENCIES

Summary: The consideration of a resolution accepting the 2016 Emergency Solutions Grant in order to fund local agencies.

In the process approved by Council at the October 27, 2016, Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included 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. The recommendations were reviewed by the Housing and Community Development Committee and recommended for approval.

We have received a contract from DAAS, with the following agency awards:

	Emergency Response	Housing Stabilization	HMIS	Total
Organization				
Helpmate	\$ 28,000			\$ 28,000
Homeward Bound		\$ 61,379		\$ 61,379
Salvation Army	\$ 19,586			\$ 19,586
City of Asheville			\$ 10,000	\$ 10,000
TOTAL AWARD	\$ 47,586	\$ 61,379	\$ 10,000	\$ 118,965

The award of funds was conditional on providing to the State additional information needed and/or assurances. All of the State's requirements have been met by the agencies being recommended for the grant award.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is an important resource for rapid re-housing of persons experiencing homelessness.

Con:

- None noted.

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. Budget for this grant was included in the adopted FY 2015-16 Special Revenue Fund budget; however staff had estimated that total funding would be higher than the actual amount received. The budget will be reduced downward to reflect the actual amount.

The Housing and Community Development Committee recommends acceptance of these funds, and subgranting of those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

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**D. RESOLUTION NO. 16-48 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO EXECUTE AN AMENDMENT TO THE EXISTING LEASE
AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC., D/B/A
AT&T NORTH CAROLINA FOR PART OF THE SURFACE PARKING LOT
LOCATED AT 24 O.HENRY AVENUE**

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the existing lease agreement between Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina and the City of Asheville for part of the surface parking lot located at 24 O.Henry Avenue.

In 2011, the City of Asheville entered into a lease agreement with Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina (AT&T) for public parking on AT&T property located at 24 O.Henry Avenue (identified as PIN # 9649-20-5843-00000). This action was taken in response to a deficit of public parking in that area as identified in the 2008 City of Asheville Comprehensive Parking Plan. For the past five years, the lease area has provided 47 public parking spaces in proximity to the U.S. Cellular Center, Grove Arcade, and the Haywood Street retail and business corridor. The lot is operated as a multi-user lot for monthly parkers, Indigo Hotel, merchants of Grove Arcade, Citizen-Times employees, and hourly parking. All monthly spaces are rented with a waiting list for vacancies. The hourly spaces are well used.

The current lease is set to expire in August 2016 and AT&T contacted City staff to understand if the City has interest in continuing the lease in that location. AT&T is agreeable to an extension of the parking lot lease for another 5 years. Since the monthly rental rate of \$2,585 on the parking lot remained flat for the initial 5 year term, AT&T has proposed to increase the rent to \$2,844 per month and add a provision that will provide for a 2% annual increase in the rent over the next 5 years. This rate is in line with downtown prices for monthly parking.

Existing terms of the lease will continue, such as AT&T's rights associated with emergency use. Given the responsibilities of a public utility, AT&T North Carolina reserves the right to use 20 of the 47 spaces in the event of an emergency, with rent to be abated if the use by AT&T exceeds 7 days.

Pros:

- Optimum location for downtown public parking
- Continues to utilize existing private surface parking for public benefit
- Annual revenues routinely exceed annual expenses

Con:

- None

The subject lease amendment includes an annual lease payment of \$34,128 with 2% annual increases thereafter. The costs will be incorporated into the FY 16-17 operating budget of the Parking Enterprises Fund and city staff anticipates that the annual revenues would exceed annual expenses by approximately \$3,000 per year.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an amendment to the lease agreement with BellSouth Telecommunications, Inc., d/b/a AT&T North Carolina on behalf of the City of Asheville.

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E. RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE-FREE DAY ON MARCH 15, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

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

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 Councilman Smith and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION AND/OR AN INDIVIDUAL VOTE

E. RESOLUTION NO. 16-51 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE-FREE DAY ON MARCH 15, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

Summary: Voting is the foundation of our democracy. March 15 is the primary election day for President, U.S. Senate, Governor, Lieutenant Governor, Attorney General, Commissioner of Labor, Treasurer, and Buncombe County Commission. Barriers to voting include difficulty accessing transportation. The Asheville City Council affirms that all registered voters should have

access to the polls. Fare-free transit days are an inexpensive way to demonstrate support for the population that does not have access to affordable transportation.

The City Manager is hereby authorized to implement a fare-free day on March 15, 2016, in order to reduce barriers to voting.

Vice-Mayor Wisler said that while she is supportive of this fare-free day, she would like to see other things that the City can do along these lines to help people get out and vote and actually incentivize voting as opposed to the day just being a fare-free day for everyone.

Councilman Smith said that he would support a fare-free day for the November General Election as well, noting that Council was advised that this would help the elderly get to their polling precincts.

Councilman Young was fully supportive of this effort as everyone should have the ability to exercise their civic duty and vote. Voting should be easy and accessible.

Councilwoman Mayfield said that the Multimodal Transportation Commission recommended further study, including issues like making it available for early voting, and using the free fare as an incentive, rather than just granting a fare-free day to people whether they vote or not.

City Manager Jackson said that staff will work with the Multimodal Transportation Commission on those issues.

Councilman Young moved for the adoption of Resolution No. 16-51. This motion was seconded by Councilman Smith and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. LEE WALKER HEIGHTS MASTER PLAN

Mr. David Nash, Chief Operating Officer of the Housing Authority, reviewed with Council the Lee Walker Heights Master Plan. He showed the current site and location, noting that 43 key goals and strategies from various City plans are highlighted and addressed in their Master Plan. He outlined the top ten City of Asheville policy priorities address by the Lee Walker Heights Redevelopment Project, along with a chart of Asheville-Buncombe Jobs and Gross Rent Affordability. He then summarized the numerous residential participation opportunities.

Two residents of Lee Walker Heights spoke in support of the Project and how the Housing Authority has included residents in every step of the way.

Mr. Patel, representing David Baker Architects, showed the proposed site plan, along with the different phases, floor plans and views of what the neighborhood would look like.

When Councilman Bothwell asked about additional density on the property, Mr. Nash replied that they have maximized the number of units that they can without building structured parking on the site, which would add significant cost to the site.

Mayor Manheimer appreciated the community involvement piece as it's vital to the success of this transformational concept.

B. UPDATE ON BODY WORN CAMERA IMPLEMENTATION

Police Chief Tammy Hooper provided Council with the Asheville Police Department's Body Worn Camera Implementation Fact Sheet. She then explained the history of the body worn camera implementation. The Police Department began researching body worn cameras in 2014 and spent more than a year of researching and testing. They started the implementing the plan in January 2016. She then explained the implementation plan noting that approximately 180 sworn officers serving in functional operations will be equipped with body worn cameras.

In Fiscal Year 2016, \$142,258 is for 60 body worn cameras with unlimited video storage with a five year warranty/maintenance plan. Reoccurring annual costs for storage and maintenance is \$78,414, with a \$70,000 estimated cost for a Law Enforcement Technology Specialist (salary and benefits). Additional purchases in Fiscal Year 2017 and Fiscal Year 2018 for 120 remaining body worn cameras and support staff and equipment will be budgeted. The timeline will be accelerated if grant funding is received. She then explained the fiscal impact in the Fiscal Year 2016 budget, along with the administrative policy overview.

The administrative policy (1) was adopted by the Chief of Police as part of the Department Policy Manual; (2) is based on model policy issued by IACP and aligned with recommendations contained in PERF's "Implementing Body Worn Camera Program" report; (3) was vetted by the City Attorney's Office to ensure compliance with law; and (4) addresses rules and procedures for body camera use including when the camera is activated, who can view footage, and storage and retention. Officers will activate body worn cameras to record all contacts with citizens in the performance of official duties with exceptions for circumstances where operating it may not be appropriate (hospital emergency room or other area where patients receiving treatment, at request of crime victim, or where footage would reveal identity of child victim of abuse). Officers must document and report to supervisors any instances where camera is not used.

Assistant City Attorney John Maddux said that regarding recordings - access/review, typically investigative in nature and not usually public records under N. C. Gen. Stat. sec. 132-1.4; like other recordings, will not be subject to release to the media or members of the public under North Carolina's public records law. The recordings will be reviewed by supervisors in chain of command, Chief, Professional Standards sworn staff, City Attorney's Office, and any other person designated by the Chief. Persons making complaints regarding an officer's actions or behavior who are the subject of a video recording, parent or legal guardian of minor subject of video, or deceased subject's next of kin or legally authorized designee shall be permitted to review the specific video footage upon request.

Chief Hooper said that regarding retention, retention shall be for the minimum time provided in the North Carolina Municipal Records Retention and Disposition Schedule. All recordings not flagged for evidentiary retention shall be retained for a maximum of 60 days after they are created, at which time they will be destroyed through an automated process.

Next steps include (1) continuing the implementation plan; (2) monitoring legislative action relative to body worn camera (retention, etc.); (3) monitor and pursue any grant funding opportunities for future phases; and (4) complete an assessment as to the status of the program at the end of 2016.

Chief Hooper responded to various questions/comments from Council, some being, but are not limited to: can the 60 days retention period of the videos be extended and under what circumstances do videos require additional retention; further explanation on the pending bill in the legislature; what will monthly random audits entail if it is disclosed that an officer may be involved in any adverse action or does not comply with the standards of APD or the law; how was the 60 day retention period of videos arrived at; what would be the problem with people in the videos being able to obtain a copy; at what point would a video become a personnel record; request for cost breakdown information of the 180 body worn cameras; will every APD officer have a camera;

should the policy be amended to allow an incapacitated adult to review specific video footage upon request; and will the footage be reviewed as part of the officer's annual evaluation.

The following individuals voiced comments relative to the Police Department's Body Worn Camera Implementation Policy:

Mr. Sean McNeal - provided Council with a copy from the American Civil Liberties Union of a model act for regulating the use of wearable body cameras by law enforcement.

Christopher Chiaromonte
Michael Collins

After hearing the questions/responses, Councilman Young felt Chief Hooper did an excellent job in crafting this policy following available best practices considering we are embarking on new territory when it comes to body worn cameras.

Councilman Bothwell, Chair of the Public Safety Committee, felt that we are in good middle ground with this policy.

C. QUARTERLY FINANCIAL REPORT AND BUDGET PLANNING UPDATE

Director of Finance and Management Services Barbara Whitehorn provided the Council with a review of (1) the quarterly financial report outlining the economic and financial drivers; (2) quarterly budget process; (3) budget theme linkages between Council and management; (4) General Fund revenues and expenditures; (5) fee recommendations; and (6) the budget process.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER RENAMING TWO DISCONNECTED PORTIONS OF MERRITT STREET TO "BIRD DOG WAY" FOR THE SOUTH SECTION AND "MERRITT PARK LANE" FOR THE NORTH SECTION

RESOLUTION NO. 16-49 - RESOLUTION TO RENAME TWO DISCONNECTED PORTIONS OF MERRITT STREET TO "BIRD DOG WAY" FOR THE SOUTH SECTION AND "MERRITT PARK LANE" FOR THE NORTH SECTION

Mr. Stuart Rohrbaugh, Emergency Access Coordinator, said that this is the consideration of a resolution to consider renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section. This public hearing was advertised on February 26, 2016.

The duplication of street names has the potential for misdirection or miscommunication, which can hinder the response of emergency services. He provided a map that shows two street segments with the exact same duplicated name. Property owners along the south section of Merritt Street brought this to staff's attention when they petitioned the City of Asheville to rename their portion to "Bird Dog Way." Both the north and south street segments are currently City maintained streets. The street segments no longer connect. No useable street surface is located between these street segments. Staff learned of another street named Merritt located outside the City limits in the nearby 28806 zip code. Therefore staff recommends the north section be renamed "Merritt Park Lane." Only one house address would be affected by this renaming. The owner / occupants of that home are the persons petitioning for the re-naming.

The Public Safety Committee reviewed a request to eliminate the duplicate street name on January 25, 2016, and they recommended it be forwarded to the full Council for approval.

Pro:

- Potential emergency response will be enhanced with specific unique street names.

Con:

- Cost of labor of replacing two street name signs.

The cost to re-install new street name sign blades to the existing poles are about \$100 each and is included in the current operating budget for the Transportation Department.

City staff recommends City Council adopt a resolution renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section.

Mayor Manheimer opened the public hearing at 6:43 p.m., and when no one spoke, she closed the public hearing at 6:43 p.m.

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

Councilman Young moved for the adoption of Resolution No. 16-49. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 16-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE ASHEVILLE DESIGN CENTER

ORDINANCE NO. 4484 - BUDGET AMENDMENT FOR ASHEVILLE DESIGN CENTER CONTRACT

APPROVAL OF ADVISORY TEAM ORGANIZATIONS

Director of Planning & Urban Design Todd Okolichany said that this is the consideration of (1) a resolution authorizing the City Manager to enter into an agreement with the Asheville Design Center related to a community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in the city's Central Business District (CBD); (2) a budget amendment in the amount of \$15,000, from unassigned fund balance to contracted services, for the facilitation of a community visioning process for the aforementioned properties; and, (3) approval of an Advisory Team for this initiative.

At its December 12, 2015, meeting, the City Council directed staff to review alternatives for a potential process for the future use and design of two city-owned properties located at 68-76 Haywood Street. The two subject properties – which measure approximately 0.55 acres in total – are located on the southern side of the intersection of Haywood Street and Page Avenue. One of the properties is currently being leased to a company for construction staging purposes. The lease runs through July 31, 2016.

The Haywood Street properties have a long and well documented history of potential development opportunities. Their location within the city's CBD make them very desirable as urban infill sites. The property was acquired for the purpose of constructing a parking garage with adjacent private development. The property was then proposed for a hotel development that did

not occur. In the past year, the Economic Development Coalition solicited offers from developers for the purpose of developing an office building with an adjoining pocket park.

Many community members have expressed interest in a public space at this location, especially as the downtown continues to grow. A public process will be undertaken as part of the city's efforts to update its Comprehensive Plan in 2016-2017 in order to effectively sort through conflicting expectations, values and ideals for downtown parks and other types of public spaces in general; however, there is a current desire by the City Council to engage the public in an open process for a future vision for the Haywood Street properties so that these properties can begin to contribute to the downtown's dynamic environment and vibrancy.

In an effort to define the scope of the project, city-owned property located at 33/35 and 37 Page Avenue have been included. These properties are located just southwest of the Haywood Street parcels, directly across Battery Park Alley, and are currently being used as a surface parking lot (37 Page Avenue) and a vacant building (33/35 Page Avenue). The property at 33/35 Page Avenue, a part of the original plan for a parking garage at Haywood Street, was acquired to provide alternate access to the rear of properties on Haywood Street and Page Avenue. Currently these properties are served by an alley between the property at 68-76 Haywood Street and 37 Page Avenue. When combined with the city-owned Haywood Street properties and the surrounding rights-of-way, the Page Avenue properties create a larger study area and potential larger master planning opportunity for this area. It should be noted that Council direction on 33/35 Page Avenue is being sought under a separate memorandum and item on the March 8, 2016 Council meeting agenda.

The Asheville Design Center proposes to work with City staff to facilitate a community visioning process for city-owned properties at 68-76 Haywood Street and 33-37 Page Avenue in downtown Asheville. The outcomes will be designed to inform future actions on the subject sites and surrounding rights-of-way, which may include a design competition and/or a Request for Qualifications/Proposals (to be completed under a separate phase and as determined by City Council).

The project's scope will include strategic planning and coordination with an Advisory Team, key stakeholders, as well as the broadest community interests who express a desire to participate in an open, democratic "town hall" process of consensus building. The Asheville Design Center will work with City staff to form an Advisory Team for the public visioning process and implementation plan. The Advisory Team will have representation, at minimum, from the following organizations (in no particular order), plus three at-large members:

- City of Asheville Recreation Board;
- Asheville Downtown Commission;
- Historic Resources Commission of Asheville & Buncombe County (HRC);
- Public Art and Cultural Commission (PACC);
- Buncombe County liaison;
- Asheville Downtown Association;
- The Basilica of St. Lawrence;
- Friends of St. Lawrence Green;
- Grove Arcade;
- Battery Park Hotel/Vanderbilt Apartments representative(s);
- Downtown Asheville Residential Neighbors (DARN);
- And Asheville Area Chamber of Commerce.

The at-large members would apply and be appointed by City Council in the same process as boards and commission appointees.

Engagement with local stakeholders and property owners will inform a long-term vision for the properties, while also serving to identify opportunities for temporary installations to enliven the space now and suggest appropriate permanent uses on the site over time.

The Asheville Design Center will also conduct site visits to existing nearby Downtown public spaces, including Pritchard Park and Pack Square Park, in order to review existing programming and design elements, while observing best practices and potential impediments to successful placemaking.

The Asheville Design Center proposes to undertake the following major tasks over the course of approximately seven months:

Task 1: Initial Project Analysis Tasks

Task 2: Information Gathering and Synthesis

Task 3: Public Engagement

Task 4: Final Visioning Documentation and Presentations

On January 26, 2016, and February 16, 2016, Planning and Urban Design staff presented a recommended process for the city-owned properties at 68-76 Haywood Street and 33-37 Page Avenue to the Planning and Economic Development Committee. The committee recommended the process contained in this memorandum, including the hiring of the Asheville Design Center to conduct a community visioning and public engagement process for the study area. The Planning and Economic Development Committee deferred the decision to include 33/35 Page Avenue to City Council.

At its November 4, 2015, retreat, the Downtown Commission also made a recommendation to City Council that they initiate a meaningful public process that is transparent to develop a plan for the Haywood Street property and surrounding rights-of-way. The Downtown Commission requested that the city engage the Asheville Design Center to facilitate the process with the public.

The contract with Asheville Design Center would have a financial impact of \$15,000 to the city. The overall project cost is \$30,000, which includes the city's financial commitment plus the following additional funding sources:

- \$5,000 from the Asheville Downtown Association
- \$5,000 from Friends of St. Lawrence Green
- \$1,500 anonymous donor
- \$500 Michael McDonough
- \$200 DARN
- \$2,800 (pending funds from other sources)

For the city's \$15,000 commitment, a budget amendment, from unassigned fund balance to contracted services, is required.

City staff resources would also be required to manage the project, coordinate with the consultant team, participate in the public engagement and visioning process, provide relevant information and data on existing plans, maps, utility and roadway information, etc., promote engagement opportunities and regularly share updates through multiple communication channels, and coordinate/provide potential meeting locations for the public. Staff resources are anticipated from the following departments: Planning and Urban Design, Parks and Recreation, Communication and Public Engagement, Transportation, Community and Economic Development, Public Works and Legal Services.

Unless directed otherwise, the proposed visioning process would take approximately seven months to complete. As noted, the outcomes of the visioning process will be designed to

inform future actions for the study area, which may include a design competition and/or a Request for Qualifications/Proposals (to be completed under a separate phase and as determined by City Council). Funding for design, construction and maintenance of a newly activated space is not currently in the city's budget.

City staff recommends that City Council (1) adopt a resolution authorizing the City Manager to enter into an agreement with the Asheville Design Center related to a community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue; (2) authorize a budget amendment in the amount of \$15,000, from unassigned fund balance to contracted services, for the facilitation of a community visioning process for the aforementioned properties; and, (3) approve the Advisory Team for this initiative.

Mr. Chris Joyell, Executive Director of the Asheville Design Center, discussed the proposed scope of work for the visioning process, which will ultimately give them input to produce the materials for Request for Proposals.

At the request of Councilwoman Mayfield, it was the consensus of Council to include a representative of the Civic Center Commission.

At the request of Councilman Bothwell, it was the consensus of Council to include a representative of the busker's alliance.

At the request of Vice-Mayor Wisler, it was the consensus of Council to ask Mr. Okolichany to draft some specific questions that Council can review to send out with applications, in order to make sure Council is not duplicating people already being represented. Council will review the applications/responses and determine who, if any, to interview.

Mr. Timothy Sadler felt that the Advisory Team consists largely of the government and business community. He suggested Council incorporate other public groups that may be directly impacted with the project.

Mr. Christopher Chiaronmonte felt that a representative from one of the homeless coalitions be on the Advisory Team.

Mr. Andrew Craig, President of Asheville Sister Cities, and Mr. Russ Martin, Past President of the Asheville Sister Cities, recommended a representative from Asheville Sister Cities be appointed to the Advisory Team.

Ms. Diana Davidson, representing the Downtown Area Residents Association, spoke in support of the Asheville Design Center's scope of work and was excited to give their input.

Mr. Bob Swanson noted that there is a group of facilitators that meet regularly in this area that have done facilitation before.

Mayor Manheimer asked that staff make a special effort to reach out to the property owner of the alley regarding easement rights.

Councilman Smith noted that there will be broad community engagement meetings and urged anyone interested to attend the public visioning process.

Mayor Manheimer said that members of Council have previously received copies of the resolution and ordinance and they would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-50. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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Vice-Mayor Wisler moved for the adoption of Ordinance No. 4484. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 237

Vice-Mayor Wisler moved to approve the Advisory Team outlined above, with the addition of a representative from the busker's association and the Civic Center Commission. This motion was seconded by Councilwoman Mayfield and carried unanimously.

B. MOTION TO PROCEED WITH THE DEMOLITION OF CITY-OWNED BUILDING AT 33-35 PAGE AVENUE

ORDINANCE NO. 4485 - BUDGET AMENDMENT FOR 33-35 PAGE AVENUE

Assistant City Manager Paul Fetherston said that the purpose of this staff report is to provide the City Council with an update on the condition, estimates and next steps relative to the City-owned building located at 33/35 Page Avenue within the Central Business District; and a potential budget amendment up to a maximum amount of \$138,805 from unassigned fund balance.

In 2002, the City of Asheville (City) purchased the land and improvements at 33/ 35 Page Avenue for \$850,000 through the Parking Services Capital Project Fund. In August 2004, the City and the local Sister Cities organization entered into a lease for space at 33D Page Avenue for a period of one month – month to month thereafter with language articulating “In no event shall this lease remain in effect for more than one year from the date of commencement.” The Lease specifically indicated the following: (a) the City planned to demolish the structure, (b) that no improvements or normal maintenance to the property would be provided by the City, and (c) that the Lessee was responsible for maintenance and accepted the premises as is.

In late November 2015, City staff was contacted by Sister Cities indicating that the building was in disrepair and that recent rain damage had caused interior ceiling tiles to collapse. In response to this contact, City building inspectors toured the facility on December 3 to determine conditions of the premises and observed a large amount of water intrusion inside the building, evidence of water within the electrical system, standing water on the roof and active water leaks throughout. As a result, the City’s building inspectors posted the property as unsafe for occupancy and required that the building remain vacant until life-safety items were addressed. Since that time, the Sister Cities moved out and the City disconnected the electricity, secured and restricted access to the building.

In an effort to keep the City Council informed, an update was provided to the Governance Committee during its December 8 meeting. At that time, staff provided rough estimates for various options related to the building with the understanding that staff would seek quotes for the various options during December. The rough estimates as of December 8, detailed below, were based on previous estimates received by the City escalated for time and conditions, as well as staff experience in similar projects.

ITEM	Estimate-Dec 8
Secure the building – NOT for occupancy (roof repairs, etc.)	\$150,000
Secure the building – FOR occupancy (no up fits, etc.)	\$500,000
Demolition	\$200,000

As with standard protocol within Development Services, the City has approximately 90 days from the date the building was posted as unsafe to develop a plan and next steps (March 4,

2016). City staff has communicated with the City's building inspectors the timing of this discussion regarding next steps at its March 8 regular meeting.

During the December 8 meeting, the Governance Committee requested the following information relative to 33/35 Page Avenue.

Request	Response
Is there a reversionary clause or condition that would be triggered (based on how the purchase of 33/35 Page Avenue was funded) if the property were to be sold to a third party?	While there is no reversionary clause of condition involved, it is important to note that the property was purchased through the Parking Services Capital Project Fund with the anticipation that the property would be utilized for purposes that were consistent with the Fund. Any transfer for a different purpose would require a formal budget amendment by City Council (repayment of the Fund). It is recommended that legal counsel be sought prior to any such budget amendment.
Market Value for 33/35 Page Avenue	8,900 square foot building Built in 1958 Acreage = 0.11 acres (4,791.6 square feet) Zoning: Central Business District Total Tax Value: \$739,900 Land Value for Tax Purposes: \$335,400 Building Value for Tax Purposes: \$404,500 An appraisal of the property has not been completed.

Following the December 8 Governance Committee meeting, staff worked to obtain the following updated estimates from third party vendors to complete work on the building in support of the options originally outlined. It is important to note that based on the estimated cost of the work, a more formal competitive process would be required before work could be completed.

ITEM	Estimate
Secure the building – NOT for occupancy to include: roof repairs, cleaning roof drains and scuppers, labor and material, dumpsters and fees stop water penetration into building – new downspout and gutter, replace PVC, caulking, lift, debris removal, install steel screening for gas piping) 15% Contingency TOTAL	\$33,400 <u>5,010</u> <u>\$38,410</u>
Secure the building – NOT for occupancy to include: Above referenced roof and water penetration work PLUS Secure interior by removing water damaged ceiling tile, drywall and plaster; remove all carpet; dry out building and remediate extensive mold; remove damaged wood framing; treat all exposed framing; check all electrical boxes and repair as needed; get HVAC operational; 15% contingency TOTAL	\$120,700 <u>18,105</u> <u>\$138,805</u>
Secure the building – FOR occupancy: Since significant remediation of the interior of the building would be required (wall removal and other interior modifications), the final design of the interior spaces would be	Not available

needed in order to secure third party estimates.	
Demolition of the structure including ground treatment	\$100,000
Add 15% contingency	<u>15,000</u>
	\$115,000

The Governance Committee was presented with this information during its January 12 meeting at which time the Committee requested that the item be presented to the City Council for consideration and direction

Staff requests City Council direction on next steps regarding the city-owned building at 33/35 Page Avenue. Identified options for such direction include the following:

- Secure the building (minimal): \$38,410
- Secure the building (maximum): \$138,805
- Demolition: 115,000

If Council chooses demolition, there will have to be a competitive process to secure estimates and then depending on that amount, they may need Council approval for the contract. There are also additional process steps necessary to demolish the building. Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville-Buncombe County, advised him that the Historic Preservation Master Plan was adopted by City Council in 2015, which should require the Historic Resources Commission (HRC) to review and give their recommendation. It was Mr. Fetherston's opinion that the Master Plan was not codified so those do not apply. However, even though the Plan is not codified, Council can ask staff to have the Historic Resources Commission (HRC) review and give their recommendation. In addition to a competitive process, we would have to go to the Downtown Commission for review and recommendation.

Mr. Fetherston said that Council should have received a copy of an e-mail from Asheville Sister Cities about their interest in the property and their interest to keep the facility and allow them to engage in a lease once the building is renovated.

In furtherance of City Council direction, action on a budget ordinance amendment will be required to allocate funding from unassigned fund balance. Following City Council direction, staff will meet with the Building Inspector to review the plans for the structure as required.

In response to Vice-Mayor Wisler, Mr. Fetherston said that if you secure the building with the \$38,400 option, that would be just to secure the roof to stop the water penetration. It doesn't stop the growth of the mold or stabilize anything on the inside.

In response to Councilman Smith, Mr. Fetherston further explained that in 2015 City Council adopted the Historic Preservation Master Plan, which identified buildings (which 33-35 Page Avenue was a contributing building in 2011). The Plan sets forth recommendations for the City to begin looking at rules and regulations if there were any demolitions or treatment of buildings within that district. The Plan has not been codified so there has been no change in process. The Plan did recommend that any demolition would go through the HRC, and Council can ask staff to schedule an HRC review.

Councilman Bothwell was not sure how anyone can decide if the building is worth \$138,805 to gut and have it ready for someone else to do something else with. He felt a buyer would be probably just demolish the building.

Mr. Fetherston said that the Governance Committee had asked about the fair market value of the building. While we do not have an appraisal, we did look at the taxes and we are pretty confident that the property is worth \$850,000 if not more. Based on some of the conversations with our Real Estate Manager, she was confident that if the building is allowed to remain on the property it will be a detriment to the value.

Councilwoman Mayfield said that from a fiscal standpoint and future of the property standpoint, the demolition option seems to make the most sense to her. However, even though the Historic Preservation Master Plan is not codified, we should make use of the processes we have in place - a Downtown Commission and an HRC. If this is a contributing structure in the historic preservation sense of that term, then she recommended we ask the opinion of our HRC.

When Councilwoman Mayfield asked if a decision had to be made tonight, Mr. Fetherston replied no but staff is seeking direction in order to comply with the protocol that within 90 days we are supposed to have an action plan. The longer the water intrusion goes on the condition of the building worsens. Councilwoman Mayfield then suggested sending this to the HRC and the Downtown Commission for their input.

Councilman Smith was leaning towards demolition, largely due to some of the site constraints on the Haywood Street property. Being able to factor this into that would be very helpful. Not knowing whether this would be part of open space or a built environment, it may lead to the fulfillment of City Council's strategic goals. He would like this on the table as we have the Haywood Street conversation.

In response to Councilman Haynes, Mr. Fetherston said that Asheville Sister Cities sent an e-mail that said they do not want the City to demolish the building, but to spend the required amount to repairing the roof, treating the mold, repairing plumbing, and getting the electrical system up to code. They would once again occupy the premises and accept responsibility for upkeep and even find additional occupants for other available space in the building, which would financially benefit the City. They would also be amenable to paying an negotiated amount of rent.

Councilman Young said that based on the last time this issue was before the Governance Committee, the fiscal health and stability of the organization possibly would not allow them to do take on some of these tasks. He wondered how that changed since December. In response, Mr. Craig said that Asheville Sister Cities is a strong organization and they will go through fund raising events. In the event they have the opportunity, they will continue to find ways to fund improvements.

When Mayor Manheimer asked what Asheville Sister Cities is offering to help the City bring the building up to occupancy. Mr. Craig said the City would spend the \$138,805 (in addition to the electrical and plumbing), and he anticipated Asheville Sister Cities would spend around \$75-80,000 to advance the building to a safe level.

When Mayor Manheimer asked what it would cost the City to bring the building up to occupancy, General Services Director James Ayers said to secure the building for occupancy would be approximately \$500,000.

Councilwoman Mayfield felt it didn't make sense to spend \$38,410 just to secure the roof to stop water penetration; and it doesn't make sense to spend \$138,805 because the building still not be available for occupancy. There is a big gap to make the building for occupancy, even with what the City is willing to spend, along with what Asheville Sister Cities is willing to spend. She noted the Planning & Urban Design Director's recommendation for the public process on the Haywood Street site includes this property. She said that the HRC meets tomorrow and suggested Council ask them to review this building.

Mr. Fetherston said that if Council chooses demolition, staff will get together a timeline to get it before the Downtown Commission, and if Council would like staff to take the extra step and to the HRC, they can also do that. He would bring their recommendation back to Council. He said he could talk to the HRC Director to see if they can get it on their agenda for review.

City Attorney Currin said that if Council sends this to the HRC, they will need to define the question to make sure the HRC is looking at what Council wants them to review.

Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville-Buncombe, said that the building at 33-35 Page Avenue was listed in the National Register when the Downtown District was created in 1979. In 2011 the District was reviewed and this building was acknowledged as a contributing structure to the District. City Council adopted the Historic Preservation Master Plan and this would be the first demolition of a contributing structure in the District. He urged Council to follow the Plan recently adopted. The rush to demolish this building as a way to facilitate the planning effort is inaccurate and he felt there was no rush to demolish the building.

Mr. Andrew Craig, President of Asheville Sister Cities, said that regardless of the decision City Council takes on this building they will continue to be an advocate for our City both here and abroad. They would like to help the City rehabilitate 33-35 Page. He noted the City has kindly provided them with space at the Parks & Recreation offices for meetings and storage for 90 days. Should the City be willing to go the extra mile and prepare the building close to an occupancy state, Asheville Sister Cities will rehabilitate the interior of the space and solicit additional tenants for other areas of the building. He felt that Asheville Sister Cities is a downtown organization and they need exposure to facilities, to programs and to people and visitors.

Ms. Karen Korp, speaking on behalf of Asheville Sister Cities, urged City Council to work with Asheville Sister Cities in order for them to occupy this building again.

Mr. Christopher Chiaronmonte suggested Asheville Sister Cities pay for securing the building if they want to remain in it.

Mr. Russ Martin, Past President of Asheville Sister Cities, explained how 33-35 Page Avenue has meaning for them and how it has served them very well. They are willing to be a part of the rehabilitation and to help maintain an income producing asset for the City.

Mr. Timothy Sadler suggested using funds from the Affordable Housing Trust Fund to renovate the building and allow Asheville Sister Cities to stay on the lower level.

In response to Mayor Manheimer, Mr. Fetherston said that Asheville Sister Cities is temporarily occupying space and storage in the Parks & Recreation administrative building by the WNC Nature Center. Until we do our inventory of the Facilities Master Plan, the City does not have any space they can offer.

In response to Councilman Young, Mr. Fetherston said that Asheville Sister Cities has been in that building since 2004 at \$1 for rent. The estimated rent for that building escalating till now would be approximate \$12.00/square foot (\$20,000 a year).

Councilman Bothwell said that property was purchased to be demolished for a parking deck, and part of the agreement was that the space was free because it could be demolished at any time.

Vice-Mayor Wisler stressed that the City's agreements with non-profits need to be reviewed often and expectations clarified with both parties. Regarding the Historic Preservation Master Plan, she didn't know that the 33-35 Page was in such disrepair and was not sure we would have committed to preserving it had we known it would cost \$500,000 to get it occupied again. She could not justify spending that kind of money for occupancy.

Vice-Mayor Wisler moved to proceed with demolition of 33-35 Page Avenue. This motion was seconded by Councilman Bothwell.

Councilwoman Mayfield understood that Asheville Sister Cities acquaints this building with their organizational identity and she respected that. Hopefully there could be another wonderful place downtown that might not have the history of this building. She noted that the Historic Preservation Master Plan does not prevent Council from demolishing this building, but in adopting the Plan we indicated we wanted to have a little more process around demolition of historic buildings in downtown. She would like to see more of that process (HRC review) if there is time within that 90 day period.

In response to Councilwoman Mayfield, Mr. Fetherston said it was his understanding that the Downtown Commission has mandatory review with voluntary compliance. For the HRC, it would be a voluntary review.

Councilwoman Mayfield recommended an HRC review (at their March 9 meeting if at all possible); the Downtown Commission review, and then back to City Council as soon as possible. She stressed we have citizen commissions in place that are to provide Council with expertise.

Councilman Smith said that Councilwoman Mayfield's thoughts should be the process. But the fact that it came to Council first, and based on what he is hearing, he feels there is a majority of Council to move ahead in large part of its context with the Haywood Street site and the price tag associated with any of the renovations. He definitely wants to see those processes in place as well rather than come to Council first, go to the Commissions, then come back to Council.

In response to Mayor Manheimer, Mr. Fetherston said that the demolition contract will have to go out for bid for a certain period of time (60-90 days).

Mayor Manheimer said that within that timeframe the Downtown Commission and the HRC will have an opportunity to review this. Councilman Smith replied that the process this time was not ideal and it's not ideal to create unrealistic expectations amongst citizen commissions if Council is already at a decision-making point.

Councilman Haynes felt the Downtown Commission and the HRC should review this as they have the expertise to advise Council.

When Mayor Manheimer asked is this should be sent to the HRC for review during this 60-90 time period, City Attorney Currin advised Council that if they do send it to HRC, that Council define the question asked of them.

The motion made by Vice-Mayor Wisler to proceed with demolition of 33-35 Page Avenue, and seconded by Councilman Bothwell carried on a 6-1 vote, with Councilman Haynes voting "no".

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

Councilman Smith moved for the adoption of Ordinance No. 4485. This motion was seconded by Councilman Young and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 239

VI. NEW BUSINESS:

- A. RESOLUTION NO. 16-52 - RESOLUTION APPOINTING A MEMBER TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that because Julie Mayfield is now a seated member of City Council, there currently exists a vacancy on the HUB Community Economic Development Alliance until August 22, 2018.

The following individuals have applied for the vacancy: Hunter Goosman, Ed Manning, Grant Millin, Kendra Sherrod, Cheri Torres, Rebecca Crandall, Rita Yerby, Mark Collins, Sandra Frempong, Nick Hinton and Keaton Edwards.

On March 8, 2016, it was the consensus of Boards & Commissions Committee to appoint Sandra Frempong.

Vice-Mayor Wisler moved to appoint Sandra Frempong as a member of the HUB Community Economic Development Alliance, to fill the unexpired term of Councilwoman Mayfield, term to expire August 22, 2018, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 407

B. RESOLUTION NO. 16-53 - RESOLUTION APPOINTING A MEMBER TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that because Julie Mayfield is now a seated member of City Council, there currently exists a vacancy on the Multimodal Transportation Committee for a member representing transit interests until July 1, 2018.

The following individuals have applied for the vacancy: Mike Zukoski, Kelly Prime, Meredith Gregory, Eric Workman, Richard Rozzelle, Keaton Edwards, Seth Connelly, Michael Speciale, Devin Clancy, Adam Charnack and Kimberly Roney.

It was the consensus of the Boards & Commissions Committee, at the suggestion of the Transit Committee and the Multimodal Transportation Commission, to interview Adam Charnack and Kimberly Roney.

Councilwoman Mayfield said that she has had some communication with Mr. Charnack, Chair of the Transit Committee, and he said that he would be happy to have Ms. Roney as a member of the Multimodal Transportation Committee as well as the Transit Committee.

Councilman Bothwell moved to appoint Kimberly Roney as a member of the Multimodal Transportation Committee, to fill the unexpired term of Councilwoman Mayfield, term to expire July 1, 2018, 2018, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

The following individuals spoke regarding measures to address bathroom use as it relates to gender identity: Christopher Chiaronmonte, Andrew Sluder, Lacey Winter, Chris Oaks, Terry Garby and another individual. Mayor Manheimer explained what happened in Charlotte saying that no action on the existing non-discrimination ordinance was planned by the Asheville City Council.

Mr. Rick Clemenzi, representing Net Zero Foundation, talked about the clear and healthy environment out of the 2036 vision.

Mr. Timothy Sadler spoke about (1) integrating Lee Walker Heights into an innovation district; (2) the City partnering with Asheville Tourists to build a small parking deck in the area of McCormick Field; and (3) body worn cameras being a good investment.

Mr. Mac Swicegood, representing the Council of Independent Business Owners, urged Council to support I-26 from Buncombe County through Henderson County.

Closed Session

At 8:36 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). The statutory authority is contained in N.C. Gen. Stat. sec. 143-318.11 (a) (1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Robert H. Frost and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 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 Vice-Mayor Wisler and carried unanimously.

At 9:15 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:15 p.m.

CITY CLERK

MAYOR