

Tuesday – September 6, 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.

**I. PROCLAMATIONS:**

**A. EMPLOYEE RECOGNITIONS**

City Manager Jackson was pleased to introduce (1) Senior Firefighter Trey Young as being recognized as the WNC Career Firefighter of the Year; and (2) Streets Division Manager Chad Bandy for being the recipient of the American Public Works Association H.W. Kueffner Municipal Service Award.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

**B. PROCLAMATION HONORING KAREN CRAGNOLIN'S SERVICE TO THE COMMUNITY**

Mayor Manheimer read the proclamation honoring former Executive Director of RiverLink Karen Cragolin for her over 30 years of service to the community.

**II. CONSENT AGENDA:**

At the request of Councilman Haynes, Consent Agenda Items "C" and "E" were removed from the Consent Agenda for discussion and/or individual votes.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 9, 2016; AND PAGE AMENDMENT TO THE JULY 26, 2016, MINUTES TO CORRECT A TYPOGRAPHICAL ERROR**

**B. RESOLUTION NO. 16-202- RESOLUTION ACCEPTING NANCY STREET AS A CITY-MAINTAINED STREET**

Summary: The consideration of a resolution to accept an extension of Nancy Street as a City street.

Following the terms of a Housing Trust Fund Loan Agreement dated July 9, 2015, between the City of Asheville and Beaucatcher Commons, LLC, an extension of Nancy Street was brought up to current City of Asheville standards to assist in the development of affordable housing for the benefit of low-and-moderate income households. The developer provided funds for the materials and the City's Public Works Department constructed the improvements. On August 2, 2016, Mr. Jeff Staudinger requested via e-mail message that we move forward with the

process to accept an extension of Nancy Street as a City street since the improvements have been completed.

Nancy Street from a point 0.06 mile west of Townview Drive to Townview Drive is a city-constructed street (in partnership with the developer) that has an average width of 16 feet with grass shoulders, a length of 0.06 mile, and a right-of-way width of 30 feet.

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

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

Pros:

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

Con:

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

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

Staff recommends that City Council accept an extension of Nancy Street as a City street.

**RESOLUTION BOOK NO. 38 - PAGE 164**

**C. RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE TO STAFF AND CONTINUE THE DRUG ENFORCEMENT AGENCY ASHEVILLE DUTY POST TASK FORCE**

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

**D. RESOLUTION NO. 16-204 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE FARM TO TABLE DINNER EVENT**

**RESOLUTION NO. 16-205 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BOUNTIFUL CITIES ANNIVERSARY PARTY**

**RESOLUTION NO. 16-206 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST**

Summary: The consideration of resolutions authorizing the City Manager to approve making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Farm to Table Dinner, the Anniversary Party and Oktoberfest.

- Appalachian Sustainable Agriculture Project has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve

beer and/or unfortified wine at the Farm to Table Dinner and allow for consumption at this event.

The Farm to Table Dinner will be held on Thursday, September 8, 2016 from 6:00 p.m. – 9:00 p.m. within the boundaries of Boston Way as per the area limits referenced on the accompanying site map.

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

The Anniversary Party will be held on Saturday, September 24, 2016 from 4:00 p.m. – 10:00 p.m. within the boundaries of Walnut Street as per the area limits referenced on the accompanying site map.

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

Oktoberfest will be held on Saturday, October 8, 2016 from 1:00 p.m. – 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Appalachian Sustainable Agriculture Project, Bountiful Cities, and the Asheville Downtown Association

Con:

- Potential for public safety issues

There is no fiscal impact

Staff recommends City Council adopt resolutions authorizing the City Manager to approve making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Farm to Table Dinner, Anniversary Party and Oktoberfest.

**RESOLUTION NO. 16-204 - RESOLUTION BOOK NO. 38 - PAGE 167  
RESOLUTION NO. 16-205 - RESOLUTION BOOK NO. 38 - PAGE 170  
RESOLUTION NO. 16-206 - RESOLUTION BOOK NO. 38 - PAGE 173**

**E. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PINNACLE LANDSCAPES LLC FOR THE 2016 MEDIAN MAINTENANCE PROJECT**

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

**F. RESOLUTION NO. 16-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION**

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

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

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

FY 2016-17 funding totals \$75,000. The subject grant will provide 80% of the anticipated funding (\$60,000), the North Carolina Department of Transportation will provide 10% (\$7,500), and the City will provide the remaining 10% (\$7,500). The grant funding and the City's local match in the amount of \$7,500 are currently budgeted in the Transportation Department's approved operating budget for the current fiscal year.

Pros:

- Supplements funding for two existing positions.
- Enables the City of Asheville to use \$67,500 in Federal and State funds for transit planning activities.

Con:

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

The total grant funding for Fiscal Year 2016-17 is \$75,000. The City is required to provide a 10% local match in the amount of \$7,500. The anticipated grant funding and the City's local match in the amount of \$7,500 are currently budgeted in the Transportation Department's operating budget.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2016-17.

#### **RESOLUTION BOOK NO. 38 - PAGE 177**

#### **G. ORDINANCE NO. 4517- BUDGET AMENDMENT TO FUND THE DEVELOPMENT, DEPLOYMENT AND MAINTENANCE OF A WEB-BASED APPLICATION TO ASSIST SMALL BUSINESS OWNERS AND PROSPECTORS WITH THE ZONING AND PERMITTING PROCESS**

Summary: The consideration of a budget amendment in the City's Grant Fund in the amount of \$50,000 from the United States Small Business Administration (SBA) to fund the development, deployment and maintenance of a web-based application to assist small business owners and prospectors with the zoning and permitting process.

On July 13, 2015 City Council authorized staff to register for the Startup in a Day Competition - Start Small Model. Based upon this registration, the City was awarded a \$50,000 prize for the purposes of developing an online tool or application that lets most entrepreneurs identify and begin the application process within one day for all requirements to launch a business in our respective communities. After evaluating the City's permitting and review process

and available options, staff has chosen a third party configurable service to implement this project. In order to accurately account for the use of the funds, staff recommends the establishment of a project in the Grant Projects Fund, and a budget amendment to appropriate the revenue and provide authorization for the expenses in that fund.

Pros:

- Provides budget authorization for the expenditure of SBA awarded funds previously approved for application by City Council.
- Promotes the establishment of a user friendly system to assist Asheville entrepreneurs in obtaining permits to open small businesses.

Con:

- None

As the award is a prize and not a grant, no contribution of matching city resources is required.

Staff recommends that the City Council adopt a budget amendment in the City's Grant Projects Fund in the amount of \$50,000 from SBA's Startup in a Day to fund the implementation of a web-based application which will assist small business owners and prospectors with the zoning and permitting process.

**ORDINANCE BOOK NO. 30 - PAGE 383**

**H. RESOLUTION NO. 16-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE 2015-16 U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT 2015-16 CONTINUUM OF CARE COMPETITION GRANTS ON BEHALF OF THE ASHEVILLE-BUNCOMBE CONTINUUM OF CARE**

**ORDINANCE NO. 4518 - BUDGET AMENDMENT TO ADJUST FOR THE TRANSFER OF THE HOMELESS MANAGEMENT INFORMATION SYSTEM GRANT**

Summary: The consideration of (1) a resolution to authorize the acceptance of the 2015-16 Department of Housing and Urban Development 2015-16 Continuum of Care (CoC) Competition Grants on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501); and (2) a budget amendment in the amount of \$51,392 to adjust for the transfer of the Homeless Management Information System grant to the City of Asheville mid-year in last year's grant cycle.

The City of Asheville serves as the Continuum of Care Lead for the Asheville-Buncombe Continuum of Care (CoC). Each CoC Lead is responsible for submitting the community's Collaborative Application to be considered for grant funding from the CoC Competition. For 2015-16, the City was awarded a \$67,500 project grant necessary to operate the Homeless Management Information System (HMIS) and \$35,892 for CoC Lead Planning costs. The Homeless Initiative Advisory Committee recommended the acceptance of these grants to the Housing and Community Development Committee at their meeting on August 16, 2016, upon review of the 2015-16 CoC Grant Applications by their Finance Sub-Committee.

The Budget Amendment for \$51,392 is to adjust for the transfer of the HMIS grant mid-year in last year's grant cycle.

Pro:

- These HUD CoC Grants will provide funding for the costs of operating HMIS for the entire Continuum of Care and a full time City staff position tasked with database administration and CoC planning.

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. Matching funds for the CoC Planning Project will come from Buncombe County's allocation supporting the Homeless Initiative. No general funds are requested to support this program.

The Housing and Community Development Committee recommends City Council adopt (1) a resolution authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the 2015-16 Continuum of Care Competition Grant funds; and 2) a budget amendment in the amount of \$51,392 to adjust for the transfer of the HMIS grant to the City of Asheville mid-year in last year's grant cycle.

**RESOLUTION BOOK NO. 38 - PAGE 178  
ORDINANCE BOOK NO. 30 - PAGE 385**

**I. RESOLUTION NO. 16-210 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FISCAL YEAR 2016-17 CONTINUUM OF CARE GRANT AND TO ACCEPT ANY SUBSEQUENT AWARD FOR PROJECT FUNDING**

Summary: The consideration of a resolution to approve submitting the Fiscal Year 2016-17 Department of Housing and Urban Development Continuum of Care (CoC) Collaborative Grant Application for the annual CoC Competition on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501) and accepting any funds subsequently awarded, and authorizing the City Manager to sign awarded U.S. Dept. of Housing & Urban Development (HUD) contracts.

The City of Asheville serves as the Continuum of Care (CoC) Lead for the Asheville-Buncombe CoC. Each CoC Lead is responsible for submitting the community's collaborative application for project grant funding from the CoC Competition. For Fiscal Year 2016-17, the Asheville-Buncombe CoC is eligible to apply for \$1,170,396 in renewal funding. The renewal projects currently assist in housing more than 147 formerly chronically homeless individuals, including case management. HUD CoC funding also provides financial support necessary to operate the Homeless Management Information System (HMIS). An additional \$58,547 is available for a new Permanent Supportive Housing bonus project and \$35,128 is available for CoC Lead Planning costs. The Planning grant assists the Community and Economic Development Department in staff costs for CoC responsibilities related to homelessness.

The Homeless Initiative Advisory Committee (HIAC) appointed an ad-hoc Finance Subcommittee, comprised of individuals and agencies who did not apply for CoC funds, to review the Continuum of Care projects and application process and make recommendations to the HIAC with an order of project priority. The Finance Sub-Committee's recommendations were approved unanimously by the HIAC. The HIAC recommended the following projects and order of priority to the Housing and Community Development Committee at their August 16, 2016 meeting for the 2016-17 CoC Collaborative Grant Application.

<b>Tier 1</b>	<b>GIW/ Funding</b>	<b>Project Type</b>	<b>Score/Rank</b>
Shelter Plus Care Asheville-Buncombe: Smoky Mountain Center, LME	\$ 315,748	Permanent Supportive Housing	1
Pathways to Permanent Housing Extreme Needs: Homeward Bound of	\$ 218,798	Permanent Supportive Housing	2

WNC			
Homeless Management Information System: City of Asheville	\$67,500	Homeless Management Information System	3
Pathways to Permanent Housing Extreme Needs 5: Homeward Bound of WNC	\$ 152,304	Permanent Supportive Housing	4
Pathways to Permanent Housing Extreme Needs 2: Homeward Bound of WNC	\$ 56,244	Permanent Supportive Housing	5
Bridge to Recovery: Homeward Bound of WNC	\$ 287,027	Permanent Supportive Housing	6

Tier 2	GIW/Funding	Type	
Pathways to Permanent Housing Extreme Needs 3: Homeward Bound of WNC	\$ 73, 311	Permanent Supportive Housing	7
Housing Support for Domestic Violence Survivors: Helpmate, Inc.	\$58,547	Rapid Rehousing: Bonus Project	8

No rank required	Funding	Type	
CoC Planning Project: City of Asheville	\$ 35,128	Planning Grant	n/a

NC-501 Annual Renewal Demand (ARD) is determined by HUD: \$1,170,932  
 Project Applications must be ranked as part of the Collaborative Application into Tier 1 or Tier 2.  
 The Tier percentages are pre-determined by HUD annually:

- Tier 1: is 93% of NC-501's ARD (\$1,088,967)
- Tier 2: is the difference between Tier 1 and NC-501's ARD (\$81,965) plus the amount available for the CoCs permanent housing bonus (5% of NC 501's ARD =\$58,547)
- CoC Planning Project (\$35,128) – No rank required

Pro:

- Continuum of Care funding is a key funding resource for permanent supportive housing for homeless individuals and families, as well as operating the Homeless Management Information System, which is necessary for NC-501 to receive this vital funding.

Con:

- Program funding does not meet the full demand for the housing subsidy needed to assist all the low-income homeless households in the community secure permanent housing.

Program funding is entirely from the US Department of Housing and Urban Development. Existing community development division staff will administer the program. Matching funds for

the CoC Planning Project will come from Buncombe County's allocation to the City supporting the Homeless Initiative. No general funds are requested to support this program.

The Housing and Community Development Committee recommends to City Council (1) the order of project priority and submission of the Fiscal Year 2016-17 CoC Collaborative Grant Application; and (2) the adoption of a resolution approving the submission of the 2016-17 Continuum of Care Collaborative Grant Application and authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the funds subsequently awarded.

**RESOLUTION BOOK NO. 38 - PAGE 179**

**J. RESOLUTION NO. 16-211 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GUARD-ONE PROTECTIVE SERVICES TO PROVIDE SECURITY GUARD SERVICES AT ASHEVILLE CITY HALL AND THE CITY OF ASHEVILLE PUBLIC WORKS BUILDING/ PERMIT CENTER**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Guard-One Protective Services (Guard-One) to provide security guard services at Asheville City Hall (City Hall) and the City of Asheville Public Works Building / Permit Center (Permit Center).

Since 2011, the City has utilized contracted security guard services at City Hall. After five years of service provision by one contractor, in April 2016, the City solicited bids for security guard services at City Hall and received bids from the firms listed below. Upon bid review, the incumbent security firm, Guard-One scored was identified as the most qualified and responsive firm with the most experience providing guard services to public entity facilities that provide a high volume of citizen access. Since receiving bids, the City implemented security guard service at the Permit Center. Following staff review of the bidders, it was determined that Guard-One is the best qualified firm to provide said services at both City locations.

<b>Security Guard Service Bids</b>		
<b>Bidder</b>	<b>Bid Amount</b>	<b>Bid Rank</b>
Guard-One Protective Services; Alpharetta, GA	\$16.95 per hour / guard	1
P&G Security Guard, Inc; Salisbury, NC	\$16.25 per hour / guard	2
Absolute Contracting Services, Inc; Dunn, NC	\$15.38 per hour / guard	3
Mopel Security Services; Charlotte, NC	\$21.29 per hour / guard	4
Security Contracting, Inc.; Raleigh, NC	\$16.47 per hour / unarmed guard	5

Pro:

- Provides funding for guard security services at City Hall and City Permit Center to safeguard building occupants and City property assets.

Con:

- None.

The total Fiscal Year 2017 cost of \$140,000 was included in the adopted budget in the Risk Management Division of the Finance Department.



Staff recommends City Council adopt a resolution authorizing the City Manager to execute an annual contract beginning July 1, 2016, through June 30, 2017, with Guard-One to provide security guard services at City Hall and the City Permit Center locations for an annual amount not to exceed \$140,000.00 with an option to renew the contracted service for four (4) additional years on an annual basis, from July 1, 2017, through June 30, 2021, respectively, pending annual adopted budget allocations by City Council.

Councilman Bothwell questioned if Guard-One is paying a living wage to the security guards. He felt that the City should not be contracting with companies who pay less than a living wage to their employees. Risk Manager Brad Stein responded that he was uncertain if a living wage is paid; however, noted that the company said the 58-cent hourly increase was to pay for the guard's health care increases.

#### **RESOLUTION BOOK NO. 38 - PAGE 180**

#### **K. ORDINANCE NO. 4519 - BUDGET AMENDMENT FOR THE BODY-WORN CAMERA PROGRAM**

Summary: The consideration of a budget amendment in the Special Revenue Fund in the amount of \$299,344.16, from the NC Governor's Crime Commission's State Appropriate Committee, to budget the grant funds and the City match for the 2016-17 Body Worn Camera Program.

During its July 26, 2016 meeting, the City Council authorized the Police Department to make application to the Committee for a grant to fund the implementation of a Body Work Camera Program. On August 23, 2016, the Police Department was informed that the grant has been awarded in the amount of \$99,781.16, based upon the state-issued matching grant (\$1 state for every \$2 local) through a Memorandum of Understanding. The City's match, which totals \$199,563 will come from the existing FY 2016-17 Police Department General Fund budget.

During its August 23, 2016 meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on September 6, 2016. The grant funds will allow the City to purchase an additional 60 Body-Worn Taser Axon Flex Camera Systems and accessories through TASER's Officer Safety Program as a part of the Police Department's Body-Worn Camera program, accelerating the implementation of the program from two years to one year, which is intended to achieve the following:

- 1) enhance the police-community partnership guided by integrity, fairness, respect, and professionalism;
- 2) produce a "civilizing effect" for both the police officers and citizens;
- 3) enhance the police-community partnership by decreasing citizen complaints on police officers, to include decreasing the use-of-force complaints;
- 4) decreasing the number of assaults against police officers; and augment criminal and internal investigations through audiovisual evidence that corroborates the factual basis of an incident.

#### Pros:

- Body Worn Cameras should produce a "civilizing effect" that enhances the police-community partnership with decreased citizen complaints on the police; decreased use-of-force complaints; and decreased assaults on police officers.
- Enhanced criminal and internal investigations

#### Cons:

- Ongoing City funding to sustain the Body-Worn Camera program for future police operations. This includes cost of the Law Enforcement Technology Specialist to manage the program and the cost of maintenance and replacement.
- Five-year service and purchase agreement must be renewed to enable continued use and data storage.
- Ongoing tasks and costs associated with managing devices and data, storing data, providing audio and video for court discovery, and following retention schedules.

The City will incur an expense based on the matching grant requirements (\$1 state for every \$2 local). As noted above, the City's match, which totals \$199,563 will come from the existing FY 2016-17 Police Department General Fund budget. In total, the City is planning to purchase 180 camera systems in FY 2016-17 at a total cost of \$323,255.36. Thus, the COA portion will be \$223,474.20 with a grant award of \$99,781.16. The five-year service and purchase agreement must be renewed to enable continued use and data storage. At the end of the grant, the general fund impact would be approximately \$225,000.00 per year to cover additional accessories, safety plan and licenses for 4 additional years. The chart below outlines the general fund impact over the remainder of the proposed Body Worn Video Program implementation.

	Camera Systems, accessories and licenses		Grant	General Fund
Year #01 (FY 2017)	120	\$ 223,474.20		\$ 223,474.20
*Grant (FY 2017)	60		\$ 99,781.16	\$ 99,781.16
Year #02 (FY 2018)		\$ 215,532.45		\$ 215,532.45
Year # 03 (FY 2019)		\$ 221,244.00		\$ 221,244.00
Year # 04 (FY 2020)		\$ 221,244.00		\$ 221,244.00
Year # 05 (FY 2021)		\$ 221,244.00		\$ 221,244.00
Total	180	\$ 1,102,738.65	\$ 99,781.16	\$1,202,519.81

Staff recommends that City Council adopt a budget amendment in the Special Revenue Fund in the amount of \$299,344.16, from the NC Governor's Crime Commission's State Appropriate Committee, to budget the grant funds and the City match for the 2016-17 Body Worn Camera Program.

**ORDINANCE BOOK NO. 30 - PAGE 387**

- L. RESOLUTION NO. 16-212 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEMPORARY LABOR AGREEMENT WITH FIRST AT BLUE RIDGE, INC.**

Summary: The consideration of a resolution to allow the City Manager to enter into a not to exceed contract for temporary labor services between the City of Asheville and FIRST at Blue Ridge, INC. (FIRST) for temporary laborers.

The City of Asheville is in need of temporary workers to perform a variety of tasks including work in litter collection, graffiti removal, drainage, traffic control, building maintenance, and other like work for the Public Works Department and the U.S. Cellular Center. These workers perform unskilled labor and are typically used in crews of four to five on an as-needed basis. In August 2013, City Council authorized the City Manager to enter into a temporary labor service agreement with FIRST at Blue Ridge, Inc. (FIRST) for these services. The term of that agreement ended on June 30, 2016.

FIRST is a local non-profit organization operating from 32 Knox Rd. in Ridgecrest, NC. FIRST offers a combination of therapeutic treatment, vocational training, and life skills development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized FIRST participants with excellent results for over the past ten years.

As of June 30, 2016, the City of Asheville has reached the end of a general services agreement with FIRST for temporary labor services. City staff along with FIRST, desire to enter into an agreement for temporary labor services for two additional years at the prior rate of \$9.00/hour; not to exceed \$330,000 per fiscal year. The contract amount has been allocated in the following way for fiscal year 2016/2017:

- U.S. Cellular Center \$120,000
- Downtown Cleanliness (Streets Division) \$107,000
- Sanitation Division \$63,000
- Stormwater Division \$40,000

Pros:

- Supports employment opportunities for at risk youth and adults.
- Reduced expense for recruiting, hiring and benefits for full-time workers.
- Reduced expense for temporary labor as opposed to traditional temporary labor agencies.
- Carpooling will reduce the negative impact to the environment.
- Supports diversified job growth and business development.
- Enhances diversity in the City as an organization so that the workforce more closely resembles the community.

Con:

- None identified.

The contract amount has been allocated in the adopted U.S. Cellular Center and Public Works operational budgets for Fiscal Year 2016/2017.

Staff recommends City Council adopt a resolution to allow the City Manager to enter into an agreement for temporary labor services between the City of Asheville and FIRST, Inc., not to exceed \$330,000 per fiscal year; for an initial term of two (2) years, with the option of continuation for two (2) additional terms each equivalent to a single calendar year.

Councilman Bothwell questioned if the City was paying a living wage to temporary workers. Director of Public Works Greg Shuler responded that their rate is \$9/hour, but what the FIRST workers receive in addition to their salary is housing, transportation, job training and life

skills training. He noted that several FIRST employees have applied for and been hired by the City after they completed their time with FIRST.

City Manager Jackson pointed out the effect of this agreement is very similar to day labor programs in other municipalities. In this instance, there is \$300,000 worth of work that fills our needs and at the same time provides job training to help get people into permanent positions.

Councilman Haynes asked that future staff reports for service agreements include what the company is paying their employees. He will not support agreements to companies that do not pay a living wage. Mayor Manheimer noted that the City tried to require that all contractors pay a living wage to their employees; however, the state legislature passed legislation saying that we were not allowed to make that a requirement of our contractors. Yet, the City is still subject to the public bidding requirements.

Councilman Haynes felt that if our contractors are not paying a living wage to their employees, then perhaps the City should consider hiring more City employees to perform the work.

In response to Councilwoman Mayfield, City Manager Jackson said that he would investigate on whether the City can include a request for wage rates within our Request for Proposals. Councilwoman Mayfield said that if that is possible, and if they don't pay a living wage, then perhaps they can state what other benefits they are providing to their employees.

**RESOLUTION BOOK NO. 38 - PAGE 181**

**M. RESOLUTION NO. 16-213 - RESOLUTION AUTHORIZING THE EXECUTION BY THE MAYOR OF A FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT**

Summary: The consideration of a resolution authorizing the execution by the Mayor of a Federal Aviation Administration (FAA) Grant Agreement for Project No. 3-37-0005-047-2016 in the amount of \$1,409,189.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount of \$1,409,189 is for the Airport Project to Rehabilitate Runway (Phase 5 Site Preparation and NAVAIDs Installation, Permanent Runway 17/25), Acquire Aircraft Rescue and Firefighting Vehicle (1,500 gallon).

Pro:

- Supports service enhancements at Airport

Con:

- None noted

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-047-2016.

**RESOLUTION BOOK NO. 38 - PAGE 182**

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

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

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Items "C" and "E". This motion was seconded by Councilwoman Field and carried unanimously.

**ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

**C. RESOLUTION NO. 16-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE TO STAFF AND CONTINUE THE DRUG ENFORCEMENT AGENCY ASHEVILLE DUTY POST TASK FORCE**

Summary: The consideration of a resolution to authorize the City Manager to enter into a renewed agreement between the United States Department of Justice, Drug Enforcement Administration (DEA) and the City of Asheville Police Department (APD) which is set to expire September 31, 2016.

The APD has been an active member of the DEA Task Force at the Asheville Duty Post for a several years. The DEA Task Force is a multi-jurisdictional unit that partners to address the illegal trafficking, sale and distribution of narcotics and dangerous drugs in Western North Carolina. The goal of the targeted reduction of such activities is to have a positive impact on the health and general welfare of our communities. As a member of the DEA Task Force the APD agrees to the following:

- APD will assign one experienced officer for at least 2 years, to work under the direct supervision and control of the DEA supervisory staff.
- APD staff will be required to adhere to the Policy and Procedures of the DEA as well of those of the City of Asheville, and the APD,
- Assigned APD Staff will be deputized as a Task Force Officer of DEA pursuant to 21 U.S.C 878

To accomplish the objectives of the Asheville Duty Post (Task Force) the DEA will assign 3 Agents to the Task Force. Additional DEA support, based on availability of annually appropriated funds, will provide funds and necessary equipment to support the Task Force Members activities. Such support will include: office space, office supplies, travel funds, funds for confidential informants and evidence procurement, training expenses, investigatory equipment, and other support items as needed.

On Monday, August 22, 2016, the Public Safety Committee was received this request and recommended that it be forwarded to City Council for review and approval.

Pros:

- Establish a dedicated Task Force to address the illegal trafficking, sale and distribution of narcotics and dangerous drugs in Western North Carolina.
- Foster an atmosphere focusing on reduction of such activities and to have a positive impact on the health and general welfare of our communities by reducing or eliminating illegal drugs and related crimes.

Con:

- None.

Salary and benefits for a Senior Police Officer position assigned to the DEA Task Force Asheville Duty Post, which are already included in the Adopted FY 2016-17 Police Department Budget.

Staff recommends that City Council approve the resolution authorizing the City Manager

to renew an agreement United States Department of Justice, Drug Enforcement Administration and the City of Asheville Police Department which is set to valid through September 30, 2017.

Police Chief Tammy Hooper briefly explained that this agreement enables the City to assign one detective to the Drug Enforcement Agency Task Force for WNC which enables us to investigate cases outside of Asheville. If we do not review this agreement, we would not be able to investigate cases of drug supplies outside of Asheville and Buncombe County.

Councilman Haynes read the following statement "Let me start by saying that my comments here today are not directed at Chief Hooper or any officers involved locally in the enforcement of drug laws. My issues are with the policy makers who blindly continue down a failed path. When President Nixon declared a War On Drugs in 1971, he made illegal drug use policy enemy number one. He temporarily put marijuana on the list of schedule one drugs pending a commission review. In 1972 that commission unanimously recommended decriminalizing the possession and distribution of marijuana for personal use. Nixon rejected their findings and marijuana remains a schedule one drug. In 1973 he created the DEA or Drug Enforcement Agency to fight his war on drugs. Nixon's Aid John Erlichman stated in 1994 that the war on drugs was started to combat the enemies of the Nixon Administration - the Anti-War Left and the Civil Rights Movement. That by associating Hippies and Blacks with drugs, the administration could disrupt these communities by arresting their leaders, raiding their homes, breaking up meetings, and vilify them night after night on the evening news. According to census data the prison population in 1970 was a little over 198,000. In 1981 when Reagan took office it was 302,000. Fueled by the Reagan Administration's escalation of the war on drugs, that number would rise 134% over the next decade. In 2013 there were 2,220,300 people incarcerated with another 4,700,000 on probation or parole. As with any war, there are casualties. The casualties of the War on Drugs are people of color. Though Blacks and Latinos make up one quarter of the population, they make up 57% of incarcerations. These figures are both staggering and unacceptable. The mass incarcerations along with the existing culture between law enforcement and the black community are both direct results of an ill-conceived and failed war on drugs. It is time to end the ware on drugs. We need to restructure our Criminal Justice System and begin a time of healing for our society. Therefore, I cannot in good conscience vote to re-enter into this agreement."

Councilman Bothwell said that the only way he can make a stand on the war on drugs is to vote against this agreement, even though he does support our police force.

Mr. Timothy Sadler encouraged Council to reach out to President Obama and encourage him to keep his promise to take marijuana off the schedule one drugs.

Ms. Jan Kubiniec noted that a lot of crimes are not from people smoking marijuana.

Mayor Manheimer noted that a recent citizens' survey showed that drugs are the number one problem in our community. The Council has the duty to help our police maintain safety in our community and we must support our officers to handle drug enforcement within Asheville.

Councilman Smith urged Council members, who review items in committee, request that the item be removed from the Consent Agenda for discussion and/or individual vote if they do not receive unanimous support. In this instance, at the Public Safety Committee the only unanimous support was to only forward the action to City Council for their review.

Councilwoman Mayfield moved for the adoption of Resolution No. 16-203. This motion was seconded by Vice-Mayor Wisler and carried on a 4-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Young voting "no."

**RESOLUTION BOOK NO. 38 - PAGE 166**

**E. RESOLUTION NO. 16-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PINNACLE LANDSCAPES LLC FOR THE 2016 MEDIAN MAINTENANCE PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Pinnacle Landscapes, LLC (Pinnacle), for the amount of \$110,849.00 plus 20% contingency and any change orders within the project budget for the project known as 2016 Median Maintenance Project, City of Asheville Project #CPM-15-16-003.

The City of Asheville has many median and bulb-out locations in City of Asheville rights-of-way that need landscape improvement and maintenance. The initial phase of this project included obtaining design services for the various locations, including a basic schematic of each site, an assessment of each site's existing vegetation, and development of a maintenance plan for each site. Design services were obtained through an RFQ process, with McGill Associates of Asheville, N.C. chosen for the design portion of the project.

An advertisement for bids was issued for the 2016 Median Maintenance Project on June 13, 2016, and the following firms submitted bids for the project:

Pinnacle Landscapes, LLC	Asheville, NC	\$110,849.00
Rivertop Contracting, Inc.	Asheville, NC	\$155,267.18
Landmark Landscapes, Inc.	Asheville, NC	\$129,922.35
Locust Property Management, LLC	Asheville, NC	\$619,000.00

Pinnacle Landscapes, LLC was the lowest responsible bidder with a bid of \$110,849.00. Adding in a 20% contingency, the total required budget for construction is \$133,018.80. The work produced from this contract would improve the City of Asheville's roadway landscaping and provide a more uniform landscape scheme.

Pros:

- Improves the City's appearance by replacing overgrown vegetation.
- In some cases pedestrian safety is improved by adjusting sight lines at pedestrian crossings.

Con:

- Project management and contract administration will consume staff time and resources.

Funding for this contract is already included in the FY 2016-17 Public Works Department budget.

City staff recommends City Council adopt the resolution awarding the contract to Pinnacle Landscapes, LLC, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$110,849.00 plus a contingency of 20% (\$22,169.80), for a total of \$133,018.80 with Pinnacle Landscapes, LLC for the project known as 2016 Median Maintenance Project.

When Councilman Haynes asked what the employees were paid for this contract, Director of Public Works Greg Shuler said that they know the unit prices; however, he did not know the employee wages. Councilman Haynes stated that he would not support service agreements with companies that do not pay a living wage.

After a brief discussion, initiated by Councilman Bothwell, it was the consensus of Council to ask City Manager Jackson to develop budget options for bringing contract services in-house, beginning with the Finance Committee review this fall.

Councilman Young moved to adopt Resolution No. 16-207. This motion was seconded by Councilman Haynes and carried on a 5-2 vote, with Councilman Bothwell and Councilman Haynes voting "no."

**RESOLUTION BOOK NO. 38 - PAGE 176**

**III. PRESENTATIONS & REPORTS:**

**A. LEE WALKER HEIGHTS UPDATE**

CEO of the Housing Authority David Nash updated City Council on the Lee Walker Heights Project. Unfortunately the Housing Authority was not successful in their application to the N.C. Housing Finance Agency for low income housing tax credits. It is their intention to listen to the feedback and submit another 9% application in January of 2017, or look at the 4% tax credit program which requires more local subsidy, and also which would require them to reach out to the County. A formal request to the County has not been made yet. He hoped that the City will continue to support their commitment.

Mayor Manheimer thanked Mr. Nash for his hard work on this project and hoped that he will continue to keep the City updated on the progress.

**B. QUARTERLY I-26 CONNECTOR UPDATE**

Transportation Director Ken Putnam said that City staff continues to meet with the N.C. Dept. of Transportation on a regular basis. They have held three meetings and have learned about traffic forecasting, level of service and capacity. They have discussed noise walks, bridges and aesthetics. He was pleased that people in charge of these items are coming to the meetings. He said that City Council will see a menu of the different options you'd like to see on I-26 in the future. Their next meeting is September 20, 2016, and their task will be to bring a betterments list. Future tasks will be the the aesthetics committee.

At the suggestion of Councilman Smith, Mr. Putnam said that at his next update he would provide Council with some visual representations.

At the request of Vice-Mayor Wisler, Mr. Putnam said that he would be happy to add the minutes of these meetings with the N.C. Dept. of Transportation on the City's website.

**IV. PUBLIC HEARINGS:**

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

Mayor Manheimer received a letter from Mr. Jason Walls, Duke Energy District Manager for the Asheville Area, on August 9, 2016, which agreed that a delay would provide for the time needed for conversation and collaboration around electrical infrastructure construction in downtown Asheville. Mr. Walls also noted that they will not submit any permits for its three downtown substations until February 1, 2017, at the earliest. Therefore, Councilman Bothwell moved to continue this public hearing until the January 10, 2017, meeting. This motion was seconded by Councilman Young and carried unanimously.

**B. CONTINUATION OF PUBLIC HEARING TO CONSIDER APPROVING A SIGN PACKAGE FOR INGLE'S MARKETS INC. FOR THE PROPERTY LOCATED AT 863 BREVARD ROAD**



Principal Planner Shannon Tuch said that on July 26, 2016, the Asheville City Council reviewed a request from Ingle's Inc. for a signage plan that exceeds the City's maximum sign allowances. This public hearing was opened and closed on July 26. Council asked Ingle's representatives to improve upon the request in a manner that more closely aligns with city goals and return for reconsideration. The hearing was continued to September 6, 2016.

Ingle's representatives have revised their request to consolidate the two free-standing signs into a single 200 square feet, 25-foot tall monument sign in order to help reduce the sign clutter that comes from competing streetside signs. They have also supplied more information and detail regarding the building façade for the grocery store that breaks the façade into discreet sections where changes in architectural details, window and door fenestration, façade articulation, and materials creates natural breaks in the façade – much like a traditional multi-tenant building may do. In this regard, the newer Ingle's stores distinguish themselves from other large grocery retailers where a uniform façade is more commonplace. Other store examples may include some of the same features but often not as many, or to the same extent, as the Ingle's prototype.

With these details further clarified, Ingle's representatives are respectfully requesting reconsideration of their attached signage on the grocery store building based on the following:

**Creativity** - the building façade is creatively designed to resemble a multi-tenant building with different occupiable spaces. The architectural detailing, building articulation, varying roof lines, extensive window & door fenestration, and change in materials helps to communicate a building pattern that would normally include tenant signage.

**Wayfinding** – the overall façade is 324 linear feet and the site is a little over eight acres. Some of the attached signage (café, vineyard, Fresh Foods) helps communicate to the visitor which side of the store certain products or features are located so that they may park close to the most convenient entrance. The "Rx DRIVE-THRU" sign also identifies the location of the drive-through window.

No changes to the gas station signage are proposed as these signs already largely comply.

The "vineyard" sign has been substituted for the previously proposed "beer & wine" sign.

An update to the city's sign code will be required to comply with last summer's federal Supreme Court decision and is currently included in the Planning & Urban Design department's two-year workplan. Staff has been collecting preliminary information on other strategies for sign regulation including a more form based approach. The most common application of this method is to allow a percentage of the total building face (i.e. 3-5%) to be dedicated to signage. In some instances, bonus square footage may be considered when various design features are included, or in lieu of other free-standing signage. If this approach were to be applied, the proposed signage for Ingle's could potentially comply in the future, especially in light of the willingness to eliminate the second free-standing sign.

While an update to the sign code may provide Ingle's with greater opportunity in the future, the preferred strategy and final standards have not been identified or adopted. Any new standards will require review and input from other stakeholders and be balanced against competing goals.

Ms. Tuch said that in the earlier staff report, she found an error. She identified that there was a past application for an additional Starbucks sign at the Oteen store that was not approved. That was actually approved. What was denied was a more recent application in 2012 for a complete sign package for that same Oteen store. 2012 was the last Ingle's sign package that came before City Council and it was denied on a 3-3 vote.

In response to Councilwoman Mayfield, Ms. Tuch said that Ingles has more gas signs than what would normally be allowed. What didn't comply was the second sign on the canopy itself.

In response to Councilman Young, Ms. Tuch said that their sign package still does not comply with the sign ordinance. The sign ordinance does include an option for a site specific - project specific review for a comprehensive signage plan. Ingles is exercising that option. That is a legislative review. Council can use compliance with the ordinance as one means of evaluation, but Council is also open to using other things that may be relevant to this request.

When Councilman Young asked if the pictures shown of other grocery storefronts around Asheville were compliant, Ms. Tuch said that to her knowledge they were.

Mr. Wyatt Stevens, attorney representing Ingles Markets, explained that the 2012 denial related to the addition of a gas station. They wanted to add it to an existing store and that was denied. What they did was created a separate parcel for that tract and submitted it as a new application. He explained that this sign package is identical to what Council approved in 2007 for the Skyland store. Ingles is not asking for anything than what was approved before. Listening to Council's concerns, Ingles revised their sign package to delete one of their monument signs and combine it into one monument sign. That new one monument sign is in compliance with the ordinance. Regarding the front of the store, the sign ordinance only allows 200 sq. feet and Ingles was originally asking for 400 sq. feet. Ingles then reduced their front of the store signage from 403 sq. feet to 246 sq. feet. But they also have an alternate plan they would like Council to consider - a reduction to 320 sq. feet because it looks better. The 246 sq. feet signage looks too small. He then reviewed the site as a whole, e.g., 925 new trees and plants; moved the store from the back of the lot to the front of the lot which reduces the amount of parking in the front of the building which will reduce the amount of black asphalt; use of concrete for employees parking in the back of the building; black roof is now white; added 73 skylights; and further explained how they have reduced the energy usage of this building by 30%. When he showed a picture of an Ingles store in the County, approximately the same 72,000 sq. foot size, he explained the articulation between the elements, which creates a nice pleasing front view of the store. He felt that if they were restricted to 200 sq. ft. most of it would be for the Ingles sign and the other signs would be very small. Regarding the gas station signage, they are requesting two on the front (one is allowed); however, the total square footage is in compliance. On the side they are asking for two signs (one is allowed) and the total square footage exceeds 13.5 square feet. He did not think that was a garish way to sign a building. Ingles can come into compliance; however, they also can do what they did in 2012, which was to create a separate parcel and City Council would not have any input into their sign package for the gas station. He noted that Ingles is a Buncombe County based business and employs 4500 employees in the County, 1500 of who work in the City. The store, which employed 75-80 employees, will now employ approximately 150-160 employees. There is a \$15 Million investment in this store alone, and all subcontractors are local, along with the materials for the site. He asked for Council to approve the entire sign package (with the reduction of 403 sq. feet to 320 sq. feet).

When Mayor Manheimer asked what would be the challenge in bringing the gas station signs into compliance with the ordinance, Mr. Stevens said they may be able to take the Ingles sign off on the side elevation. The size of those specific signs might be modified to fit the ordinance. He said they could bring the gas station into compliance if they had to, but prefer for Council to approve what they are proposing.

Vice-Mayor Wisler moved to approve the Ingles sign package with the front of the store signage being no larger than 246 sq. feet, and the gas station signage being brought into compliance with the sign ordinance.

Mr. Preston Kendall, representing the contractor, said that by law they have to be able to post the gas price. He said the combined monument sign was more showing what they could do, not exactly what they were going to put on it. Some of the franchises that they buy say that they have to promote outside. So if we show them what they have, they may have to put some of their signage where the gas price is shown on the monument sign. They would like to keep the gas price on the gas station canopy just in case they don't have room on the monument sign.

When Councilman Young asked how many grocery stores have asked for exceptions to our sign ordinance, Ms. Tuch was not aware of any, although one of the stores she believed there was a pharmacy sign. She was not sure how that got permitted but it was not on a Council level. Mayor Manheimer recalled that Council has approved campus signage packages for Mission Hospital, Airport, Asheville Outlets, and UNC-Asheville.

Mayor Manheimer then opened the public hearing at 6:47 p.m.

Mr. Jonathan Wainscott supported the the proposed sign package and also asked Council to require 8-10 inch address numbers and letters for visibility on the street.

Mayor Manheimer closed the public hearing at 6:49 p.m.

Councilman Bothwell applauded Ingles for saving 30% energy and hoped they put that extra savings into paying their employees a living wage. He could not see the justification for violation of the sign ordinance, especially since other grocery stores have had to comply with the ordinance.

Councilman Bothwell moved to reject the sign plan for Ingles Markets on Brevard Road. This motion was seconded by Councilman Young.

Councilwoman Mayfield said that she might be willing to support the 246 sq. feet front of store signage, but did not support the signs requested for the gas station. She wanted Council to be aware if this passed, that they need to be prepared to approve other sign ordinance out of compliance requests.

When Mayor Manheimer asked what would happen if the motion to deny passes, City Attorney Currin said that (1) if the applicant withdraws prior to a motion being voted upon, they could make a new application and come back through the process again; or (2) if the application is denied, there would be a 365 day waiting period before the applicant could begin the process again.

Councilman Bothwell said that he could support the applicant withdrawing their application.

Mr. Stevens said that the applicant would be willing to withdraw the application for the revised sign package, which includes the front single monument sign (which is compliant), the gas station sign package as originally presented, and the store frontage total square footage of 320. However, he asked Council to consider instead (1) the front single monument sign (which is compliant), (2) a compliant gas station sign package; and (3) 246 square feet with the front signage (ordinance only allows 200 sq. ft.).

Councilman Bothwell would not amend his motion as there would still be a violation of the sign ordinance (front square footage).

Mr. Stevens said that the store is almost finished; and if the applicant has to wait until the next available City Council meeting, it could potentially delay real jobs in this County by 4-8 weeks. Putting the applicant into a position to have to reapply for 246 sq. feet on the front on the store is not reasonable.

Councilman Young reminded the applicant that if he brings the sign package into total compliance with the sign ordinance, he would not have to come back to Council.

Councilman Smith said that Ingles has done so much, and continues to do so much, for the community, however, carving out an exemption for one company strikes him as being unfair.

Mr. Stevens said that Ingles will withdraw their application.

**C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THREE PARCELS KNOWN AS 99999, 99999 AND 42 SIMPSON STREET TO ALLOW FOR THE CONSTRUCTION OF SEVEN 10-UNIT MULTI-FAMILY BUILDINGS WITH PARKING BELOW**

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

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

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 7:04 p.m.

Urban Planner Vaidila Satvika submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Satvika said that this is the consideration of the issuance of a conditional use permit for three parcels known as 99999, 99999 and 42 Simpson Street to allow for the construction of seven 10-unit multifamily buildings with parking below. This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates review for residential projects with more than 50 units. Level III projects are reviewed as Conditional Use Permits.

The site consists of three parcels with a combined area of 1.62 acres located immediately south of Swannanoa River and along the proposed corridor of the Swannanoa River Greenway (Attachment to City Exhibit 3 - Aerial Map). The property is addressed as 42 and 99999 Simpson Street and was formerly an industrial use that is now vacant. Adjacent zoning is River District and in the area uses are primarily industrial.

The developer, Beaucatcher Commons, LLC., is proposing a 70-unit multi-family apartment development on the site with associated parking and improvements related to residential amenities. The development is composed of seven, two-story buildings containing 10 units each (Attachments to City Exhibit 3 - Site Plan, Elevation Drawings). The structures will be constructed on stilts because the site is within a flood area. Parking will be located below each building. All of the apartments will be one-bedroom units.

The project will provide housing units that are 100% affordable at or below 60% of area median income (AMI).

Access to the site will be provided by two driveways, one that will allow both ingress and egress while the other will be egress only. The area will not be paved; the parking and vehicular area will be gravel. A six foot concrete sidewalk will be included along the street.

Parking is provided below each building (56 spaces) and along the sidewalk (17 spaces),

resulting in a total of 73 parking spaces. Pedestrian pathways will provide paved access between buildings and the sidewalk.

The nearest bus stop is located approximately one mile away at the intersection of Wood Avenue and River Hills Road, which requires walking through Target's parking lot to River Hills Road.

The project is required to comply with Section 7-11 of the UDO that includes street trees, parking lot buffer, street buffer, building impact, open space, and tree save standards. The applicant was approved for a reduction in some of the landscape requirements to support the provision of 100% affordable housing. The Tree Commission reviewed and approved the request, as outlined below:

- Street Trees, Street Yard Buffer, Open Space: 100% provided
- Parking Lot Landscaping:
  - o Trees required: 17; Trees proposed: 9 (53% proposed)
  - o Shrubs required: 67; Shrubs proposed: 34 (51% proposed)
- Building Impact:
  - o Trees required: 21; Trees proposed: 11 (52% proposed)
  - o Shrubs required: 42; Shrubs proposed: 21 (50% proposed)
- Tree Save:
  - o Tree Save required: 0.49 Acres; Tree Save proposed: 0.39 Acres (80% proposed)

The applicant has agreed to provide a permanent easement along the property's riverfront for the future proposed Wilma Dykeman Greenway, a plan adopted by City Council in 2013.

The site is currently zoned River (RIV); the use proposed is permitted by-right and the applicant is proposing to meet the standards of the district with this development proposal.

This proposal was approved with conditions by the Technical Review Committee (TRC) on June 20, 2016, and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval. The Planning & Zoning Commission voted unanimously to support the project.

The Asheville Area Riverfront Redevelopment Commission (AARRC) review is a mandatory review, voluntary compliance process for this application. The AARRC Planning and Design Review subcommittee reviewed and approved the proposal on June 23, 2016. Although the full Commission was not able to meet in August, the design committee confirmed approval to maintain the reasonable process and review timeframe set up by the ordinance.

The Tree Commission reviewed and approved the proposal for Alternative Compliance at their August 15, 2016, meeting.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

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

In response to Councilman Bothwell, Mr. Satvika said that one building has the Americans with Disabilities Act (ADA) accessible units.

In response to Councilwoman Mayfield, Mr. Satvika said that staff and the applicant are still working on connectivity issues for pedestrians to get to the bus stop.

Mr. Chris Day, representing Civil Design Concepts, reviewed with Council the site plan (Applicant Exhibit 1), along with the design sketch of the unit with the ADA ramp (Applicant Exhibit 2). The applicant is providing over 100 feet of open space between the project and the Swannanoa River, along with dedicated space for the future greenway. The applicant is willing to work with staff and the community on future connections to transit. He said this is a low impact development and briefly reviewed the conditional use findings (Attachment to City Exhibit C).

In response to Councilman Bothwell, Mr. Kirk Booth, applicant, said that the 100% affordable housing will be for 30 years.

When Councilwoman Mayfield asked if the applicant has approached the other property owners regarding the sewer line easement, Mr. Booth said that it is still on his list of things to do.

In response to Councilman Smith, Mr. Booth said that all 70 rental units will be \$544/month and they will accept HUD vouchers.

Mr. Timothy Sadler suggested adding the cost of monthly bus passes into the cost of the rents and that will potentially bring enough revenue to the transit budget to extend the transit line to the complex.

Mr. Don Hunley, with McGill Associates, spoke in support of the project.

After rebuttal, Mayor Manheimer closed the public hearing at 7:22 p.m.

Vice-Mayor Wisler moved to recommend approval of the conditional use permit for the Simpson Street Development located at 42 and 99999 Simpson Street with the proposed reductions to landscape requirements as defined by Section 7-11-3 (3) Alternative Compliance because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Smith and carried unanimously.

Councilman Smith said this is a leadership project and was grateful for the developer to step up to show how the City and developers can work together to bring more projects like this to the City.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be presented at the next formal Council meeting on September 27, 2016.

### **Closed Session**

At 7:25 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); 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 potential lawsuit. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:25 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Young and carried unanimously.

**D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 184 NEW HAW CREEK ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO INCLUDE A NEW TWO-STORY ADDITION BEHIND THE MAIN BUILDING**

**ORDINANCE NO. 4520 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 184 NEW HAW CREEK ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO INCLUDE A NEW TWO-STORY ADDITION BEHIND THE MAIN BUILDING**

Urban Planner Jessica Bernstein said that the applicant is requesting review of a conditional zoning request from Residential Multi-Family Low Density District (RM-6) to Community Business I Conditional Zone (CB1-CZ), in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO), for the adaptive reuse of a former church building to an eating and drinking establishment. The project will include a new two-story building addition behind the main building. The parcel is owned by John Christoph, LLC (applicant) and is PIN 9658.47-7249. This public hearing was advertised on August 26 and September 2, 2016.

The project site, located at 184 New Haw Creek Road, consists of a single parcel of approximately 1.53 acres in East Asheville at the edge of the Haw Creek neighborhood. The site is currently zoned RM-6 and contains a formerly used church building with associated parking. There is a creek running along the western boundary of the project site.

Nearby zoning includes RM-6 on adjacent parcels to the north side of New Haw Creek Road and Highway Business (HB) for the parcels across the street to the south. The area is developed with primarily residential uses, including single-family homes and vacant parcels as well as a multi-family apartment development to the north and a small retail/office use to the south (zoned HB).

The applicant is proposing to adaptively reuse the existing building for a restaurant use. The change of use necessitates a change to zoning and upgrades to the site for compliance with the UDO. There is an expansion proposed for the rear of the existing structure, outdoor dining areas and petanque courts/outdoor seating. The two-story addition will total nearly 2,300 square feet. The second level will provide office space that will be used by the owner in the management of the restaurant. The proposed building and addition will total about 5,280 square feet which is within the allowance for the proposed zoning.

The proposal utilizes the two existing driveways into the site. The westernmost driveway provides two-way access into the parking area and the easternmost driveway is a deeded right-of-way for the apartment use to the north (30 foot right-of-way with 21 feet of pavement). This driveway will service the compost/recycling and delivery area for the restaurant but would not be used by patrons to the site.

A new sidewalk is proposed along the project frontage, meeting the City's standard configuration of five feet of sidewalk with a five foot grass strip.

Due to the number of seats (110) and employees (14), a range between 44 and 62 parking spaces is required; 47 are proposed (six are shown as gravel parking). Parking will be accommodated in the existing parking area location. Since the office space (950 s.f.) will be used to support the restaurant operation, it does not have a separate additional parking requirement. A minimum of two accessible parking spaces are required and four bike parking spots are provided. The placement of the parking requires a condition (see below).

The project is required to comply with landscaping standards, including a type A (20 foot)

property line buffer along three sides, a street buffer at the frontage, street trees, parking lot landscaping and building impact landscaping. There are existing trees on site that will remain and be used towards planting credits. The location of the existing driveway within the eastern property line buffer is an allowable encroachment per Section 7-11-3 of the UDO.

Open space is required for this project with a minimum of 15% of the lot area to be provided. More than this amount is shown on plans. There will be a 30 foot stream buffer preserved along the western side of the property.

Due to the adaptive reuse of the existing site features, the following condition will accompany this request and is included in the B1 conditions list:

1. Parking will be located in the front of the building rather than to the side or rear as typically required in the CBI zoning district.

This proposal was approved with conditions by the Technical Review Committee (TRC) on June 20, 2016, and requires review by the City Council and Final TRC prior to zoning approval. The applicant has participated in two neighborhood meetings.

At the Planning & Zoning Commission meeting on August 3<sup>rd</sup>, the Commission voted to support the request (6-0) and no public comment was heard. Subsequent to the meeting, staff has spoken with a neighboring property owner who objects to the rezoning and proposed restaurant use and has concerns related to increased traffic, site visibility issues, negative impacts of a food and alcohol-centered business on the streets and as an attractive nuisance for wildlife.

The change in zoning is required because under the current residential zoning, an eating and drinking establishment would not be allowed. The Community Business One zoning district is intended to provide for medium density business and service uses in locations that service multiple neighborhoods and are sensitive to pedestrian populations. The site is close to Tunnel Road, provides a sidewalk along the frontage and is within approximately a tenth of a mile to a transit stop on the E2 route.

Other recent projects in the general vicinity include Haw Creek Commons (CZ approved by City Council on June 28, 2016) and a Best Western Plus on Tunnel Road (Level II project, 2015, under construction).

While typically the City seeks to preserve residential neighborhoods for residential uses, this site has been the location of a non-residential use since 1965 when the current structure was built for a church use. Additionally, the location proximate to Tunnel Road and Highway Business zoning makes this a suitable setting for a transitional business between the higher-intensity uses that are permitted in HB and the residential uses to the north. The applicant will be reusing the existing site layout but will incorporate additional landscaping along the boundaries adjacent to residential zoning to provide additional buffering and screening as well as stream preservation. A condition has also been added to the B1 conditions and agreed to by the applicant that outdoor seating will cease by no later than 10 o'clock pm to lessen night time impacts on residential neighbors. Staff anticipates that this along with the other site improvements will result in a compatible use for this location.

This proposal aligns with several aspects of the *City Development Plan 2025* with respect to incorporating a sidewalk, encouraging bicycling and walking and adaptive reuse of existing structures. Further, the land use section of the *Plan* states that "The City can no longer afford to have land uses fully segregated by type, resulting in people driving long distances to their jobs or to access everyday services". Toward this end, the proposed use can be viewed as a "neighborhood restaurant".



The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project reuses an existing structure, incorporates sidewalks, preserves a sensitive environmental area and is suitably situated along the edge of the neighborhood proximate to transit; and (2) *Thriving Local Economy* – The applicant is a local business-owner, proposing to create a neighborhood restaurant and gathering place.

Considerations:

- Adaptive reuse of existing building and site layout preserves a stream buffer
- Additional landscaping provides buffering from adjacent residential uses
- Site has historically been a non-residential use

Based on policies stated in the Comprehensive Plan and other plans, such as the 2036 Council Vision, staff finds this request to be reasonable and within the best public interest and recommends support of the proposed conditional zoning as proposed.

Mayor Manheimer opened the public hearing at 8:28 p.m. and when no one spoke, she closed the public hearing at 8:28 p.m.

When Vice-Mayor Wisler was concerned that people would remain in the outdoor seating area after 10 p.m., the applicant explained that he has a restaurant on Lexington Avenue for the past 11 years and would like to open a second location of that restaurant. They are not a late night operation, but a food service restaurant. They understand how the neighborhood should be respected and noted that they had two neighborhood meetings at which time all questions were addressed. They normally close at 9:30 p.m. The outdoor seating area is a very small part of the restaurant and is on the parking lot side of the lot. They will also have a 3,000 sq. ft. garden to the right of the patio that will also work as a buffer, and there is a huge amount of landscaping (and they will add more) between the apartment complex and their restaurant.

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

Councilman Smith moved to approve the conditional zoning request from Residential Multi-Family Low Density District (RM-6) to Community Business I Conditional Zone (CB1-CZ) with the requested condition for the adaptive reuse of the site for an eating and drinking establishment and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the site has historically been a non-residential use, (2) additional landscaping provides buffering from adjacent residential uses; and, (3) reuse of the building and site proposes minimal disturbance and preserves a stream buffer. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 30 - PAGE 389**

**E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 7 AND 11 PATTON AVENUE (FORMERLY KNOWN AS ONE WEST TOWER AT PACK SQUARE) TO CONSIDER CHANGES TO THE B1 CONDITIONS CONCERNING THE MIX OF ALLOWED USES AND PARKING ON THE SITE**

**ORDINANCE NO. 4521 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 7 AND 11 PATTON AVENUE (FORMERLY KNOWN AS ONE WEST TOWER AT PACK SQUARE) TO CONSIDER CHANGES TO THE B1 CONDITIONS CONCERNING THE MIX OF ALLOWED USES AND PARKING ON THE SITE**

Director of Planning & Urban Design Todd Okolichany said that this is the consideration of an ordinance to amend the conditional zoning of property located at 7 and 11 Patton Avenue

(formerly One West tower at Pack Square) to consider the mix of allowed uses and parking on the site. This public hearing was advertised on August 26 and September 2, 2016.

Mr. Okolichany said that this conditional zoning proposal was originally approved by City Council on January 12, 2016. The project site consists of the existing 201,000 square foot BB&T building, which will be renovated to become a hotel with condominium units, restaurant spaces, retail and other office and hotel function area. A 35,000 square foot parking structure will be constructed on the west side of the parcel with access from surrounding streets. The project will also make substantial improvements to surrounding sidewalk areas as described in Ordinance No. 4476 and as shown on the approved site plan.

The owner is seeking to amend the number of hotel rooms and condominium units within the project and provide some flexibility with the number of parking spaces provided on-site. Both requests will change the B1 conditions for the project.

Hotel Rooms and Residential Units: The original proposal included 39 residential units intended for sale, and 140 hotel rooms. Additional flexibility was provided in the B1 list that allowed a single floor of the building to convert from hotel rooms (to reduce by 20 hotel rooms) and increase the residential count by seven units. The current proposal is requesting a wider range of hotel rooms and residential units with the following revised condition:

4. The permitted uses on the site are as follows:
  - a. 39 to 54 residential units and a hotel with 114 to 140 rooms.
  - b. Commercial uses including but not limited to restaurants and retail.
  - c. Offices, meeting spaces and other similar uses.

The developer is requesting that the range of hotel rooms and residential units remain flexible within the parameters provided.

A three-level parking structure will be constructed on the west side of the development. The original approval specified 60 spaces be provided. The current request is for the parking to be reduced to provide no less than 55 spaces with the following revised condition:

3. The existing building, which has a total square footage of 200,900 square feet, will be renovated with a new façade finish for the exterior of the building. On the west side of the property there will be a three-level parking structure totaling 35,300 square feet with a minimum of 55 parking spaces, bicycle parking and a guest arrival and departure area.

Staff recommended this reduction to be sure that as building plans are developed the project can comply with the B1 condition concerning parking spaces. The parking spaces will be divided between the hotel arrival area on the top level of the structure with valet parking for hotel guests and two lower levels dedicated for residential parking.

All other conditions for the site will remain in effect for the proposal and will be part of the B1 conditions along with the approved site plan.

Since there are no proposed changes to the site plan, review by the Technical Review Committee is not required. At the Planning and Zoning meeting on August 3<sup>rd</sup>, the Commission voted unanimously (6-0) to recommend approval of the amendment as proposed.

The property is zoned Central Business District Conditional Zone (CBD CZ) and surrounding properties are zoned Central Business District (CBD). The uses proposed with the

application are compatible with surrounding uses and are expected to occur within the downtown CBD area.

The AC Hotel by Marriott was approved in 2014 at the corner of College Street and Broadway. Parking for hotel guests from the Arras development will be provided for in the AC Hotel parking structure.

The Asheville 2025 Comprehensive Plan recognizes the importance of redevelopment and reinvestment, especially in downtown where higher density development is appropriate and where infrastructure is in place to support the development. The Center City Plan supports high quality architecture with new construction, while respecting historic context and the creation of pedestrian environments and open spaces that are pleasant, visually interesting and welcoming to visitors. The Downtown Master Plan emphasizes the importance of new development projects to improve sidewalks along their frontages to meet defined standards and calls attention to the importance of building caps for taller buildings to enhance the skyline of downtown Asheville.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project reuses an existing structure, and expands and improves sidewalk areas surrounding the project site enhancing pedestrian connectivity; (2) *Connected and Engaged Community* – The project was reviewed by the Design Review Committee and was recommended for approval by the Downtown Commission during the initial project submittal. The membership of both groups is made up of local community members. The development proposal meets the zoning standards developed through a public process that culminated in the adoption of the Downtown Master Plan; and (3) *Quality Affordable Housing* – Although affordable residential units are not planned for this proposal, the developer agreed to make a voluntary contribution to the affordable housing trust fund.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The proposal is an adaptive reuse of an existing building and was deemed appropriate through the 2016 conditional zoning process
- The mix of uses is accommodated in the building and is enhanced by the infrastructure improvements on the site and surrounding sidewalks
- Parking will be provided for the proposed uses utilizing the on-site parking structure, as well as overflow parking at a nearby hotel property

Staff recommends approval of the amendment to the CBD CZ zoning application with the revised conditions, finding it consistent with City-adopted plans and strategic goals.

Mayor Manheimer opened the public hearing at 8:45 p.m., and when no one spoke, she closed the public hearing at 8:45 p.m.

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

Vice-Mayor Wisler moved to approve the amendment to the Central Business District Conditional Zoning (CBD CZ) request for 7 and 11 Patton Avenue with the revised conditions, 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) the proposal is an adaptive reuse of an existing building and was deemed appropriate through the 2016 conditional zoning process; (2) The mix of uses is accommodated in the building and is enhanced by the infrastructure improvements on the site and surrounding sidewalks; and (3) Parking will be provided for the proposed uses utilizing the on-site parking structure, as well as overflow parking

at a nearby hotel property. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 30 - PAGE 397**

**F. PUBLIC HEARING TO CONSIDER CONDITIONALLY ZONING PROPERTY LOCATED AT 99999 CARIBOU ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING AND RS-8 RESIDENTIAL-SINGLE FAMILY HIGH DENSITY DISTRICT TO ALLOW FOR THE DEVELOPMENT OF A PARKING LOT TO SERVE AN ADJACENT MEDICAL BUILDING**

**ORDINANCE NO. 4522 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 99999 CARIBOU ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING AND RS-8 RESIDENTIAL-SINGLE FAMILY HIGH DENSITY DISTRICT TO ALLOW FOR THE DEVELOPMENT OF A PARKING LOT TO SERVE AN ADJACENT MEDICAL BUILDING**

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 99999 Caribou Road from RS-8 Residential Single-Family High Density District to Commercial Industrial/Conditional Zoning and RS-8 Residential Single-Family High Density District to allow for the development of a parking lot to serve an adjacent medical building. This public hearing was advertised on August 26 and September 2, 2016.

The applicant project proposes to build a 70 space parking lot to ease the parking shortage for Asheville Eye Associates on Medical Park Drive. The proposed plans include the donation of a portion of the subject property (approximately 30,707 sf) to either the City of Asheville or the Shiloh Community Association for a future use, such as housing or another use allowed under RS-8 zoning.

The project site is 2.36 acres at the northern end of the Shiloh community. The lot is near the end of Booker Street; although, the property only has frontage along Caribou Road via a narrow portion of the lot. The property is partially bounded on the north by Asheville Eye Associates, which is accessed by Medical Park Drive. Also along the north is residential property along Caribou. Residential uses in the RS-8 district surround the rest of the property.

Access to the site is provided by a private driveway that is 24 feet wide and approximately 90 feet long. There are 72 spaces in the new lot, bringing the total number of spaces for Asheville Eye Associates to 281 spaces. This is 28 spaces over the maximum allowed for the building. As a result, 32 spaces in the middle of the lot are proposed to have porous paving. Plans state that eight handicap parking spaces are provided in the main asphalt lot (location not shown on current plans). Four bicycle spaces will be added at the building entrance.

There is public transit access to Asheville Eye Associates; Medical Park Drive is on the S1 line of ART.

Plans show landscaping being provided for Property Line Buffer and Vehicular Usage Area. Additional landscaping is shown for the additional parking as required. The proposed landscaping appears to meet UDO requirements. There are no open space or tree save areas required for a parking lot.

This proposal was approved with conditions by the Technical Review Committee (TRC)

on June 20, 2016 and requires review by the City Council and Final TRC prior to zoning approval.

The Planning and Zoning Commission reviewed this project at their August 3, 2016 meeting and voted 5:0 (one member absent, one member recused) to approve the conditional zoning request. At the Planning and Zoning Commission meeting, Commissioner Hauser acknowledged that the project does not comply with the Shiloh Community Plan. The Commission was supportive of the proposal in part because members of the Shiloh Community Association spoke in favor of the project. The Planning & Zoning Commission is recommending to Council that the Shiloh Community Association receive the donation of the excess land.

Mr. Brian Mitchell, who owns property on Robinson Avenue, expressed concerns about stormwater affecting his property. The applicant's consultant, Equinox Environmental, addressed these concerns by highlighting the proposed stormwater structures planned for the parking lot.

A number of meetings have occurred with community members about the project. Asheville Eye Associates sent a letter to adjacent property owners inviting them to a meeting and met with four families prior to project submittal.

Staff met with Mr. Jeffery Brooks whose property is surrounded by the parcel owned by Asheville Eye Associates. Mr. Brooks' property would be the most impacted by any development on the remaining land to be left as RS-8 if it is accessed from Caribou Road. His concern focused on future development that may occur adjacent to his property and suggested a fence.

Staff and the applicant's design team also met with the Executive Board of the Shiloh Neighborhood Association regarding this project on July 19, 2016. A subsequent community meeting was held on August 1<sup>st</sup> in order to allow for additional feedback from the larger community. At that meeting, several community members asked questions about the impacts of the project. Overall, the community indicated concerns about increased traffic and density. At the beginning of the process, there were also concerns voiced that rezoning this land to a commercial use could open the door to additional requests for commercial uses in the future (from a parking lot to a more intense use). However, at the Planning and Zoning Commission meeting, members of the Shiloh Community Association expressed their support for the project.

Current zoning is Residential Single Family High Density District (RS-8). The applicant is requesting conditional rezoning to Commercial Industrial Conditional Zone (CI-CZ) for the parking lot area. The remaining property would remain RS-8.

This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. The larger portion of the site (72,095 sf) will be rezoned to CI-CZ for the construction and use of a parking lot to serve Asheville Eye Associates, 8 Medical Park Drive.
2. A portion of the property in the Southeast corner, 30,707 sf, will be subdivided and remain RS-8.
3. The subdivision will occur prior to issuance of the Certificate of Occupancy for the parking lot.
4. The RS-8 portion of the property will be donated to the City of Asheville or the Shiloh Community Association (to be finalized at the City Council meeting).
5. A sidewalk along the Medical Park Drive shall be constructed to City of Asheville standards.

The land surrounding the subject parcel is currently zoned RS-8 to the East, South and West. On the northern edge of the parcel, the adjacent zoning is approximately 1/3 RS-8 to the west, and the remaining portion is Commercial Industrial, where Asheville Eye Associates is located. The proposal to leave a portion of the lot zoned RS-8 is compatible with the surrounding zoning. The parking lot use is less compatible as it will be to the rear of several houses along

Robinson Avenue and Caribou Road, and is located near houses on another portion of Robinson Avenue and Booker Street.

Staff believes the project does not comply with the current Comprehensive Plan (Goal 1, Strategy 14) because it does not enhance or strengthen existing neighborhoods, in this case by encroaching commercial uses that are not allowed by the underlying zoning. The applicant has proposed donating a portion of the subject property to the City of Asheville or the Shiloh Community Association as mitigation for the encroachment.

The project proposes to improve the stormwater facilities on the subject property, which supports Goal III of the Water Quality section of the *2025 Comprehensive Plan*, which states “Develop and use best management practices to address the effect of development on stormwater runoff and water quality”.

The *Shiloh Community Plan 2025* was adopted by Asheville City Council in 2010. Land use goal #4 is to “Protect, enhance and complement the existing character of Shiloh”. Under this goal, strategy 2 states, “Target areas (particularly in the core area) for redevelopment and infill that complement existing development and are, or can be, supported by existing infrastructure (or improved infrastructure).” The plan further states:

However, outside of this area (intersection of London and West Chapel Roads), it is strongly felt that commercial incursion should be prevented in the Shiloh community. Long threatened by change along the Hendersonville and Sweeten Creek Road corridors, the Shiloh community proposes that the City put in place mechanisms to reduce the impact of these heavy commercial areas and assure that nonresidential development does not further intrude into the neighborhood (39).

This project is not directly fronting on Sweeten Creek Road, but Medical Park is accessed from Sweeten Creek.

Regarding other adopted plans, the City’s *2015 Housing Needs Assessment* concluded that the housing gap is broad in the City of Asheville and spans all incomes and tenures (renters and homeowners). Recent MLS data, reported by Mosaic Realty, shows that the median sale price for a home in the city has risen 7% from last year to \$260,000. The proposal would reduce the amount of land that could be used for housing.

This proposal aligns with the 2036 Council vision in the following area: (1) *A Well-Planned and Livable Community* – The project will make Asheville Eye Associates more easily accessible through additional parking and a sidewalk.

The proposal does not align with the 2036 Council vision in the following area: (1) *Quality Affordable Housing* - This project will remove the potential for a number of units to be built. As proposed, it would allow for up to four units to be built on a portion of the land.

Considerations:

- Development of the parking lot would result in the loss of potential housing units – up to 20 units could potentially be developed on this parcel with the existing zoning if access requirements can be met.
- New parking lot will ease parking in the Medical Park area, and is accessed from the existing parking lot, not affecting traffic in the Shiloh community.
- The new parking lot will support the continued success and potential expansion of a local business.
- Project will potentially allow the development of up to four residential units or another use allowed under RS-8 zoning, accessed from Caribou Road, if a portion of the subject property is donated to the city. Alternatively, the applicant has proposed donating this

portion to the Shiloh Community Association, which was supported by the Planning and Zoning Commission.

- Several residential neighbors (Robinson, Caribou) will have a large parking lot to the rear of their properties.

Based on policies stated in the *2025 Comprehensive Plan* and other plans, such as the *2015 Housing Needs Assessment* and City Council's *2036 Vision*, staff does not find this request to be within the best public interest and does not recommend support of the proposed conditional zoning as proposed.

Dr. Robert Wiggins, Administrator of Asheville Eye Associates, explained how they met with their neighbors bordering the property and the Shiloh community to make this a beneficial project for the community and Asheville Eye. They would like to expand their facility to add more skilled jobs; however, it cannot be accomplished without additional property. They have owned the adjacent property for 15 years and would like to donate the unutilized RS-8 portion of the property to the City for affordable housing or to the Shiloh community for a community resource center.

Mr. David Tuch, representing Equinox, explained their treatment of stormwater and felt that any concerns regarding that will be addressed. He then explained their need for additional parking at the medical facilities, which is basically one-stop parking for the entire medical park. They also looked at other parking options, e.g., on-street parking, shared parking, satellite parking, and/or a parking garage; however, either they were cost prohibitive or didn't provide enough parking. They would like to donate approximately 30,000 sq. feet to either the City for affordable housing or to the Shiloh community for a community resource center. Asheville Eye would prefer to donate to the Shiloh community. He felt this is a win-win situation because in the Shiloh Master Plan there is a goal to have a resource center. He asked for Council's support of this project.

When Councilwoman Mayfield asked if the applicant has reached out to the adjoining property owners to the unutilized land to see about consolidation of properties, Mr. Tuch said that they looked at a schematic plan because those property owners were having a challenge to make an affordable housing project work. This might make it easier for access to their parcel.

Mayor Manheimer opened the public hearing at 9:01 p.m.

Ms. Norma Baynes, liaison to the Shiloh Community Association, said that they have met several times with Asheville Eye representatives. They realize that Asheville Eye has been in the Shiloh community for many years and has given service to many communities, as well as the Shiloh community. The Shiloh community supports the development of a parking lot and asks that they donate the unutilized RS-8 land not being used for the parking lot be donated to the Shiloh Community Association.

Mr. Brian Mitchell Sr., adjoining property owner, explained his concern regarding stormwater affecting his property; however, Equinox representatives have met with him and assured him that their stormwater structures planned for the parking lot will not cause him additional stormwater. He had no problem with the parking lot itself.

Mayor Manheimer closed the public hearing at 9:05 p.m.

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

Councilwoman Mayfield moved to approve the conditional zoning request from Residential Single Family High Density District (RS-8) to RS-8 and Commercial Industrial Conditional Zone (CI-CZ) with the requested conditions for the development of a parking lot on

the CI-CZ portion of the lot; and the remaining portion of the subject property to remain RS-8 as shown on the revised site plan be donated to the Shiloh Community Association, 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) improves pedestrian access to the complex; (2) provides land for affordable housing or community use opportunities; (3) supports water quality goals through the BMP improvements shown on the site plan; and (4) investment for expanding existing businesses. This motion was seconded by Councilman Smith and carried unanimously.

**ORDINANCE BOOK NO. 30 - PAGE 406**

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 16-214 - RESOLUTION AUTHORIZING THE SELECTION OF TRIBUTE COMPANIES AS DEVELOPER FOR THE 338 HILLIARD AVENUE CITY-OWNED PROPERTY, AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE TERMS OF DISPOSITION AND PERFORMANCE FOR FURTHER COUNCIL APPROVAL**

Director of Community & Economic Development Sam Powers said that today is the first day of Mr. Jeff Staudinger's new transition to a part-time employee until his official retirement in June of 2017.

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution authorizing the selection of Tribute Companies as developer for the 338 Hilliard Avenue City-owned property, and authorize staff to negotiate the terms of disposition and performance for further Council approval.

A Request for Proposals (RFP) for a developer for affordable housing at the City-owned Parks Maintenance Facility site, located at 338 Hilliard Avenue, was issued May 11, 2016. Two proposals were submitted by the July 11, 2016, deadline. The proposals received were from the Kassinger Development Group, and from Tribute Companies.

Following the Council approved process, a selection team of Jeff Staudinger (CED), Taylor Floyd (Finance), Nikki Reid (CED), Vaidila Satvika (Planning), and Pete Wall (Parks) reviewed and scored the development proposals. The selection team made its recommendation to Sam Powers, the Director of the Community and Economic Development Department. He recommended to the Housing and Community Development Committee that Tribute Companies be selected as the developer.

While both proposals met the minimum requirements contained in the RFP, and both developers met all qualifications, the Tribute Companies proposal has a stronger proposed housing program:

<b>Housing Program Comparison</b>	<b>Tribute</b>		<b>Kassinger</b>
# of units	60		60
% 80% AMI or below	82%		55%
# 30% AMI	6		0
# 60% AMI	12		12
# 80% AMI	31		21
# 100% AMI	11		0



# Market	0		27
# years affordable	20		25
# 1 BR	35		48
# 2 BR	15		0
# 3 BR	10		12

Tribute additionally pledged two units for homeless households.

Tribute estimated a total development cost of \$5.5 million, and proposed to purchase the property from the City for \$1.00. They propose to conventionally finance the development and contribute sufficient equity to obtain that financing. Tribute proposes a 20 year period of affordability.

Tribute proposed 30 parking spaces on site, with additional parking possible on site and with spaces available at their other near-by multi-family developments. They propose to provide space for community gardens, and to seek third-party sustainability certification with an emphasis on controlling utility costs. Tribute also presented information regarding design, including interphase with Hilliard Avenue and the Clingman Forest Greenway. Tribute plans include space for a child care center. Tribute met with the WECAN organization, and indicated specific outreach activities, including to public housing residents

Tribute stated that they would require no additional City subsidy to perform according to their proposed program.

Over their proposed 20 year affordability period, the subsidy per affordable unit provided to Tribute through the estimated value of the land would be \$19,204, based upon an appraised land value of \$937,000. HCD Committee members requested that staff discuss the possibility of a long-term lease with Tribute Companies, and a longer period of affordability.

Staff recommends that the Tribute Companies be chosen as the developer for the city-owned 338 Hilliard Avenue property. This choice will be contingent on satisfactory negotiations for a final development agreement that will include the terms of property transfer, the number and tenure of affordable housing units created, workforce housing and market rate housing units, the term in years during which the housing will remain affordable and at what levels, the type and amount of funding or in-kind assistance provided by the City of Asheville, the physical design and site design of the proposed housing, the internal and external community benefits, community outreach activities, and timeframe for development.

The Housing and Community Development (HCD) Committee reviewed the staff recommendation at their meeting on August 16, 2016, and voted to recommend its approval to Council.

Pros:

- Choosing a developer brings closer to realization the strategy for using City-owned land to directly and positively increase the supply of affordable housing in Asheville.
- The developer affirms that it has the financial capacity to develop the site as proposed, and within the timeframe sought by the City.
- The proposal can be accomplished without the need to apply for additional competitive resources.

Cons:

- The timely relocation of the current Parks Maintenance is required.
- A change in terms from the RFP requirements could result in the need for additional program resources.

As currently proposed, the developer proposes that the City sell the subject property for \$1. Therefore, the value of the property is the currently proposed one-time subsidy needed to achieve the affordable housing and other programmatic outcomes. A final proposed fiscal impact will be determined upon Council review and action on the final negotiated terms of disposition and program outcomes.

The HCD Committee recommends that Council approve the selection of Tribute Companies as developer for the 338 Hilliard Avenue City-owned property, and authorizes staff to negotiate the terms of disposition and performance, for further Council approval.

When Councilman Bothwell asked what the value of the property is, Mr. Staudinger responded that it was appraised for \$937,000.

Councilman Bothwell suggested the applicant guarantee the housing affordability for 30 or more years.

Vice-Mayor Wisler, member of the HCD Committee, said that the Committee did discuss various issues and Councilman Smith, Chair of the HCD Committee, urged the Council to give additional feedback to the City Manager since Council will have final approval after negotiation.

When Mayor Manheimer asked for public comment, no one spoke.

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

Councilman Smith moved for the adoption of Resolution No. 16-214. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 38 - PAGE 183**

#### **B. RESOLUTION NO. 16-215 - RESOLUTION ADOPTING CITY COUNCIL STRATEGIC PRIORITIES**

Mayor Manheimer said that this is the consideration of a resolution adopting City Council's 2016-17 Strategic Priorities.

In January 2016, Asheville City Council came together to create a shared 20-year vision for the city. The vision reflects Asheville's unique character and the aspirations of the community as evidenced in private sector investments and public input that has informed current policy and City master plans. Assuming delivery of high quality core services, the 20-year vision is a tool to guide City policy and budget priorities while inspiring innovation and private sector investments aligned with the community's values. This vision was affirmed by council motion in February 2016.

In alignment with the vision, council developed priorities to guide the work of the organization. These priorities fall within the vision categories of:

- A Diverse Community
- A Well-Planned and Livable Community
- A Clean and Healthy Environment
- Quality Affordable Housing
- Transportation and Accessibility
- Thriving Local Economy
- Connected and Engaged Community

- A Smart City

City management used the Council's vision to analyze the strategic priorities including review of existing resources, both existing and potential. Once priorities are adopted, the vision and priorities will be communicated through an engaging multi-channel communication effort to include traditional and social media as well as ongoing relationships with community groups, boards and commissions.

City Manager Jackson will produce a comprehensive quarterly report and Committee Chairs will produce updates on policy initiatives designed to further achievement of strategic priorities.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution adopting Council's 2016-17 Strategic Priorities.

City Manager Jackson then briefly discussed the implementation of the Council's strategic priorities on the staff level. In addition, he explained how each board & commission will have the opportunity to align their goals with Council's goals.

Councilwoman Mayfield suggested under the Diversity Community category that a key task under Goal 1 be to complete the disparity study.

When Mayor Manheimer asked for public comment, no one spoke.

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

Councilman Bothwell moved for the adoption of Resolution No. 16-215. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

#### **RESOLUTION BOOK NO. 38 - PAGE 184**

#### **C. RESOLUTION NO. 16-216 – RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Barber Melton, Scott Dedman and Lindsey Simerly Wilson expired on September 1, 2016.

The following individuals applied for a vacancy: Kama Ward, Zachary Eden, Sage Turner, Charlene Jones, Arthur Myers, Emily Coleman-Wolf, Richard Fort, John Brigham, Rita Yerby, Mark Collins, Amy Murphy-Nugen, Bob Swanson, Mark Goldstein and Andrew Mayronne.

It was the consensus of the Boards & Commissions Committee to reappoint Barber Melton and Scott Dedman, and appoint Sage Turner.

Vice-Mayor Wisler moved to (1) reappoint Barber Melton and Scott Dedman to each serve an additional three-year term respectively, terms to expire September 1, 2019, or until their successors have been appointed; and (2) appoint Sage Turner to serve a three year term, term to expire September 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 38- PAGE 207**

**D. RESOLUTION NO. 16-217 – RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Megan Archer has resigned from the Board, thus leaving an unexpired term until June 30, 2018. In addition, Barry Mundt has also resigned from the Board, thus leaving another unexpired term until June 30, 2018.

The following individuals applied for a vacancy: Zachary Eden, Ken Miller, Tiffany DE'Bellott, ZaKiya Bell-Rogers and Ali Mangkang.

It was the consensus of the Boards & Commissions Committee to appoint Zachary Eden and ZaKiya Bell-Rogers.

Vice-Mayor Wisler moved to (1) appoint Zachary Eden to serve the unexpired term of Ms. Archer, term to expire June 30, 2018, or until his successor has been appointed; and (2) appoint ZaKiya Bell-Rogers to serve the unexpired term of Mr. Mundt, term to expire June 30, 2018, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

**RESOLUTION BOOK NO. 38- PAGE 208**

**E. RESOLUTION NO. 16-219 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY**

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Jim Muth (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less than 100 rental units) as a member on the Buncombe County Tourism Development Authority expired on August 30, 2016.

No individual applied for a vacancy.

On a 2-1 vote, with Councilman Smith voting "no", the Boards & Commissions Committee recommended reappointment of Jim Muth.

Councilman Smith noted that Mr. Muth is a friendly person; however, he has not been supportive of the City in regard to the occupancy tax. Councilwoman Mayfield, liaison to the Tourism Development Authority, said that she had had a number of conversations with Mr. Muth and has not walked away with that feeling.

Vice-Mayor Wisler moved to reappoint Jim Muth as a member of the Buncombe County Tourism Development Authority to serve an additional three-year term as a owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less than 100 rental units, term to expire August 30, 2019, or until his successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried on a 4-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Smith voting "no".

**RESOLUTION BOOK NO. 38- PAGE 209**

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

Mr. Jonathan Wainscott felt that it was time that the City begin conversations about district elections in Asheville.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 9:36 p.m.

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CITY CLERK

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MAYOR