

Tuesday – May 22, 2018- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilman Vijay Kapoor; Councilwoman Julie V. Mayfield; Councilwoman Sheneika Smith; Councilman W. Keith Young; Interim City Manager Cathy Ball; 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. PROCLAMATION PROCLAIMING JUNE 4-10, 2018, AS “VEGAN CHALLENGE WEEK”

Councilman Haynes read the proclamation proclaiming June 4-10, 2018, as "Vegan Challenge Week" in the City of Asheville. He challenged Council to participate in the Vegan Challenge or at least look at doing so. He then presented the proclamation to Chef Jason Sellars, Head Chef and Owner of Plant Restaurant; and Paul Berry, Executive Director of Brother Wolf Animal Rescue, who briefed City Council on some activities taking place.

B. VOLUNTEER OF THE YEAR AWARD

On behalf of City Council, Councilman Kapoor, along with Mr. Phil Lenowitz, Chair of the Neighborhood Advisory Committee, was pleased to present Ms. Renee' White with the 2018 Volunteer of the Year Award. Ms. White has resided in the East End / Valley Street Neighborhood all her life. She has been president since of the association since its inception in 2010. She is widely respected by the neighborhood members. They note that she is a "strong and proactive leader." As the neighborhood demographics continue to change, Renee' has lead the process of old and new families being warmly welcomed into the process of re-engaging the community. She currently leads the executive committee of the neighborhood in developing plans for the use of the Isaac Coleman Grant and is part of the Steering Committee for the Community Land Trust initiative.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 15, 2018

B. RESOLUTION NO. 18-102 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY ADDITIONAL SQUARE FOOTAGE OF SANITARY SEWER EASEMENT AT 345 MONTFORD AVENUE TO THE METROPOLITAN SEWERAGE DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to convey additional square footage of a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) for a sewer line that runs underneath the tennis courts in Montford Park. The original easement was approved in January of 2018.

The City of Asheville owns the 4.28 acre park at the corner of Cumberland Avenue and Montford Park Place. There is currently an eight (8) inch vitreous clay sewer line that runs underneath the two tennis courts and connects with another sewer line at Cumberland Avenue to serve that neighborhood. The sewer line is scheduled for rehabilitation because of its material and condition. MSD would prefer that the sewer line be moved out from under the tennis courts, but the location is limited due to the existing connections to a nearby line, a retaining wall, and the challenging topography on either side of the tennis courts. MSD claims a prescriptive easement over the existing sewer line because there is no recorded easement. MSD plans to rehabilitate a deteriorating line and establish a permanent easement for the sewer line at the same time.

Within City property, MSD's plans call for replacing roughly 405 linear feet of eight (8) inch clay pipe with an eight (8) inch high-density plastic pipe. MSD planned to use underground pipe bursting technology that will eliminate the customary surface digging with pipe replacement. Ductile iron was discovered when additional testing was done and MSD must use cured-in-place pipe lining technology instead. Bore pits will have to be excavated and equipment lowered into the holes. This method should reduce or eliminate any potential damage to the existing tennis courts. Both tennis courts will be closed during construction to ensure public safety.

The final survey plat that was furnished to the City of Asheville in April included replacement of an additional existing segment that connects the sewer line to Montford Avenue. The entire public line that crosses this parcel will be rehabilitated during the project. The square footage of permanent easement being requested increased from 8,100 square feet to 11,464 square feet and no longer includes a temporary easement.

MSD does not compensate property owners when rehabilitating an existing line. It should also be noted that because sewer infrastructure rehabilitation serves a public purpose, MSD does not compensate other units of government for any easement granted.

Pete Wall, representing Capital Projects, the Real Estate Coordinator, and Mark Halstead representing Parks and Recreation met with MSD staff to discuss the project. The City has plans to renovate the park and resurface the tennis courts in connection with the capital improvement bond program and will coordinate these improvements with MSD's project. MSD now plans to perform construction in June of 2018 with the City's renovation of the park to follow. Upon review of the final plans, City staff recommends approval of the easement.

Pros:

- Granting of the easement will allow MSD to rehabilitate a sewer line that is in poor condition and needs maintenance.
- MSD's use of cure-in-place pipe lining technology will reduce the impact of construction and shorten its duration.
- MSD is willing to accommodate the City's bond improvement schedule.

Con:

- Future sewer maintenance activities may have an impact on the use of the court. Although these will be minimal, the possibility remains.

No monetary consideration is involved in this conveyance.

Staff recommends City Council adopt a resolution authorizing the City Manager to convey an approximately 11,464 square foot permanent easement to MSD for a sewer line across the City park at 345 Montford Avenue.

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C. RESOLUTION NO. 18-103 - RESOLUTION AUTHORIZING EXECUTION OF AN INSTALLMENT FINANCING CONTRACT FOR FISCAL YEAR 2018 CAPITAL IMPROVEMENT PROGRAM VEHICLES AND OTHER EQUIPMENT

Summary: The consideration of a resolution authorizing execution of an installment financing contract for Fiscal Year (FY) 2018 Capital Improvement Program (CIP) Vehicles and Other Equipment in an amount not to exceed \$6,250,000.

Appropriations for FY 2018 include \$6,250,000 for various vehicles, computer equipment and fire department equipment with the capital expenditures financed through debt proceeds, as authorized by N. C. Gen. Stat. sec. 160A-20.

On April 11, 2018, the City distributed a Request for Proposal (“RFP”) seeking competitive bids for the financing to selected financing partners willing to take a UCC filing for the security of the financing. Six proposals were received, the most favorable of which was submitted by HomeTrust Bank (the “Bank”) at an interest rate of 2.65% per annum for a term of 48 months (computer equipment) and 2.65% per annum for a term of 59 months (vehicles).

The proposed resolution authorizes an installment financing contract between the City of Asheville and the Bank for the purchase of the vehicles and computer equipment and it authorizes the City Manager, City Attorney, Finance Director and City Clerk to execute and deliver any and all necessary documents including anyone serving in an interim capacity, or their respective designees (each a “Designated Representative”).

The contract will place a security interest in the vehicles and computer equipment in favor of the Bank in order to secure the City’s obligation under the contract. Pursuant to a previously adopted reimbursement resolution, proceeds from this financing contract will allow the City to reimburse itself for the cost of the vehicles and computer equipment which have already been procured.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over several years of the useful life of the asset.
- Reimbursing this capital purchase with the proceeds of the financing, as opposed to paying for the purchase by using the City’s available cash balances, increases currently available funds through restoration of the fund balance.
- The financing conforms to the approved Financing Plan for capital expenditures.

Con:

- Financing the purchase increases nominally the lifetime cost of the acquisition due to the payment of interest and closing costs on the amount financed.

The annual debt service payments for this financing range between approximately \$1.4 million in the first year (interest and principal repayment) and approximately \$1.1 million in the fifth year. Funds are included in the City’s FY 2018-19 proposed debt service budget to cover this cost, and the debt service payments are included in the City’s multi-year capital improvements debt model.

City staff recommends that City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with Regions Capital Advantage, Inc. for the acquisition of the vehicles and computer equipment.

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D. RESOLUTION NO. 18-104 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A PARTNERSHIP AGREEMENT WITH THE MAYOR'S COMMITTEE FOR VETERANS AFFAIRS FOR THE ASHEVILLE-BUNCOMBE COUNTY MEMORIAL DAY CEREMONY ANNUALLY THROUGH 2021 CELEBRATION

Summary: The consideration of a partnership agreement with the Mayor's Committee for Veterans Affairs for production of the Asheville-Buncombe County Memorial Day Ceremony annually through year 2021.

The Mayor's Committee for Veterans Affairs works through the special events office at Community & Economic Development to coordinate support services and secure permitting for the Asheville-Buncombe Memorial Day Ceremony conducted in partnership with the City of Asheville. The City has historically reserved public space, permitted, and provided standard resources to support the Ceremony at no charge. The Parks & Recreation department has additionally assisted with the setup of equipment resources loaned to the Committee.

The Mayor's Committee for Veterans Affairs is prepared to produce the 2018 Asheville-Buncombe Memorial Day Ceremony in partnership with the City, and City staff is prepared to provide the same level of service as it has in prior years. This collaborative effort has been managed through an annual agreement authorized by the City Manager, however when proposing to establish a multi-year agreement through 2021, the Legal Department recommended the agreement be accompanied by a formal resolution by City Council.

The Planning & Economic Development Committee reviewed this request at its April 9, 2018, meeting and recommends support of establishing a multi-year agreement with the Mayor's Committee for Veterans Affairs for production of the Asheville-Buncombe County Memorial Day Ceremony.

Pros:

- Allows the City to leverage resources to execute an efficient, cost-effective production
- Provides for a suitable and respectful Memorial Day ceremony in Asheville
- Promotes active involvement and participation with community members

Cons:

- Use of infrastructure and equipment provided to organizers and lost revenue from application processing, permits, and property use fees, and labor costs for City support personnel.

The value of City fees and charges at standard rates is estimated at \$1,100, not accounting for the value of equipment loaned and staff time for setup by Parks & Recreation.

Staff recommends that City Council concur with the Planning & Economic Development Committee recommendation to authorize the City Manager to sign a four-year partnership agreement between the City of Asheville and the Mayor's Committee for Veterans Affairs for production of the Asheville Buncombe Memorial Day Ceremony through calendar year 2021.

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E. RESOLUTION NO. 18-105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO THE FEDERAL TRANSIT ADMINISTRATION LOW OR NO

EMISSION VEHICLE PROGRAM AND IF AWARDED, ENTER INTO APPROPRIATE AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the 2018 Federal Transit Administration's (FTA) Low or No Emission Vehicle Program in order to purchase five electric buses and related charging equipment and if successful, to accept the grant and sign all the appropriate agreements to receive the funds.

The FTA has opened a competitive opportunity for \$84 million for the purchase or lease of zero-emission and low-emission transit buses as well as acquisition, construction, and leasing of required supporting facilities. The FTA will reimburse up to 85 percent of the cost of the vehicles and 90% of the cost of infrastructure. Transportation Department staff proposes to collaborate with Proterra, which satisfies the requirement for competitive procurement under 49 U.S.C. 5325(a). Last year, Asheville was the only city in North Carolina to receive funding from this program. (We are on schedule to receive five electric buses later this year.)

In the next three years, the Transit Master Plan calls for nine replacement and six expansion vehicles or a total of 15 buses, which is two more than are reflected in the proposed draft 2018-2019 Capital Improvement Program. Recent funding from the Surface Transportation Block Grant (STBG) has secured the federal funding portion for 10 buses. In order to meet the transit fleet's 2019-2021 needs, Staff recommends applying for five electric buses and charging equipment for a total cost of \$4,300,000; the federal portion would total \$3,340,000. The local match of \$960,000 would be required for FY 2020.

The Finance Committee is reviewing this item on May 22, 2018, and if anything other than a unanimous recommendation is received, the details will be expressed at the City Council meeting later that same day.

Pros:

- Provides the capital needed to roll out the Transit Master Plan recommendations
- Contributes to the city's carbon reduction and climate mitigation goals
- Decreases dependence on liquid fossil fuels by about 10,000 gallons per bus per year
- Reduces energy consumption by 80% due to efficient electric motors
- Reduces harmful local emissions by over 1,000 pounds per bus per year

Con:

- Commits the city to funding an increased local match for FY 2020

If awarded, the CIP would be increased in FY 2020 to provide a competitive local match of \$960,000 (22% of the total project); the CIP would subsequently be decreased in FY 2021 by approximately \$145,000. (Although we expect to recover 10% of the total project cost from the NCDOT Urban Match program, or \$430,000, to be conservative we are not budgeting for this repayment.) Yearly operational costs would be reduced by approximately \$85,000 (\$17,000 per bus) due to reduced fueling expenses.

Staff recommends that City Council approve a resolution authorizing the City Manager to apply to the 2018 Federal Transit Administration's Low or No Emission Vehicle Program in order to purchase five electric buses and related charging equipment and if successful, to accept the grant and sign all the appropriate agreements to receive the funds.

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F. RESOLUTION NO. 18-106 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A COMBINATION SIDEWALK AND STORMWATER

EASEMENT FROM FHN MCCORMICK PLACE LLC FOR MAINTENANCE OF PUBLIC IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to accept a sidewalk and stormwater easement from the developer of McCormick Place to allow for City maintenance of public improvements after installation.

A project is planned to build 17 townhomes near downtown Asheville adjacent to the McCormick Field baseball stadium. Charlotte-based FHN McCormick Place, LLC (FHN) is the developer and owner of the approximately one-half acre lot (PIN # 9648-47-6864). The project was approved with conditions by the City's Technical Review Committee in September 2017. City staff have been working with the developer's engineers to ensure that the infrastructure improvements that are planned for the project comply with the City's Stormwater Ordinance and sidewalk regulations.

In order to ensure both compliance and continued maintenance of infrastructure improvements, FHN will convey a combination sidewalk and stormwater easement to the City. The developer will construct a sidewalk along McCormick Place to City specifications and, upon satisfactory completion, the sidewalk will be turned over to the City for maintenance. Also, stormwater improvements will be installed in certain areas beneath the sidewalk, connecting to existing stormwater infrastructure in the street. 3,145 square feet of permanent sidewalk and stormwater easement will be granted to the City.

Pros:

- This project facilitates infill residential development in a downtown area location.
- Infrastructure improvements will be constructed at no cost to the City.

Con:

- City resources will be needed to maintain new sidewalk and stormwater infrastructure.

No cost for construction; to be included in maintenance program in future years.

Staff recommends City Council accept 3,145 square feet of sidewalk and stormwater easement from FHN McCormick Place to allow access for City maintenance.

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G. RESOLUTION NO. 18-107 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FISCAL YEAR 2017 AND FISCAL YEAR 2018 JOB ACCESS AND REVERSE COMMUTE GRANT TO PARTIALLY FUND ROUTE 170 TO BLACK MOUNTAIN, AND IF AWARDED, ENTER INTO APPROPRIATE AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply for a Fiscal Year (FY) 2017 and FY 2018 Job Access and Reverse Commute (JARC) Federal Grant to partially fund Route 170 to Black Mountain, and, if the application is successful, to accept the grant and sign all the appropriate agreements with the French Broad River Metropolitan Planning Organization (FBRMPO), State, and/or Federal agencies to receive the funds.

JARC is a Federal Transit Administration (FTA) grant program that is targeted at providing job access in urbanized and suburbanized areas. The 'job access' component aims to support development and maintenance of transportation services that transport low-income individuals to and from jobs and activities. The 'reverse commute' refers to a public transportation

project designed to transport residents of urbanized areas to suburban employment opportunities.

JARC is funded through a 10% allocation of FTA 5307 funds that are administered by the FBRMPO. The FBRMPO posted the call for projects in February, 2018. A total of \$344,857 is available for projects in the FBRMPO region. The FY 2017/2018 JARC funds would support transit operations in FY 2018-19.

The City of Asheville has used this funding source in past years to fund Route 170 to Black Mountain. Staff recommends an application that would pay for 50% of the cost of Route 170 service for FY 2019, which totals \$137,783 in grant funding.

The Finance Committee reviewed this action on April 23, 2018, and unanimously endorsed it to move forward to City Council for review and approval.

Pros:

- This funding will help maintain existing transit services essential to many residents.
- This funding will help offset operating costs.

Con:

- The City is responsible to provide the 50% local match.

The local match of \$137,783 is included in the proposed FY 2018-19 operating budget.

Staff recommends that City Council approve a resolution authorizing the City Manager to apply for a FY 2017 and FY 2018 Job Access and Reverse Commute (JARC) Federal Grant to partially fund Route 170 to Black Mountain, and, if the application is successful, to accept the grant and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

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H. RESOLUTION NO. 18-108 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR SECTION 5310 FUNDS, AND IF AWARDED, ENTER INTO APPROPRIATE AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grants and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

The FBRMPO has opened a call for projects to use FTA Section 5310 Funds, which are used to provide enhanced mobility to seniors and individuals with disabilities with an application deadline of March 29, 2018. The FBRMPO expects to have approximately \$329,452 available from the FY 2017 FTA apportionment and the funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding in the amount of \$187,500 to help offset the annual cost of paratransit service. The project is ready to move forward as funding becomes available.

The Finance Committee reviewed this action on April 23, 2018, and unanimously endorsed it to move forward to City Council for review and approval.

Pros:

- Enables the use of Federal funds to help provide needed assistance.
- Enables the City to offset part of the annual operating cost to provide transit service.

Con:

- City would be responsible for the 20% local match of \$37,500.

The local match of \$37,500 is included in the proposed FY 2018-19 operating budget.

City staff recommends that City Council approve a resolution authorizing the City Manager to submit a grant application to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grants and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

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I. RESOLUTION NO. 18-109 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ABA BEER WEEK KICK-OFF PARTY

RESOLUTION NO. 18-110 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL

RESOLUTION NO. 18-111 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT XPAND FEST

RESOLUTION NO. 18-112 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE HALF MARATHON & 10K

RESOLUTION NO. 18-113 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BETTER DADS FESTIVAL

RESOLUTION NO. 18-114 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INGLES INDEPENDENT DAY CELEBRATION

RESOLUTION NO. 18-115 - RESOLUTION ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE VEGFEST

Summary: The consideration of a resolution authorizing the Interim City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the ABA Beer Week Kick Off Party, Beer City Festival, Xpand Fest,

Asheville Half Marathon & 10K, Better Dads Festival, Ingles Independence Day Celebration, and Asheville VegFest.

- Friends of the WNC Nature Center 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 ABA Beer Week Kick Off Party allow for consumption at this event.

The ABA Beer Week Kick Off Party will be held on Friday, May 25, 2018 from 5:00 p.m. to 8:00 p.m. within the boundaries of the WNC Nature Center as per the area limits referenced on the accompanying site map.

- Asheville Brewers Alliance has requested through the City of Asheville Community & Economic Development Department that City Council allow them to serve beer and/or unfortified wine at the Beer City Festival and allow for consumption at this event.

The Beer City Festival will be held on Saturday, June 2, 2018 from 12:00 p.m. to 5:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Zenbivia Academy of Art & Science 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 Xpand Fest and allow for consumption at the event.

Xpand Fest will be held on Saturday, June 9, 2018 from 12:00 p.m. to 10:00 p.m. within the boundaries of Coxe and Buxton Avenues as per the area limits referenced on the accompanying site map.

- House of Iron 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 Asheville Half Marathon & 10K and allow for consumption at the event.

The Asheville Half Marathon & 10K will be held on Saturday, June 9, 2018 from 7:00 a.m. to 12:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- ManKind Project USA 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 Better Dads Festival and allow for consumption at the event.

The Better Dads Festival will be held on Saturday, June 16, 2018 from 1:00 p.m. to 9:30 p.m. within the boundaries of Pack Square Park 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 the Ingles Independence Day Celebration and allow for consumption at this event.

The Ingles Independence Day Celebration will be held on Wednesday, July 4, 2018 from 2:00 p.m. to 10:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

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

Asheville VegFest will be held on Sunday, September 2, 2018 from 10:00 a.m. to 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 Friends of the WNC Nature Center, Asheville Brewers Alliance, Zenbivia Academy of Art & Science, House of Iron, ManKind Project USA, Asheville Downtown Association, and the Asheville Vegan Society

Con:

- Potential for public safety issues

Staff recommends City Council adopt a resolution authorizing the Interim City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the ABA Beer Week Kick Off Party, Beer City Festival, Xpand Fest, Asheville Half Marathon & 10K, Better Dads Festival, Ingles Independence Day Celebration, and Asheville VegFest.

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J. RESOLUTION NO. 18-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH B. ALLEN CONSTRUCTION INC. FOR THE ASHEVILLE PARKS PLAYGROUNDS IMPROVEMENTS BOND PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with B. Allen Construction, Inc., to provide construction services for Asheville Parks Playgrounds Improvements Bond Project for an amount of \$695,500 and further authorizing the execution of any contract amendments up to 5% (\$34,775) above of the contract price, which may arise during execution of said project.

The primary goal of the project is addressing maintenance backlog for playgrounds while building for the future. Playground projects have been prioritized focusing on underserved areas of the city. Each project will address the needs of diverse park users to better reflect changing neighborhoods and their long-term recreation requirements. The playgrounds will be designed to reflect their individual neighborhood setting, utilize ideas and trends from some of the best playgrounds in the country, and create unique play experience for all users. Playground upgrades may include playground equipment, rubber fall zone surface, landscaping, park shelters, shade structures, open play areas, accessible pedestrian circulation systems, and other Park & Recreation park standard furnishings.

Herb Watts Park, Lakewood Park, West Asheville Park and Magnolia Park playgrounds were designed and bid as part of this project. The City issued an Advertisement for Bids for construction on April 2, 2018, pursuant to NCGS 143-129. Zero bids were received on the bid due date of April 23, 2018. As of the re-advertised bid opening date on May 4, 2018, the City received

one bid, making B. Allen Construction, Inc., located in Candler, North Carolina the lowest, responsive, responsible bidder with a base bid plus alternates of \$935,000.00. As this exceeded the available funding, the City negotiated a base bid plus alternates for all work at Herb Watts Park, Lakewood Park and West Asheville Park in the amount of \$695,500 to bring the contract within the available budget. These playground projects were prioritized for reconstruction based upon their current condition and to provide an equitable distribution of playground projects. Magnolia Park will be considered as future funding becomes available.

The tentative project timeline for construction is the Summer of 2018-Summer of 2019.

Pro:

- Improves the safety and functionality of the City's playgrounds for park users by replacing and improving existing playgrounds.

Con:

- The proposed playgrounds and portions of the adjacent parks will be closed during renovations primarily in Fall 2018 and secondarily into Spring 2019. Any closure will be advertised and coordinated with general park users, Parks & Recreation programming and neighborhood representatives.

The General Obligation (GO) Bond included \$1,015,000 in funding for the Playground Improvements Project.

Staff recommends City Council authorize the City Manager to execute a contract with B. Allen Construction, Inc., to provide construction services for Asheville Playground Improvements Bond Project Bond Project for an amount of \$695,500, and further authorizing the execution of any contract amendments up to 5% (\$34,775) above of the contract price, which may arise during execution of said project.

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K. RESOLUTION NO. 18-117 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR ASHEVILLE PARKS TEMPIE AVERY MONTFORD CENTER IMPROVEMENTS BOND PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Patton Construction Group, Inc., to provide construction services for Asheville Parks Tempie Avery Montford Center Improvements Bond Project for an amount of \$1,171,000, and further authorizing the execution of any contract amendments up to 5% (\$58,550) above of the contract price, which may arise during execution of said project.

The primary goal of the project is to address outdated amenities at the facility through replacement and expansion of its current facilities. This project will improve the appearance, usefulness and safety of the facility. Amenities include but are limited to: facility improvements, playground, benches and seating areas, outdoor classroom, signage, trash receptacles, drinking fountain, bike racks, landscaping, ADA accessible improvements, parking area, lighting, plaza, and trail and sidewalks.

The Tempie Avery Montford Center Improvements project was prioritized with a focus on updating aging infrastructure of the existing recreation facilities and to provide new programming elements. These improvements will address the needs of diverse park users through replacement of existing assets in parks to better reflect changing neighborhoods and their long-term recreation requirements.

Asheville Park, Tempie Avery Montford Center was designed and bid as part of this project. The City issued an Advertisement for Bids for construction on March 23, 2018, pursuant to NCGS 143-129. Zero bids were received on the bid due date of April 26, 2018. As of the re-advertised bid opening date on April 4, 2018, the City received two bids, one from Patton Construction Group, Inc., and the second from Tennoca Construction Company, Inc. The low bid was Patton Construction Group, with a base bid of \$1,171,000.

The tentative project timeline for construction is Fall 2018 - Summer 2019.

Pros:

- Improves the appearance, connectivity, safety and functionality of the Tempie Avery Montford Complex for park users by replacing and improving existing facilities.
- Maximizes the use of current facility by designing for multiple, simultaneous uses, flexible spaces, and appropriate support spaces.

Con:

- The existing park complex will be partially closed during renovations. Any closure will be advertised and coordinated with general park users, Parks & Recreation programming and neighborhood representatives.

The General Obligation (GO) Bond included \$1,752,911 in funding for the Parks Tempie Avery Montford Center Improvements Project.

Staff recommends City Council authorize the City Manager to execute a contract with Patton Construction Group, Inc., to provide construction services for Asheville Parks Tempie Avery Montford Center Improvements Bond Project for an amount of \$1,171,000, and further authorizing the execution of any contract amendments up to 5% (\$58,550) above of the contract price, which may arise during execution of said project.

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L. RESOLUTION NO. 18-118 - RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$23,000,000 GENERAL OBLIGATION BOND ANTICIPATION NOTE

Summary: The consideration of a resolution directing the Interim City Manager and Chief Financial Officer to pursue debt financing for capital projects with a draw program that includes the issuance of interim, variable rate General Obligation Bonds (GOs) in an amount not to exceed \$23,000,000. The interim GOs will provide construction financing for projects which, upon completion, will be permanently financed through longer-term, fixed rate GOs.

The City has reimbursement resolutions for Council approved capital projects authorized as part of the Fiscal Year (FY) 2018 and FY 2019 Budgets. This GO draw program will reimburse the City for costs incurred to date, and over the next 12 months, for those projects and allow the City to complete many of the projects.

Projects include (1) Road and Sidewalk Improvement, Phase 2; (2) Oteora Boulevard Sidewalk; (3) Hill Street Sidewalk; (4) Jake Rusher Park; (5) Montford Park Complex; and (6) Ballfield Improvements.

As a next step in the process, staff is seeking City Council's approval to complete the GO financing with Bank of America, as the purchaser of the GOs, which provided the lowest cost financing for the draw program interim financing.

The resolution also authorizes the Interim City Manager and Chief Financial Officer to proceed with the GO financing and execute and deliver the necessary documents to complete the financing.

Pro:

- Allows the City to move forward with the Capital Improvement Program and Draw Program financing.

Con:

- None noted.

The initial draw on the GO facility for costs incurred to date is \$6,800,000. At current variable rates associated with this facility (roughly 1.85%), the annualized interest expense on the initial draw is \$125 thousand. As further draws are made on the facility, the interest expense will increase accordingly. Funds are included in the City's FY 2018-2019 proposed debt service budget to cover these costs. They are also included in the City's multi-year capital improvements debt model.

Staff recommends that City Council approve the resolution as it is proposed.

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M. RESOLUTION NO. 18-119 - RESOLUTION SETTING A PUBLIC HEARING ON JUNE 19, 2018, FOR A LAND USE INCENTIVE GRANT FOR SWEETGRASS APARTMENTS, MADISON CAPITAL GROUP

Summary: The consideration of a resolution setting a public hearing on June 19, 2018, to consider a Land Use Incentive Grant Application for Sweetgrass Apartments, by Madison Capital Group (Developer).

The Housing and Community Development Committee reviewed and recommended a Land Use Incentive Grant for Sweetgrass Apartments, in its April 17, 2018 meeting and a revised report on May 8, 2018. Madison Capital Group, represented by Hobie Orton, is developing a 11.9 acre site in South Asheville, located at 39 Bradley Branch Road, Asheville NC. The project will consist of 255 residential rental apartments, of which 10% (26) will be made affordable for 15 years per LUIG agreement. The site is within 0.25 miles of transit, 0.25 miles to amenities, and with access to businesses along the Airport Road corridor. The developer estimates a total development cost of \$38,000,000 and an estimated tax value of \$50,300,000 post completion.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing - The proposed project will provide twenty-six (26) units

affordable to households at 80% or less of median income; 10% of total units. Under this category, the project qualifies and received a recommendation of 20 points.

Long term affordability - The proposed project will be committed to serving households at the designated rental rates for the minimum period of fifteen (15) years. This qualifies and received 0 points.

Superior locational efficiency - The proposed project is within .5 miles of public amenity in Aldi's grocery (5 points). The applicant has also made a case for multiple job centers within 1 mile to the site (i.e. Asheville Regional Airport, Progress Energy, Park Ridge Hospital, Sierra Nevada Brewery, Linamar and other manufacturing facilities - 5 points), and proximity to existing bus-stop (within 0.25 miles) served by a 90 minute bus line (10 points). The existing policy defines "Employment Centers" as Downtown, Mission Hospital, and Biltmore Town Square and projects must be located within 1 mile of these centers. The applicant has a made a case for proximity to job centers/resources within 1 mile and ½ mile from the project site. No specifics on number of jobs have been provided. The policy requirements for transit points are bus stops within 0.25 mile to the project (which this project qualifies) and with a 30 minute bus service (which the project does not have). Currently the City has 1 bus line with a 30 minute service (N3). The currently policy does permit the applicant to make a case for these points that fall outside of the policy definitions. The project qualifies for 5 points in this category (per policy), the applicant requests 20 points, and HCD Committee recommends 15 points.

Brownfield Development - The proposed project will receive the North Carolina Brownfield Redevelopment grant, and the applicant has asked to extend the Land Use Incentive Grant by 1 year in order to take advantage of both grants. This does not qualify the project for points, but the applicant requests 10 points and HCD Committee recommends 5 points.

Per current policy, staff has scored the project with 25 points, which qualifies the project for two-and-a-half years (2.5) of the Land Use Incentive Grant. The applicant requests 50 points for the transit stop (10 pts.), proximity to jobs (5 pts.), and brownfield development (10 pts.), which is a 5 year Land Use Incentive Grant. The HCD Committee recommends 40 points for this project, which is a 4 year Land Use Incentive Grant.

The current estimated assessment value for this property is \$1,200,000. The developer's estimate of improvement value is \$38,000,000 with a completed estimated project taxable value of \$50,300,000. The annual estimated city tax post completion, based on the developer's estimate of value, is \$215,737, which gives the project and estimated annual and eligible tax value of \$210,590. Over a 4 year period, if approved at that level, the total estimated Land Use Incentive Grant would be \$842,360, the exact amount to be determined by the length in years, of the grant award, and the actual assessed value of the development upon completion. Based on these estimates, the subsidy per affordable unit would be \$32,398. The subsidy amount per affordable unit/year of affordability would be \$2,160.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Stormwater Plan Review Fee, and Water Service Connection Fee is \$40,062. The value of each 10% of eligible fee rebates would be \$4,006. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 40 point level, the fee rebate would be approximately \$16,024.

The total estimated Land Use Incentive Grant benefit over 4 years is \$858,384, which equals \$33,015 subsidy per affordable unit, and \$2,200 per unit per year of affordability.

The Housing & Community Development Committee requests that City Council consider the Land Use Incentive Grant request as detailed above with a 4 year benefit.

At the request of Councilman Young, Community Development Director Heather Dillashaw gave a brief explanation of the project.

Councilwoman Mayfield explained how the HCD Committee assigned more points than the policy, noting that the policy is due for another update.

Ms. Dillashaw confirmed that it is Council's policy to bring the conditional zoning request at the same time as the land use incentive grant public hearing; however, due to the legal advertisement the public hearing for the land use incentive grant must be set on June 19, 2018.

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N. RESOLUTION NO. 18-120 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE EXISTING CONTRACT WITH CAROLINA TRACTOR & EQUIPMENT FOR SERVICES RELATED TO THE REPAIR AND MAINTENANCE OF CITY VEHICLES AND EQUIPMENT

Summary: The consideration of a resolution authorizing the City Manager to amend the existing maintenance agreement with Carolina Tractor & Equipment to increase the annual contract value from \$200,000 to \$300,000.

The Fleet Management Division of the General Services Department maintains over 850 vehicles and pieces of equipment while simultaneously achieving high metrics for vehicle "uptime" or in-service percentage. Fleet is a lean operation with limited facilities, so it may subcontract work to third-party firms as needed. These services may be used to supplement existing staff resources at times of high demand or provide services where Fleet does not have suitable facilities or resources (e.g., paint shop, etc.).

Under a previous procurement, Carolina Tractor & Equipment was selected to provide supplemental services, and Resolution 16-228 authorized the City Manager to enter into a contract with this firm for an initial one-year term with up to four one-year renewals. The annual contract value was noted as \$200,000. Due to an increase in workload (including more work due to vehicle accidents and repairs), the Fleet Management Division needs to increase the annual value of this contract to \$300,000. The Fleet Manager will continue to oversee the contract to achieve a reasonable balance between self-performance of work and vehicle uptime.

Pros:

- Allows third-party service work to continue as a supplement to in-house staff;
- Provides flexibility in service delivery without significant capital investment in equipment or facilities (e.g., paint shop, etc.) that aren't used on a daily basis; and
- Supports vehicle "uptime" and returning vehicles to service after needed repairs.

Con:

- None identified.

Costs for these services are included in the General Fund fleet allocations for departments requiring vehicle repair and maintenance activities.

Staff recommends City Council adopt a resolution authorizing the City Manager to amend the existing maintenance agreement with Carolina Tractor & Equipment to increase the annual contract value from \$200,000 to \$300,000.

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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.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young.

CONSENT AGENDA PUBLIC COMMENT ITEM DISCUSSION - CODE FOR ASHEVILLE DATASETS REQUEST

Ms. Kim Roney asked Council to add a resolution to the Consent Agenda to adopt the Open Data Policy recommendations outlined by the Code for Asheville. She felt this is a reasonable request and is in the best interest of the City. This will increase the trust between the City and the community. She then read a portion out of the 27 Views of Asheville by DeWayne Barton.

Mr. Andrew Vasco asked Council to adopt the Open Data Policy recommendations outlined by the Code for Asheville and read a passage from a Kurt Vonnegut book entitled A Man Without a Country.

Councilwoman Smith moved to amend the Consent Agenda to include the addition of a resolution to adopt the Open Data Policy recommendations as presented by the Code for Asheville. This motion was seconded by Councilman Young and carried on a 4-3 vote, with Councilman Kapoor, Councilwoman Mayfield and Vice-Mayor Wisler voting "no."

Mayor Manheimer said that the City of Asheville does have an Open Data Policy that was adopted in 2015. She felt that what is being requested is to release the data sets requested by Code for Asheville. She said that were Council left off on May 15 was out of the 9 data sets requested by the Code for Asheville, four were pushed out and staff has been meeting to try to prepare the remaining five datasets requested.

Interim City Manager Cathy Ball said that there is a meeting this Thursday to include external stakeholders to ask a few follow-up questions. However, we are very comfortable in moving forward the three of the five data sets. We have a way to move the remaining two forward but it will require some parameters around how it is released making sure we don't release data if there is a criminal case against it or if there is an internal investigation around it. We don't want to jeopardize a criminal case. We are moving forward and plan to report back to Council on June 19, 2018. It is the full intent of staff to disclose all of the information while still protecting the rights of officers and citizens involved in some of the instances.

Councilwoman Smith moved to withdraw her motion. She then moved to amend the Consent Agenda to include a motion of Council's support for the release of the data sets as presented by the Code of Asheville. This motion was seconded by Councilman Young.

Interim City Manager Ball said that it is the full intent of staff to disclose all of the information while still protecting the rights of officers and citizens involved in some of the instances.

City Attorney Currin advised Council to adopt the Consent Agenda separately because it is supposed to be routine, non-controversial items and then discuss the motion regarding the Code for Asheville datasets request.

Councilman Young called the question.

At Councilwoman Mayfield's request, Councilwoman Smith moved to withdraw her motion to amend the Consent Agenda to include a motion of Council's support for the release of the data sets as presented by the Code of Asheville.

Councilwoman Mayfield moved to adopt the Consent Agenda without any additions. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Councilwoman Smith then moved that Council support the release of the data sets as presented by the Code for Asheville except legal and personnel information not be disclosed. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. STATE OF THE AIRPORT

Mr. Lew Bleiweis, Executive Director of the Asheville Greater Regional Airport Authority updated Council on the State of the Airport.

B. REDUCING RACIAL DISPARITIES IN TRAFFIC STOPS

Ian Mance Report - Southern Coalition for Social Justice

Ms. Carmen Ramos-Kennedy, President of the Asheville Chapter of the NAACP, said that in early 2017 the Asheville-Buncombe County NAACP Justice Committee contacted the Southern Coalition for Social Justice about the disturbing traffic stops of African Americans by the Asheville Police Department (APD). Using the latest traffic stop data at the time, he found that in the 15 years of the APD's tracking and reporting data, 24% of stops and 46% of searches involved African American drivers which was significantly higher than any other North Carolina department of its size or larger. Implementing mandatory written consent was recommended, amongst several others. She urged Council to implement a mandatory written consent policy.

Mr. Ian Mance, attorney for the Southern Coalition for Social Justice, provided Council with his PowerPoint presentation he used at the April 24, 2018, Public Safety Committee meeting. He then used the following PowerPoint for his discussion:

From the April 26, 2018, APD Traffic Stop Report:

- **APD CLAIM:** "The racial and ethnic composition of communities do not accurately reflect the racial and ethnic composition of drivers on the roadways."
- **FACT:** During Chief Hooper's tenure, the percentage of white drivers stopped by APD (77.7%) mirrors precisely—to the tenth of a percent—Asheville's white residential population, according to the most recent American Community Survey estimate (77.7%).
- **APD CLAIM:** Traffic from tourism skews the racial demographics of the local driving population and it "is impossible to break down the racial demographics of these 28,000 daily tourist [sic] in the City of Asheville."
- **FACT:** A 2016 study published on the Asheville CVB website breaks down the racial demographics of tourists, indicating that as a group, they are *less black* than the local population. There is no good reason to believe the driving population is more black than the residential population and multiple reasons to think the opposite is true.

During Chief Hooper’s tenure (7/20/2015—present), whites have accounted for 77.7% persons stopped in traffic stops—the same percentage of the local white population. By contrast, blacks account for 20.9% of those stopped during this period, but just 12.2% of the population.

In Asheville, blacks have been consistently stopped at higher rates since data has been tracked (2002). In recent years, these disparities have grown. In 2017, APD posted its most racially-disparate stop and search numbers ever. Drivers stopped were 70% white, 24% black, and 4% Hispanic. Searches were, for the first time, majority minority (49% white, 46% black, 4% Hispanic).

APD reported stopping more than 50% more black drivers (1,720 v. 1,129) in 2017 than it did in 2016, but just 0.1% more white drivers (5,002 v. 4,996).

We can project the impact of APD prohibiting or deprioritizing equipment and regulatory stops on existing racial stop disparities.

Persons Stopped (7-20-15- Present)	Reg/Eqp Stops (7-20-15 - Present)	All Non-Reg/Eqp Stops (7-20-15 - Present)
77.7% White	70.9% White	80.3% White
20.9% Black	28.0% Black	18.2% Black

Eliminating these high-discretion stop causes, which do not implicate public safety, would shrink the racial disparity (+9%) between the black stop rate and the black population in Asheville by approximately 1/3.

Jack McDevitt, Director of the Institute on Race and Justice at Northeastern University in Boston, says stops for defective equipment promote bad faith. "So, when they get pulled over," he says, "their frustration level is, 'Here we go again. I'm being pulled over for some foolish thing so that they can try to see if there's some other violation they can get me on.'" (NPR, All Things Considered, July 25, 2016)

Comparing traffic stop search rates (national, state, local), (1) United States traffic stop search rate: 3.5% (Source: US DOJ, Special Report: Police Behavior during Traffic and Street Stops, 2011); (2) North Carolina traffic stop search rate: 2.4% (Source: NC DOJ Traffic Stop Data, 2002-13); and (3) Asheville PD traffic stop search rate: 7.6% (Source: Asheville PD Traffic Stop Data, 2002-present).

Showing a chart, over the last decade, other than Greenville Police Department, which conducts less than a third as many searches as Asheville PD, no police department of a city Asheville’s size or larger has relied more heavily on consent to conduct traffic stop searches than APD.

The majority of APD’s traffic stop searches occurred pursuant to motorists’ purported grant of consent. Less than a third of these searches recovered any contraband.

A Written Consent to Search Policy was identified as a law enforcement best practice by President Obama’s Task Force on 21st Century Policing, a report Chief Hooper has publicly cited as an important document.

Reasons why a mandatory written consent to search policy is appropriate in Asheville: (1) APD searches black motorists pursuant to reported grants of consent at nearly twice the rate as whites. Although FY 2018 Q3 search numbers were low, in 2017, APD had the highest overall

black search rate for a city of its size or larger in the state; (2) APD's consent searches of black motorists have been *less* productive than those of white motorists; (3) Only 3 times during the present chief's tenure has a consent search during a traffic stop uncovered a weapon and led to an arrest. The type of weapons recovered is unknown. (*Note*: In situations in which police have reason to believe a driver may be armed, they are permitted to conduct a limited search of the vehicle for a weapon, even absent probable cause or consent to search. Michigan v. Long, 463 U.S. 1032 (1983)); (4) Over the last decade, APD has relied more heavily on motorists' consent to conduct its searches than any department in NC its size or greater; and (5) Because of differences in how whites and blacks are socialized to deal with the police, black drivers experience greater pressure to accede to requests to search. A written consent to search policy is more racially equitable.

Benefits of a mandatory written consent to search policy: (1) Racial Equity – The policy helps normalize the experience among drivers and provides a safeguard against discriminatory search practices; (2) Reducing Searches of Innocent Drivers – Comparisons between pre- and post- written consent data in Durham and Fayetteville reveal a significant reduction in the number of innocent drivers—particularly black drivers—subjected to warrantless roadside searches; (3) Safeguard Against Coercion – By advising people in writing of their right to refuse and requiring written authorization, the policy helps ensure that people understand their rights and assures them that those rights will be respected; (4) Improved Community-Police Relations – The written consent policies in Durham and Fayetteville have been cited as turning points in community-police relations, which have improved markedly in each city in recent years; and (5) It Does Not Limit APD's Ability to Make Seizures – Written consent can have the effect of focusing police efforts. Durham police made 84 more seizures in traffic stops the year *after* written consent went into effect than they did the year before.

Councilman Kapoor said that in terms of looking at the greatest factor, and Mr. Mance's argument is that race is the greatest factor in terms of the search numbers, this is an issue of race in terms of the stops. What Councilman Kapoor has heard is that these stops are occurring in certain parts of the City where crime is occurring. So, where crime is occurring, you generally have officers there and if the officers are there they are more likely than not to stop someone in that area. He asked if there is a geographical component in Mr. Mance's analysis and whether any regression analysis has been done to try to isolate those data points.

Mr. Mance said that he has been careful not to make claims about what are in officers heads. He tried to focus on outcomes and regardless of why they are occurring, his position is that it should concern Council that African American drivers are stopped roughly twice, or possibly greater than twice, the rate than we would expect. There is a multitude of factors why we have disparities in searches. He questioned whether or not traffic stops are a meaningful way to get at the larger crime issues. He said that he has not done a regression analysis for Asheville. He said we have done multiple regression analyses for all of the different categories for which the state collects data and race is consistently the biggest predictor of whether or not a search will occur.

In response to Councilman Young, Mr. Mance said there have been a number of municipalities that have passed written consent in the recent several years - Fayetteville in 2013, Durham in 2014, Chapel Hill in 2015, and Raleigh has now made written consent mandatory for vehicle and home searches. In terms of alternatives to written consent, there is written consent that you can only do if you articulate certain factors that make that individual suspicious and worth searching, and then some states don't allow consent searches at all or mandate them. His perspective is that consent searches are not a good use of anyone's time.

Police Chief Tammy Hooper Report

Police Chief Tammy Hooper reviewed the APD's commitment to (1) treat all members of the community with dignity and respect; (2) partner with our community to solve problems through evidence based practices; and (3) be accountable for policing our community in a Constitutional manner. The APD understands that the way they operate in these areas has a direct impact on public trust. Quarterly Traffic Stop Reports dig deeper into data and research than others in the state to better understand how they are policing and where they can improve their practices. These reports are posted on the City's website and available to any member of the public.

Our traffic stop report does talk about why we don't consider racial demographics of a community to be a reliable benchmark for traffic stop numbers. That is not APD's claim, but a claim found in a 2015 study by Dr. Deborah Lamm Weisel of the North Carolina Central University of over two decades of research on traffic stops and race. Her report titled "Racial and Ethnic Disparity in Traffic Stops in North Carolina, 2000-2011: Examining the Evidence" states the following: "These studies and others provided evidence that 'residential census populations [were] **the least reliable of the benchmarks** available' 2008).⁵ Consequently, the U.S. Department of Justice has stated that 'social scientists now disregard comparisons to the census for assessing racial bias' in traffic stops.⁶ Gold (2003) stated that 'no reputable researcher uses general population as a yardstick' as research on biased policing has consistently found such measures 'valueless' (p. 396). And Fridell (2004) concluded that census benchmarking 'is of no scientific value for purposes of trying to measure racial bias in policing and in fact, **has very often resulted in misleading and unsupported findings**' (v.iii)." p.7

In traffic stops, potential variables include, but are not limited to: (1) demographics of drivers on the roadways, including visitors and also the 44,000 commuters that come in and out of the City every day; and (2) officers patrolling more in areas of high crime and violence, thus creating higher levels of stops, ticketing, and/or arrests for populations in those areas.

Using a charter, Police Chief Hooper showed Asheville's crime. In 2018 crime in Asheville is extremely high. We have an issue with guns and violence in our community. Does are the things where officers are expected to address when they have discretionary time to do so. Crime prevention patrols, as well as traffic enforcement, also happen during discretionary time for patrol officers. We also have increasing workload demand. Our calls for service in 2017 were 163,000, up from 156,000 in 2016. Officers have less time for discretionary activities. The number or actual traffic stops in Asheville are much lower than other jurisdictions.

Police Chief Hooper used a chart to show the top 5 violent crime locations, along with their residential demographics, traffic stops, violent Part 1 crimes, and directed police efforts.

Regarding APD regulatory traffic stops, Fayetteville, Chapel Hill, Durham and Greensboro do not prohibit regulatory stops. In 2017, APD officers were directed to issue warnings for minor regulatory and equipment violations whenever feasible, particularly if it's the first time a vehicle is stopped for this reason. The purpose of this is to minimize the financial impact on people who already struggle financially. In 2016, regulatory and defective equipment stops combined accounted for 27.9% of traffic stops - White drivers accounted for 18.5% and African American drivers accounted for 9.1%. She then used two charts which one showed the percentage of warnings as enforcement for equipment and registration; and the other was the percentage of warnings as enforcement action total for all stop reasons.

All consent searches, including the obtaining of consent, must be documented using

body worn cameras to ensure that consent is given voluntarily. She noted that Fayetteville is no longer requiring written consent (she believed as of the beginning of 2018). They now have body cameras and the Chief doesn't believe they need to do written consent. Our purpose of using body camera footage is because you can look at the video and determine whether or not consent was given in a free and voluntary manner and whether the officer did their job in terms of advising people. We also have included additional data fields on our Traffic Stop Report to determine the reasons why they are asking for consent. Consent searches as a percentage of overall searches continues to decline. From 2010-2012, the number of consent searches equaled 59% of all searches. From 2013-2016, the number of consent searches equate to 39% of all searches. In 2017, the number of consent searches equate to 31% of all searches. And, year to date 2018, the number of consent searches equates to 24% of all searches.

She then used a chart of ACS Census Data from 2012-2016 for Asheville, Chapel Hill, Fayetteville, Greensboro and Durham.

Using a chart, she showed from open data policing for traffic stops (percentage by race/ethnic composition) for Asheville, Chapel Hill, Fayetteville, Greensboro and Durham, and chart for those same cities with a search data by race/ethnic composition.

Following the presentation in 2017, APD committed to, and has completed the following: (1) emphasize warnings for regulatory stops; (2) updated and enhanced the Traffic Stop Report form; (3) complete monthly Compliance audits; (4) complete a Quarterly Traffic Stop Report available to the public; and (5) continue to train officers regarding issues and concerns around traffic stop disparities and the need to collect accurate data on 100% of stops.

Additional opportunities for improvement that have been/will be implemented include (1) continue to improve and enhance quarterly reports with citizen input; (2) requirement for supervisory audits of body worn camera video for all consent, noting that any person who is in a body camera video can come and watch it and bring a representative; and (3) continue work with the community on Open Data Initiative.

Councilman Haynes asked when the audits of the body worn camera videos are viewed, how many consent searches have been found to not have been done properly. Police Chief Hooper said that no instances have been found, but those have been random audits. However, we will now look at all videos and have those statistics included in their next quarterly report.

In response to Councilman Young, Police Chief Hooper said that the APD has not adopted a written consent policy because she doesn't see there is a reason to do that. We have body camera video that is a 100% record of what happens during a consent stop. What people are told and what they say. There is no better record than that.

In response to Councilman Young, Police Chief Hooper said that the number of consent searches so far in 2018 is 22 - 11 for white drivers and 11 for African American drivers.

Mayor Manheimer asked if people are informed that they have the right to refuse a requested search. Police Chief Hooper did not know if every person is being told that (not a lawful requirement) but she looks at that as a training issue. It would be preferred that officers advise people that they don't have to give consent.

Mayor Manheimer, along with Councilman Haynes, felt it would be beneficial if the verbal consent included some disclosure to the person that they have the right to refuse.

Councilwoman Mayfield asked if Police Chief Hooper would have any problem in

implementing a departmental policy that when an officer is seeking verbal consent to search their vehicle that they disclose that they have the right to refuse. Police Chief Hooper said that as a training issue she will absolutely encourage officers to do that, but it is not a lawful requirement and putting that in a policy might be something that would potentially be an issue in a court session if the officer did not comply with it.

Councilman Haynes felt it will be very clear if someone has given consent if the consent is written.

Councilwoman Smith said that we need to fill in the gap of mistrust between the community and the police. She didn't understand what would be lost if we have mandatory written consent.

Mayor Manheimer has done a lot of research on consent searches and looked at different ideas other communities have adopted. In Fayetteville, the basis for consent search could not be that someone had a prior criminal record, someone was present in a high crime area, or that someone was acting suspicious. Asheville has two of them but not someone being present in a high crime area. When she asked Police Chief Hooper if she would consider the Fayetteville model that removes some of that criteria for consent search, she replied yes.

Councilwoman Mayfield asked for a comparison of the number of searches this year compared to the other North Carolina cities that have written consent.

When Councilwoman Mayfield asked that we find in consent searches, Police Chief Hooper said several weapons but mostly drugs - methamphetamine, crack cocaine, and some sort of white powder. That information is not included in our reports, but that is data she will start accumulating.

Councilwoman Mayfield noted that there are different ways to look at data. She would love for us to find a way to get a common understanding of the facts. She is in total support of addressing the community's concerns; however, there are too many different views.

Mayor Manheimer said that in Fayetteville they have prioritized stops that support public safety and de-prioritize low level equipment violations. Police Chief Hooper said that we do not emphasize regulatory stops. As far as defective equipment, sometimes that is a traffic safety issue.

Councilman Haynes felt that a written consent policy should be implemented. He then moved to instruct the City Manager to work with the Police Chief to implement a written consent policy and that it apply to backpacks and personal property associated with the vehicular stop. This motion was seconded by Councilwoman Smith.

At Councilman Young's request for a friendly amendment to the motion, Councilman Hayes withdrew his motion.

Councilman Young felt that it's apparent that a mandatory written consent policy is not something that our Police Chief is willing to implement. And, the only reason he has heard that she is not willing to do that is because there could be a possibility of when the officer gets in court that they may have violated their own APD policy.

Councilman Young said that Council can't tell the Police Chief or the Police Department what to do; however, they can tell the City Attorney, City Clerk and City Manager what to do. With that, he moved to direct the City Manager to implement a written consent policy for vehicular searches and searches of the person or personal property associated with the person. This

motion was seconded by Councilman Haynes.

Councilman Young moved to direct the City Manager to implement a policy that the Asheville Police Department not base a consent search on vehicular stops on a person having a criminal record or suspicious movement or behavior. This motion was seconded by Councilwoman Smith.

Councilman Young moved to direct the City Manager to de-prioritize low level regulatory stops. This motion was seconded by Councilwoman Smith.

Councilman Kapoor said that last week he said that Council was surprised about the vote requested on the legislative agenda. That was not on the agenda and Council agreed it was the right idea to go to a Council committee meeting so we can review it and bring it back to Council. Some of Council supported that because they agreed that Council was receiving information brought up and people didn't have the opportunity to discuss it. He felt the same thing is happening now. These are significant policies and he understand they have been discussed by the community quite a bit, but this is the first time as a Council member that he is discussing them. He felt these are important and they should go back to the Public Safety Committee to be studied, along with all of Council members having the opportunity to study them. There are questions about the data and he would feel more comfortable sitting down with the data and trying to understand it. He did not want to close the door on what is being proposed now, but he didn't feel we are at a point where we have discussed these issues to the degree they should be discussed. He respectfully asked Council to have this go to the Public Safety Committee.

Councilman Young said that this has already been to the Public Safety Committee, and Councilman Hayes said that this is the fourth time he has heard this presentation.

Vice-Mayor Wisler said that this item is listed on the agenda as a presentation and not for a public hearing or vote. If you don't tell people that you are going to vote on it, then we haven't given everyone the opportunity to speak if they wish. We have done four motions tonight that we didn't let the public know that Council was going to vote on them.

Councilman Young said that he hears what Council is saying, but he doesn't agree with what they are saying. But, as a Council member, everyone has a right to make a motion. If a Council member does not support the motion or believes this is not the right time, then they can vote against it.

Mayor Manheimer said that typically as a Council, and as a courtesy, we have informal discussion on whether we will move on something that has come up or move it through a committee process.

Councilman Young called the question (with no public comment).

The motion made by Councilman Young to direct the City Manager to implement a written consent policy for vehicular searches and searches of the person or personal property associated with the person, and seconded by Councilman Haynes, carried on a 5-2 vote, with Councilman Kapoor and Vice-Mayor Wisler voting "no."

The motion made by Councilman Young to direct the City Manager to implement a policy that the Asheville Police Department not base a consent search on vehicular stops on a person having a criminal record or suspicious movement or behavior, and seconded by Councilwoman Smith, carried on a 5-2 vote, with Councilman Kapoor and Vice-Mayor Wisler voting "no."

The motion made by Councilman Young to direct the City Manager to de-prioritize low level regulatory stops, and seconded by Councilwoman Smith, carried on a 5-2 vote, with Councilman Kapoor and Vice-Mayor Wisler voting “no.”

C. UPDATE ON EQUITY & TRANSPARENCY ITEMS FROM MARCH 20, 2018, WORKSESSION

Interim City Manager Cathy Ball updated Council on equity and transparency items from the Council’s March 20, 2018, worksession. She said that on March 20, 2018, Mayor Manheimer and Council held a special work session for the purpose of reaching consensus regarding direction they would give staff to explore and make changes following the Mr. Johnnie Rush and former Officer Hickman incident that took place in August 2017. The purpose of this memo is to provide an update on the status of these requests.

- The first topic discussed was a third-party review of the Asheville Police Department (APD). Specifics include implementation of any recommendations of the review, to include:
 1. All excessive use of force complaints to be reviewed criminally, immediately. **This change has been implemented.**
 2. Change administrative procedures to ensure Council notification of excessive use of force occurrences and/or complaints, and adopt a plan for notifying the DA and the SBI in all cases. **City Legal and APD are working with DA to determine appropriate process.**
 - A third-party will conduct a review around Mr. Johnnie Rush and former Officer Hickman and to give Council a set of recommendations around that incident. **21CP began their work early April and will provide a report to the City Manager’s Office upon completion. First site visit was completed May 15-17, with another one planned June 13-14.**
 - The next topic discussed was the establishment of the Human Relations Commission of Asheville (HRCA) per the Blue Ribbon Task Force recommendations, to include
 - HRCA or Police Advisory Subcommittee to review all use of force occurrences and excessive use of force complaints;
 - Enhance Equity and Inclusion Department staffing. **The process has begun with positions being developed and funding included in the FY 2019 budget.**
- Advertising for the seats on HRCA is currently underway.**
- Council instructed City Attorney Currin to explore whether a staff person from the Equity and Inclusion Department is allowed to review APD body camera footage. **Person in the Equity and Inclusion Department is not allowed to view body camera videos under NC General Statute 132-1-4A. Council is consider requesting a change in this legislation.**
 - It was the consensus of Council that the third-party review of the APD include a review of the APD policy of auditing body cam footage, along with a revisit of the 60-day retention

of body cam footage. **The review currently underway by 21CP will include this APD policy.**

- It was suggested that the City explore how it might fund an outside legal position to advocate for individuals filing complaints against law enforcement. At the time, Mayor Manheimer stated the idea is to fund an attorney, perhaps at a non-profit like Pisgah Legal Services, who could represent people who are bringing complaints against law enforcement - APD and/or Sheriff's Department. Some preliminary discussions with the Chairman of the Buncombe County Commissioners and the Mayor about the possibility of co-funding this position had taken place as of the date of the worksession. **Meetings have taken place to explore this concept. City and County Officials have meet to discuss options. The Interim City Manager will be meeting with a local non-profit along with County staff to evaluate their ability to provide this service.**
- The next topic discussed was review of City of Asheville Personnel Policies and Civil Service Board Rules to allow the city to remove employees who demonstrate terminatable conduct. **The City's Personnel Policies are being reviewed and updated. The policy changes have been reviewed with the Civil Service Board. Staff is finalizing these changes with an implementation date of July 1, 2019. Additionally, where applicable legislative changes are underway for consideration.**
- The next topic discussed was to create an aggressive plan to hire minority officers. As Mayor Manheimer stated during the worksession, work is well underway to do this. **The Equity and Inclusion Office, Human Resources Department and others are continuing to work together on this effort. The Equity and Inclusion Plan includes specific action items.**
- The next topic discussed was to encourage and educate people about the process of bringing complaints against law enforcement along coupled with the use of an unbiased policing hotline. **The forms and other contact information are available on the APD internet homepage currently. CAPE and APD will explore methods to further educate on hotline and other ways to report.**
- The final topic discussed was to support legislative changes, to include (1) Support for HB 165 (citizen review of police complaints); (2) Civil Service Board changes; and (3) Personnel law changes (not just for police, but any employee) to allow complainants to learn the results of their complaint. Council voted to support legislative changes to (1) support HB 165; (2) Civil Service Board changes; and (3) Personnel law changes to allow complainants to learn the results of their complaint. **These considerations are underway. A meeting with legislative delegate has taken place and language has been proposed to take these proposals to the legislature.**

IV. PUBLIC HEARINGS:

- A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON FOUNDERS DRIVE FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL EXPANSION DISTRICT/CONDITIONAL ZONE FOR THE**

DEVELOPMENT OF STUDENT HOUSING AND RELATED UNIVERSITY BUILDING(S)

ORDINANCE NO. 4669 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON FOUNDERS DRIVE FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL EXPANSION DISTRICT/CONDITIONAL ZONE FOR THE DEVELOPMENT OF STUDENT HOUSING AND RELATED UNIVERSITY BUILDING(S)

Councilman Kapoor disclosed that he sits on the UNC-Asheville Foundation Board but he does not have any financial gain regarding this issue. When City Attorney Currin asked if he could consider the information fairly and impartially without any consideration to that position, he replied yes.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located on Founders Drive from Institutional District to Institutional Expansion District/Conditional Zone for the development of student housing and related university building(s). This public hearing was advertised on May 11 and 18, 2018.

Ms. Bernstein said that the applicant is requesting review of conceptual plans for the construction of a multi-purpose building on the UNCA campus located on Founders Drive with a conditional zoning request from Institutional (INST) to Institutional Expansion (INST EXP) District. This project is considered a Level III development pursuant to Sections 7-7-8 and 7-8-41 of the UDO.

The specific project area is approximately 0.52 acres of a 5.29 acre area on the UNCA campus, zoned Institutional. The area has frontage on University Heights and Founders Drive.

This application was triggered by the request for the construction of a single building. In 2017, a Level II project for student housing was approved by the City in this same location (17-05552 PZ). Pursuant to section 7-5-9(a)(1)c. of the UDO, the review of this building and the Level II must be considered as one development since the cumulative square footage (102,750 SF) is over the Level III threshold.

The multi-purpose building is approximately 4,591 square feet, 2-stories (36 feet in height). The Level II review approved five buildings for student housing and associated parking, landscaping and open space.

The multi-use building has pedestrian access points from University Heights and interconnecting walkways throughout the area to other buildings. The district requires all sidewalks to have a minimum width of ten feet; see condition below. In the overall proposal, the vehicular access is from Founders Drive and there are approximately 73 parking spaces, both within a surface parking lot as well as along Founders Drive (approved under the Level II permit).

Landscaping is required for this project and includes building impact planting for the multi-purpose building. Parking lot landscaping, retaining wall screening and building impact landscaping for the student housing development were approved during their review in 2017. Open space is required and is satisfied with the active and passive recreational and open spaces throughout the campus.

Cross access throughout buildings and into the campus is integrated into this application, including bike lanes on Founders Drive. Sidewalks provide access down to the Glenn's Creek Greenway. Sidewalk throughout the site vary from five to ten feet in width (*see condition*).

There are standards relating to fenestration, entrances and building appearance in the Institutional Expansion District; the multi-purpose building complies. These standards were not applicable during the Level II review of the student housing buildings; however they do comply with one exception on ground level fenestration (*see condition*).

The larger site is zoned Institutional and part of the larger UNCA campus. Due to the cumulative size of the development(s), the proposal is evaluated with the Institutional Expansion zoning district. The use is appropriate and the design compliments the campus.

Conditions - The following conditions related to the Institutional Expansion district accompany this application:

1. Sidewalks and walkways are required to have a minimum width of ten feet; there are multiple walkway connectors throughout the overall project site, ranging in width between five and ten feet.
2. Buildings are required to have a minimum of 40% fenestration on the primary ground-level face; Building C was reviewed during the Level II process when this standard was not applicable and has a ground level fenestration of 38%.

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on March 15, 2018. The project was approved with conditions by the Technical Review Committee on April 16, 2018. The Planning & Zoning Commission unanimously voted to support this proposal and conditions at their meeting on May 2, 2018. No communication from the public has been received by staff as of the writing of this report.

Level II permit for associated student housing was approved in 2017.

The student housing and multi-purpose building are uses that are appropriate within the zoning district and within the university campus. The design includes multi-modal design elements including abundant pedestrian pathways between buildings and linking to the greater campus and nearby greenway as well as bike lanes along Founders Drive. The use and site layout is well integrated into the existing campus.

This project is aligned with elements in the Comprehensive Plan (*2025 Plan*) that seek to support the University as a part of the community. Goal VIII in the Land Use & Transportation section specifies that the City should enhance its role as the region's education center. Additional goals throughout the *Plan* highlight the need for plan development to include sidewalks, bicycle facilities and greenway connectivity, all of which are supported with this proposal.

The proposal aligns with the 2036 Council vision in the following areas: (1) *Transportation and Accessibility* (multi-modal access opportunities); (2) *A Well-Planned and Livable Community* (multimodal elements and access to greenway and transit); and (3) *A Diverse Community* - UNCA is a public, liberal arts university providing educational opportunities to people of varied backgrounds, races, orientations and abilities, within the greater community.

Considerations:

- Proposal provides for the growth of the university within the current campus area and integrates into the larger area through a variety of multi-modal elements.
- Almost all of the overall project was approved through the Level II review process and complies with the underlying zoning.

- The conditions noted are minor, related to the previously approved application, and do not detract from the ability of the overall project to meet the intent of the expansion district.

Based on policies in the *2025 Plan* and City Council's 2036 Vision Considerations as well as incorporation of standards from the Institutional Expansion District, staff recommends approval of the conditional zoning for the project at UNCA inclusive of the conditions as noted in the B.1 conditions.

The Planning & Zoning Commission reviewed this request at their meeting on May 22, 2018, and voted 6-0 in support of the project .

Mayor Manheimer opened the public hearing at 7:27 p.m., and when no one spoke, she closed the public hearing at 7:27 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 recommend approval of the conditional zoning request for the University of NC Asheville for the project area on Founders Drive and University Heights from Institutional to Institutional Expansion District Conditional Zone (INST EXP CZ), 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 proposal supports the strategies found in the City's comprehensive plan on supporting the region's educational uses; (2) The project provides open space, landscaping and a variety of pedestrian and bike connections to the campus and larger community; and (3) The overall proposal meets the goals and intent of institutional expansion zoning. This motion was seconded by Councilman Young and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 39 BRADLEY BRANCH ROAD FROM HIGHWAY BUSINESS DISTRICT TO RESIDENTIAL EXPANSION DISTRICT/CONDITIONAL ZONE FOR THE DEVELOPMENT OF A MULTI-FAMILY RESIDENTIAL COMPLEX

ORDINANCE NO. 4670 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 39 BRADLEY BRANCH ROAD FROM HIGHWAY BUSINESS DISTRICT TO RESIDENTIAL EXPANSION DISTRICT/CONDITIONAL ZONE FOR THE DEVELOPMENT OF A MULTI-FAMILY RESIDENTIAL COMPLEX

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 39 Bradley Branch Road from Highway Business District to Residential Expansion District/Conditional Zone for the development of a multi-family residential complex. This public hearing was advertised on May 11 and 18, 2018.

Ms. Bernstein said that the applicant is requesting review of conceptual plans for the construction of a new multi-family residential development located at 39 Bradley Branch Road with a conditional zoning request from Highway Business (HB) to Residential Expansion District Conditional Zone (RES EXP CZ). This project is considered under conditional zoning pursuant to Sections 7-7-8 and 7-8-43 of the UDO.

The project site consists of a single parcel, 11.69 acres in size, with frontage on Bradley

Branch Road. The site is currently zoned Highway Business and is vacant. Adjacent parcels are zoned HB to the west (vacant); Commercial Industrial (CI) to the north (vacant), east (commercial/industrial) and to the south is both CI and HB along Airport Road (variety of commercial uses).

The applicant is proposing to construct a multi-family residential development with eight buildings containing 248 units (27 studio, 90 1-bedroom, 110 2-bedroom, 28 3-bedroom) as well as a one-story clubhouse building. The residential structures are all three-stories or $\frac{3}{4}$ split configurations with a maximum building height indicated as 57 feet. Ten percent of the units are proposed to be dedicated as affordable as a part of the City's Land Use Incentive Grant program (25 units for 15 years - *see condition related to density*).

Vehicular access to the project is proposed via two separate driveways. The first is a 24 foot wide ingress and egress from Bradley Branch Road and the second is from an existing 50 foot private drive from Airport Road. The plans include a total of 414 surface parking spaces distributed around the site.

The project includes sidewalks connecting the site to both Bradley Branch and Airport Road as well as pedestrian pathways connecting the buildings within the development (*see condition related to sidewalks*). The proposed path to Airport Road includes a shared bicycle facility to meet multimodal standards in the district and the applicant has agreed to fund a transit shelter.

Landscaping is required for this project and includes parking lot and building impact landscaping, tree save area, dumpster screening and retaining wall screening. Retaining walls appear to be to a maximum height of 50 feet and will comply with screening requirements.

According to district standards, 2.9 acres of dedicated open space is needed for this project with at least one common park-like area with a minimum of 0.58 acres. The applicant is proposing open space areas but not all are technically compliant (*see condition related to open space*).

The intent of the district is to provide a wide variety of housing types within a single development; the project proposes eight similar apartment buildings in one general style that are not fully meeting this recommendation.

Due to the number of units proposed, the project is evaluated against the Residential Expansion District. There are a number of standards that are not proposed to be fully met by this proposal and would require Council-supported conditions.

Conditions - The following conditions related to the Residential Expansion district accompany this application:

1. Density - the maximum density for the district is 20 units per acre by-right and 50 units per acre with 20% dedicated affordable units. The density proposed exceeds the by-right maximum at 21.2 units per acre with only 10% affordable included.
2. Sidewalks - 10 feet minimum width for multi-family developments; plans show walkways approximately 5 feet wide within the site and out to Bradley Branch Road.
3. Access and mobility standards
 - a. Sidewalk and bike lane to development from Airport Road is proposed across a property owned by others. If agreement from the other property owner cannot be obtained, the proposal would not be able to comply with these standards.
 - b. Transit shelter - The applicant has agreed to fund a transit shelter.

4. Open space - 500 SF per unit would be required which is 2.85 acres and at least one common open space with a minimum area totaling 100 SF per residential unit with a park or plaza-type features must be provided. The applicant proposes to technically meet the area required per square footage but much of the dedicated open space is within areas of steep grade that will be disturbed (not compliant by code) and the common space is broken up between two locations rather than a single plaza/park.
5. Design and operational standards - "a wide range of housing types within the development" is the intent of the district; the buildings are all similar in size, mass and look.

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on January 31, 2018. The project was approved with conditions by the Technical Review Committee on April 16, 2018. The Planning & Zoning Commission recommended approval of this project with a 5-1 vote at their meeting on May 2, 2018.

Staff heard from several surrounding property owners concerned about traffic impact from the number of residential units, especially onto Bradley Branch Road. There were also concerns expressed regarding the brownfields remediation process as this site was an unregulated landfill for many years. Those property owners spoke about the possible impacts to their properties once grading and land disturbance begins. They also has questions regarding stormwater and runoff, both in general as the grade of the adjacent properties is well below the front of this site but even more so, the concerns about runoff from the contaminated site. The applicant noted at the Planning & Zoning Commission meeting that they have applied to be included in the state's brownfields program but do not have any details about the remediation plan at this early time.

In 2017, there was a conditional zoning at 390 Airport Road approved for a lodging use (17-08807 PZ) and a Level II project approved for a self-storage use on Glenn Bridge Road (17-04524 PZ). In 2016, there was a conditional zoning for retail use at 352 Airport Road (16-10138 PZ) and a voluntary annexation and zoning to Highway Business at 421 Airport Road.

The project as proposed should be generally compatible with the surrounding area. The Airport Road commercial corridor provides easy access to shops, restaurants and places of employment that can all be reached by sidewalk and transit (*making the connection to Airport Road a key component of this project*). While the immediately surrounding zoning is all HB and CI (with light industrial uses on Loop Road), just past the corridor to both the north and south is a mix of apartment, townhome and single-family development all within Buncombe County jurisdiction. Along the corridor, while CI zoning restricts residential development, Highway Business does allow for high-density residential uses.

Several elements of this proposal are directly aligned with the *Asheville City Development Plan 2025* including "higher-density residential infill development"; density above the minimum necessary to improve and enhance transit; development on brownfields sites and the proposed inclusion of dedicated affordable housing.

Greater compliance with the Residential Expansion District standards (open space and mix of building types) would improve alignment with the City's goals and elements of the *Plan* regarding environmentally-thoughtful design preserving open areas and minimizing impervious surfaces and improving the character of the residential development.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project is located near stores, services, and transit (although greater compliance with open space and design standards within the development itself

is desired); (2) *Quality Affordable Housing* - The development will provide at least 25 affordable units; and (3) *Transportation and Accessibility* - The developer is working to provide sidewalk and bike access to Airport Road where there is new sidewalk along the corridor and transit (with an offer to fund a transit shelter as well).

Considerations:

- The project will provide higher density infill residential development in an ideal location off of a commercial corridor and includes 10 percent affordable housing units.
- The development cleans up a brownfield site (unregulated landfill).
- The applicant agrees to fund a transit shelter near the site.
- Greater affordability, a mix of building types, wider sidewalks and open space are all standards that are not met.

Based on policies in the *2025 Plan* and City Council's 2036 Vision Considerations as well as incorporation of standards from the Residential Expansion District, staff recommends approval of the conditional zoning for the project at 39 Bradley Branch Road inclusive of the conditions as noted in the B.1 attachment.

The Planning & Zoning Commission reviewed this request at their meeting on May 22, 2018, and voted 5-1 in support of the project.

Mr. Chris Day, representing Civil Design Concepts, explained the project benefits, noting that this is a commercial corridor and there are lots of jobs in the area. He briefly explained the reasons for the conditions and noted that after their traffic mitigation, it will take Bradley Branch Road up a level of service. He said the development does propose a bike/pedestrian path and they are committed to a transit stop.

Mr. Robert W. Oast Jr., representing the applicant, said that the project complies with the Comprehensive Plan and complies with Council's vision. He urged Council to support the conditional zoning request.

In response to Councilman Kapoor, Ms. Bernstein said that even though they don't know what the stormwater mitigation measures will be regarding stormwater control for the people that live behind the project, but there will be no runoff after the mitigation measures are implemented. Those requirements are strictly monitored by our stormwater/erosion control staff.

In response to Vice-Mayor Wisler, Mr. Hobie Orton, the developer of the project, said that the City's land use incentive grant is very much a part of the project. The brownfields clean-up is very expensive and while we don't know what the state's going to require, we do know that it was an unregulated landfill from the 1950's. The debris is somewhere between 30 and 90 feet below the surface elevation. There is a huge potential liability for that clean-up and the mitigation of it. Without the grant, they might not be here requesting the conditional zoning, and they appreciated the HCD Committee's support.

Mayor Manheimer opened the public hearing at 7:49 p.m. and when no one spoke, she closed the public hearing 7:49 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 for Sweetgrass Apartments at 39 Bradley Branch Road from Highway Business to Residential Expansion District Conditional Zone (RES EXP CZ), 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 proposal supports the strategies found in the City's comprehensive plan on infill development, affordable housing and transit-supportive density; (2) The development is located with close access to commercial uses, transit and employment opportunities; and (3) The project will be part of the brownfields redevelopment program. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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Closed Session

At 7:50 p.m., Councilwoman Smith moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:41 p.m., Councilwoman Mayfield to come out of closed session. This motion was seconded by Councilman Haynes and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE MODIFICATION OF A PREVIOUSLY APPROVED CONDITIONAL ZONING FOR THE PRINCESS ANNE HOTEL LOCATED AT 301 E. CHESTNUT STREET TO CONVERT THE EXISTING DINING ROOM TO A PUBLIC RESTAURANT

ORDINANCE NO. 4671 - ORDINANCE TO APPROVE A MODIFICATION OF A PREVIOUSLY APPROVED CONDITIONAL ZONING FOR THE PRINCESS ANNE HOTEL LOCATED AT 301 E. CHESTNUT STREET TO CONVERT THE EXISTING DINING ROOM TO A PUBLIC RESTAURANT

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to consider the modification of a previously approved conditional zoning for the Princess Anne Hotel located at 301 E. Chestnut Street to convert the existing dining room to a public restaurant. This public hearing was advertised on May 11 and 18, 2018.

T Ms. Tuch said that the applicant is requesting a modification to Ordinance No. 3388 to allow the Princess Anne Hotel to increase the number of seats in of the dining room and to convert the dining room to a restaurant that would be open to the public.

The project consists of a single .59 acre corner-lot with frontage on E. Chestnut St. and Furman Ave. in north Asheville off Charlotte St. north. The property currently supports a small, 3-story, 16-room historic inn, originally constructed in 1922. The property also supports a small surface parking lot on the south side of the building. The property is zoned Institutional - Conditional Zone (INST-CZ) and is owned by Harry & Colleen Eden, PIN: 9649-63-6041.

The applicant is seeking to modify the conditions of the previously approved project (Ordinance No. 3388) approved September 12, 2006 to allow a 32-seat dining room be expanded

to 44 seats, and to use the dining room to support a full-service restaurant that would be open to the general public 7 days a week. No building and minimal landscape improvements are proposed.

The Inn is easily accessed from both Furman Ave. and Chestnut St. via existing road and sidewalk infrastructure. The surface parking lot is accessed from Furman Ave. An existing 6-foot back-of-curb sidewalk runs the length of both Furman Ave. and E. Chestnut St.

There is an existing 15-space surface parking lot located on the south side of the Inn property. On-street parking is available on both Furman Ave. and E. Chestnut St. and is heavily used by the neighborhood. No additional parking is proposed.

The 2006 plan included street tree, parking lot and building impact landscaping. No changes to the existing landscape are proposed with the exception of the removal of a 48" sycamore (5 tree credits), to be replaced with new trees.

This conditional zoning was approved by the Technical Review Committee (TRC) on March 2, 2018 and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning permits being issued.

The Planning & Zoning Commission reviewed this request at their meeting on May 11, 2018, and voted 7-0 in support of the project. Two citizens spoke providing general support for a neighborhood based restaurant/business but expressed concern over the lack of off-street parking provided to accommodate the new restaurant activity, particularly given the amount of multi-family and other business uses in the area that utilize the majority of on-street parking. One email from a nearby property owner expressing the same position was also received.

The property was successfully rezoned in September of 2006 (Ord. No. 3338) from RM-16 (Residential Multi-family, high density) to INST-CZ (Institutional-Conditional Zone). The purpose of the rezoning was to allow for the re-establishment of a small hotel/inn on the property. The property had historically been developed as an inn in the early 20's but before 2006 had most recently been used as multi-family residential units. The purpose of this amendment is to establish a restaurant on the property.

Conditions - A condition from the original order limited the uses on the property to:

- A 16 room hotel
- Three apartments for staff
- 32 seat dining room to be used primarily for hotel guests but being open to the public Friday & Saturday evenings and for Sunday Brunch.

The only deviation from the original Ordinance is to: 1) expand the number of seats in the dining room from 32 to 44, and 2) open the dining room to become a full-service restaurant open seven days a week for breakfast, lunch and dinner.

The conditional zoning for 301 E. Chestnut was approved on September 12, 2006. Another conditional zoning was approved at 37 Arlington that allowed for a small residentially zoned parcel to be used for off-street parking for a salon (zoned Office) in February 2006; and a recent conditional zoning for the Patton-Parker house was approved in March 2017. While not recent, the subject property is also less than 500-feet from the edge of the Charlotte St. overlay zoning established in 1999.

The subject property is bordered by RS-8 zoning to the east and RM-16 zoning on the other three sides. The purpose of conditional zoning is to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional

zoning affords a degree of certainty in land use decisions not possible when rezoning to a general use district.

Across E. Chestnut to the north is the Asheville Arms Apartments, a large multi-family apartment development constructed circa. 1967. Smaller multi-family structures and single family surround the property on all other sides. The conditions proposed for the project are intended to help mitigate any land use conflicts or other concerns related to the structure and/or activities on the property.

The *Asheville City Development Plan 2025* highlights the importance of smart growth and more specifically identifies the need for strategies that support historic preservation and infill development/adaptive reuse, while also recognizing the importance of tourism and the service industry in Asheville's economy. However, the plan also states the importance of protecting, preserving and enhancing existing neighborhoods and that this should be as much a part of the development pattern as promoting new construction, or expanding existing businesses.

This proposal most closely aligns with the 2036 Council vision goal of A well-planned and livable community by allowing for the addition of a new service (restaurant) in a manner that is in keeping with the harmony and character of the existing residential neighborhood.

Considerations:

- No building alteration or expansion will be required. The new use will be contained within the existing historic structure.
- The new restaurant use will require a minimum of 15-20 spaces that cannot be provided on-site.
- On-street parking is available but heavily used.

The Planning & Zoning Commission recommended approval by a 6-0 vote while encouraging the applicant to continue to explore options for new or shared parking.

In response to Councilwoman Smith on if the neighborhood was surveyed regarding on-street parking, Ms. Tuch said that the applicant has held their neighborhood meeting. She noted that two individuals spoke at the Planning & Zoning Commission meeting in support of the project but were concerned about the lack of on-street parking. In addition, she received one e-mail regarding the parking.

Ms. Samantha Fan, applicant, said that they have been looking at other options for new or shared parking and they are looking at encouraging their guests to travel with Uber, with the restaurant picking up that expense.

Mayor Manheimer opened the public hearing at 8:51 p.m., and when no one spoke, she closed the public hearing at 8:51 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 Ordinance No. 3388 to allow a 44-seat restaurant to be added to the property, 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) Protects and preserves the historic structure through adaptive reuse; (2) Supports the service and tourism industries; and (3) Provides a walkable neighborhood service and amenity. This motion was seconded by Councilwoman Mayfield and carried unanimously.

D. PUBLIC HEARING TO CONSIDER THE FISCAL YEAR 2018-19 OPERATING BUDGET

Chief Financial Officer Barbara Whitehorn said that this is the public hearing to receive public input on the proposed annual operating budget prior to adoption of the annual budget ordinance. This public hearing was advertised on May 11, 2018.

The 2018-19 Proposed Annual Operating Budget was presented to City Council on May 15, 2018. The Proposed Budget presented on that date was balanced with an ad valorem tax rate of \$0.4289 per \$100 of assessed value, which is unchanged from the current rate. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. The Proposed Budget is also available for viewing on the City's website (www.ashevilleenc.gov).

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 11, 2018. Adoption of the Fiscal Year 2018-19 Budget Ordinance is scheduled for June 19, 2018, at the regularly scheduled City Council meeting. The Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the ad valorem tax rate, which cannot be changed once the Budget is adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2018-19 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

At the request of Councilwoman Smith, it was the consensus of Council to direct the City Manager to see if an agreement can be negotiated with Buncombe County to reimburse the City for the 7 officers that we staff at the Family Justice Center. The City has a similar arrangement with the schools for our school resources officers.

Councilman Haynes asked for information related to the lease agreement for McCormick Field and whether or not the lease has expired.

Mayor Manheimer opened the public hearing at 8:56 p.m.

Alison Gooding, Rachael Sparks, Stephen Pinsky and Amanda Bryant all spoke about the importance of the Asheville Museum of Science to the community and asked to be included in Council's budget.

When Mayor Manheimer asked if Buncombe County is providing funding for the Asheville Museum of Science, Ms. Gooding replied the County contributes approximately \$15,000 for programming but they are in discussions with them for more funding.

Councilman Young said that he will meet with Ms. Gooding with the Asheville Museum of Science to learn more about the interaction with other groups and organizations.

Scott Mullins, President of the Asheville Firefighters Association, said that the 2.5% pay increase for City employees do not reflect the City's economic growth rate and requested it be raised to 3%. Employees are a tremendous resource and we need to retain our employees. In addition he asked Council to consider increasing the 457 match for firefighters from 4% to 6%, noting that ultimately the agreement was to reach 6% back in 2007.

Regarding the match for firefighters, Councilwoman Mayfield recalled the Finance Committee discussed this last fiscal year asked that staff provide the minutes of that meeting.

Ashley Cooper spoke about accountability in the budget and the need for participatory budgeting.

Elizabeth Schell, downtown business owner, spoke in opposition to any increase to the Asheville Police Department's budget.

Rondell Lance, President of the Fraternal Order of Police, and Diana Loveland, spoke in support of the Asheville Police Department's funding, and how several initiatives that have been put in place in order to build trust with the community.

Patrick Conant said that when the City fleshes out development performance metrics in the budget, the community should be at the table so departments will align with the community's priorities.

Luke Bernbach felt that if the City wants to focus on reducing crime, we need to invest in programs like the City of Asheville's Youth Leadership Academy.

Rev. Amy Cantrell was not opposed to raises for the police officers, but was opposed to the increase in officers at the Asheville Police Department.

Jonathan Wainscott said that the City has let the lease with the Asheville Tourists lapse since December 1, 2012, and felt we do not have proper management of the City's assets.

At 9:47 p.m., Mayor Manheimer closed the public hearing.

Councilman Haynes did not support a decrease in pay of police officers, as he felt our police officers should be paid more than what they get - they are hard working and it's a dangerous job. He was against the additional officers that were proposed last year and again this year. Last year during the budget process he was opposed to the \$1.2 Million increase dedicated to the creation of a downtown police unit. Council was told that an additional unit was needed to deal with the drastic increase in crime in the Central Business District, yet in the poll of downtown residents and business owners, an increased police presence didn't make their list of needs. At the same time, Council was shown data revealing an alarming disparity between blacks and whites in traffic stops and searches. From the homeless community, we were hearing constant complaints about the harassment and over-policing, arresting and issuing citations for low level violations. He still does not support the creation of the downtown unit but instead would like to see an end to broken policies that focus law enforcement to work on low level offenses. If we direct employee's efforts away from these low level offenses, it would free up countless man hours, allowing officers to dedicate their time and efforts towards higher level crimes. Eliminating this increase would allow us to begin fare-free transit or some other use that addresses the root problems that lead to crime. He could not support this budget as long as the increase remains.

Mayor Manheimer said that the ordinance to consider adoption of the fiscal Year 2018-19 operating budget will be considered on June 12, 2018.

E. PUBLIC HEARING TO PURSUE DEBT FINANCING FOR CAPITAL PROJECTS WITH A DRAW PROGRAM THAT INCLUDES THE ISSUANCE OF INTERIM LIMITED OBLIGATION BONDS

RESOLUTION NO. 18-121 - RESOLUTION DIRECTING THE INTERIM CITY MANAGER AND CHIEF FINANCIAL OFFICER TO COMPLETE THE LIMITED

OBLIGATION BONDS FINANCING WITH BANK OF AMERICA FOR THE DRAW PROGRAM INTERIM FINANCING

Chief Financial Officer Barbara Whitehorn said that this is the consideration of a resolution directing the Interim City Manager and Chief Financial Officer to pursue debt financing for capital projects with a draw program that includes the issuance of interim, variable rate Limited Obligation Bonds (LOBs) in an amount not to exceed \$48,000,000. The interim LOBs will provide construction financing for projects which, upon completion, will be permanently financed through longer-term, fixed rate LOBs and Special Obligation Bonds (SOBs).

The City has reimbursement resolutions for Council approved capital projects authorized as part of the Fiscal Year (FY) 2018 and FY 2019 Budgets. This LOB draw program will reimburse the City for costs incurred to date, and over the next 24 months, for those projects and allow the City to complete many of the projects.

As a next step in the process, staff is seeking City Council's approval to complete the LOB financing with Bank of America, as the purchaser of the LOBs, which provided the lowest cost financing for the draw program interim financing.

Projects include (1) New Leicester Highway Sidewalk; (2) River Arts District Redevelopment; (3) Neighborhood Sidewalk Program; (4) Site Preparation - Clingman/Hilliard; and (5) French Broad River West Greenway Match.

The resolution also authorizes the Interim City Manager and Chief Financial Officer to proceed with the LOB financing and execute and deliver the necessary documents to complete the financing.

Pro:

- Allows the City to move forward with the Capital Improvement Program and Draw Program financing.

Con:

- None noted.

The initial draw on the LOB facility for costs incurred to date is \$20,600,000. At current variable rates associated with this facility (roughly 1.87%), the annualized interest expense on the initial draw is \$385 thousand. As further draws are made on the facility, the interest expense will increase accordingly. Funds are included in the City's FY 2018-2019 proposed debt service budget to cover these costs. They are also included in the City's multi-year capital improvements debt model.

Staff recommends that City Council approve the resolution as it is proposed.

Mayor Manheimer opened the public hearing at 9:53, and when no one spoke, she closed the public hearing at 9:53 p.m.

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

Vice-Mayor Wisler moved for the adoption of Resolution No. 18-121. This motion was seconded by Councilman Kapoor and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONSIDERATION OF LEGISLATION

Mayor Manheimer said that Council discussed this legislation at their May 15, 2018, meeting and it was then reviewed by the Governance Committee. To recap, this is three pieces of legislation (1) request the legislature to enact a local bill to have a Citizen Review Committee that better reflects what the community and Council wants - a Committee to actually have power and not just make recommendations. The legislation includes the power of the Citizen Review Committee to make binding decisions, to have subpoena power, to look at personnel records, to be able to view body-cam footage with a confidentiality agreement, etc. Coupled with the draft bill to establish of a Citizen Review Committee is the repeal of the Civil Service Board; (2) request an exception that would apply to Asheville for the body-camera state law, which does not allow city councils or a citizen review committee to review body-cam footage. This would create an exception for City Council and a Citizen Review Committee to be able to see that body-cam footage if a confidentiality agreement is signed; and (3) request for a bill that asks that the City of Asheville be allowed to disclose limited personnel information. Currently if someone files a complaint against someone in the Asheville Police Department because of the personnel laws the results of your complaint may not be disclosed to the complainant. This bill, modeled after Greensboro, would allow a complainant to actually hear the results of their complaint. She explained this is a part of the larger issues Council discussed at their March 30, 2018, worksession.

Councilman Kapoor supported two of the three legislation requests and also supported looking at the reform of the Civil Service Board including changing its scope, putting the burden on the employee, and limiting the employees that are covered; however, he could not support the elimination of the Civil Service Board and replacing it with a Citizen Review Committee that has the power to impose discipline on police officers, including suspension, demotion or termination. City Council does not have the power to impose discipline on City employees, and for good reasons. We are not professionals in these areas nor are we qualified to make those decisions. The power to discipline employees should remain with the Police Chief and City Manager through the appeal process.

Councilwoman Mayfield and Vice-Mayor Wisler also supported two of the three legislative requests. Her concern was the repeal of the Civil Service Board and establishing a Citizens Review Committee. We have started making changes to our personnel policies and we don't know that the impact will be on the Civil Service Board after those changes are made. They felt we need to explore options between repealing the Civil Service Board and establishing a Citizens Review Committee, and waiting to see the relationship of the personnel policy changes and the Civil Service Board. They suggested we not move forward with the legislative request to repeal the Civil Service Board.

Councilman Young felt we have not rushed into the legislation to repeal the Civil Service Board. His reservations have been clear about how our police interact with the community and the way the Civil Service Board handles reviews of incidents with the Police Department. It may seem like it's on the fast track, but no one has given it any attention until something large happened (Johnnie Rush incident) in the community. He has always had concerns about the Civil Service Board and how they have some type of autonomy over the Police Chief and overturn the Chief's ability to fire someone. We will be changing our policies internally to give the Police Chief more leeway to do what she needs to do but he didn't think that speaks to any volume of what the Civil Service Board can do in return to that.

Councilman Young moved for City Council to move forward legislation to allow the City of

Asheville to disclose limited personnel information regarding complaints. This motion was seconded by Vice-Mayor Wisler.

Councilman Young moved for City Council to move forward with legislation to amend the body-worn camera legislation to allow the City of Asheville to disclose law enforcement recordings to the Asheville City Council and a Citizen Review Board. This motion was seconded by Councilwoman Mayfield.

Councilman Young moved for City Council to move forward with legislation to authorize the City of Asheville to repeal the Civil Service Act and Establish a Citizen Review Board. This motion was seconded by Councilman Haynes.

Scott Mullins, President of the Asheville Firefighters Association, said that the Civil Service Board was formed in 1953 and it protects employees and the citizens of Asheville. It allows due process and they will fight hard not to repeal the Civil Service Board.

Brandon McGaha, representing Southern States Police Benevolent Association, and Rondell Lance, President of the Fraternal Order of Police, opposed the repeal of the Civil Service Board.

Diana Loveland stated that the policies on the City's website conflict and felt those should be updated. In addition she was opposed to the repeal of the Civil Service Board, along with the legislation to allow City Council to view body camera footage because a confidentiality agreement does not give the Police Department confidence that a leak will not occur.

Rev. Amy Cantrell and Matilda Bliss supported moving forward with all three legislative requests.

Patrick Conant supported a Citizens Review Committee and cautioned Council to choose the right people for the Committee.

In response to Councilman Young, City Attorney Currin said that all employees, except for Department Directors and Assistant Department Directors, have the protection of the Civil Service Board.

The motion made by Councilman Young to move forward legislation to allow the City of Asheville to disclose limited personnel information regarding complaints, and seconded by Vice-Mayor Wisler, carried unanimously.

The motion made by Councilman Young to move forward with legislation to amend the body-worn camera legislation to allow the City of Asheville to disclose law enforcement recordings to the Asheville City Council and a Citizen Review Board, and seconded by Councilwoman Mayfield, carried unanimously.

It was the consensus of Council to have the Finance & Human Resources Committee at an in-depth look at the Civil Service Board and the new personnel policies.

The motion made by Councilman Young to move forward with legislation to authorize the City of Asheville to repeal the Civil Service Act and Establish a Citizen Review Board, and seconded by Councilman Haynes, carried on a 4-3 vote, with Councilman Kapoor, Councilwoman Mayfield and Vice-Mayor Wisler voting "no."

VI. NEW BUSINESS:

A. RESOLUTION NO. 18-122 - RESOLUTION APPROVING THE 2018-19 STRATEGIC PARTNERSHIP FUND GRANTS

Community Development Program Director Heather Dillashaw said that this is the consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for the 2018-19 Strategic Partnership Fund.

The HCD Committee received applications from 21 eligible organizations for Strategic Partnership Funds for 2018-19 for a total of \$393,054. The Committee considered these applications at their meeting on March 23, 2018, and now recommends 19 applications for funding. The recommendations are:

AGENCY	AWARD
Asheville Area Arts Council	\$2,500
Asheville Art Museum Association	\$7,500
Bountiful Cities	\$10,000
Children First	\$15,000
Christine Avery Learning Center	\$30,000
Council on Aging	\$12,500
Green Opportunities	\$15,000
Just Economics	\$5,000
My Daddy Taught Me That	\$20,000
OnTrack Financial	\$7,500
One Youth at a Time	\$7,500
Pisgah Legal Services	\$12,500
Project Lighten Up	\$4,500
Project Peace - New Mt. Olive Church	\$15,000
Read to Succeed	\$12,000
The SPARC Foundation	\$10,000
Youth Transformed for Life (YTL)	\$25,000
YWCA - Swim Equity	\$15,900

YWCA - Getting Ahead	\$15,000
TOTAL	\$242,400

Total recommended funding is \$242,400. This amount includes \$42,000 un-allocated from 2017-18 Strategic Partnership Funds.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.
- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funded from the City's general fund. The funding recommendations do not exceed the fiscal limits included in the FY 2018-2019 Budget of \$242,400.

The HCD Committee recommends approval of the 2018-19 Strategic Partnership Fund grants as presented.

In response to Vice-Mayor Wisler, Ms. Dillashaw said that the Asheville Art Museum grant is for programming for summer programs.

When Mayor Manheimer asked for public comments, none were received.

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

Councilwoman Mayfield moved for the adoption of Resolution No. 18-122. This motion was seconded by Councilman Young and carried unanimously.

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B. BOARDS/COMMISSIONS

Regarding the Board of Adjustment, the following individual applied for a seat: Ken Sherlin. It was the consensus of the Council to instruct the City Clerk to re-advertise for the two vacant Alternate Board of Adjustment seats.

Regarding the Homeless Initiative Advisory Committee, the following individuals applied for the vacancy: Val Ball, Timothy Moser, Bill Robinson, Michael Carlebach, Roberto L. Hess, Thomas Cash, Tamarie Macon, Donna Ball and Elvia Diaz. It was the consensus of Council to interview Donna Ball and Elvia Diaz.

RESOLUTION NO. 18-123 - RESOLUTION APPOINTING MEMBERS TO THE HUMAN RELATIONS COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Human Relations Commission of Asheville (HRCA).

City Council established a Human Relations Commission on April 10, 2018, to promote and improve human relations and achieve equity among all citizens in the City by carrying out the City's human relations program.

The following individuals who completed both required applications applied for the vacancy: Yvonne Cook-Riley, John B. Christiansen, Anne Greene, Tammy Chandler, Gretchen Gudites, Margaret H. Small, Chris Winebrenner, Michael Carter, Gabrielle Fricke, Tracy Elliott, Rondell Lance, Allison Scott, Davidson Jones, Greta Byrd, Matilda Bliss, Ashley Cooper, Jodi John Pippin, Stephanie Krucher, Patrick Conant, Ingrid Kalwitz, Mychal Bacoate, Sarah Williams, Grant Millin, J. Vann Vogel, Pearl DeBellot, Christine Longoria, Carol Buffum, Tiffany De'Bellott and Delores Venable.

After Council spoke highly of all candidates who applied, and after tallying all votes of City Council, the following individuals were appointed to the Human Relations Commission: Mychal Bacoate, Michael Carter, John Christensen, Patrick Conant, Ashley Cooper, Pearl De'Bellott, Tiffany De'Bellott, Gabrielle Fricke, Anne Greene, Davidson Jones, Christine Longoria, Delores Venable, Sarah Williams and Chris Winebrenner.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Brandon McGaha, with the Southern States Police Benevolent Association, said that that fact that the public was not allowed to speak on the three motions regarding the Police Department matters regarding traffic stops, written consent, etc. is disgusting. He had information about how it increases crime across the board, but obviously City Council doesn't want to hear about that. When it comes to traffic stops, any attempts to obstruct an officer's lawful ability to stop a car will be met with legal action from his Association. There may be instances where an officer is dealing with a situation away from the vehicle and may not have access to the consent forms. He noted that most DWI offenses are made off of equipment violations.

Councilwoman Mayfield was interested in hearing about any litigation in Fayetteville surrounding their policies on written consent.

Sgt. Rick Tullis, with the Southern States Police Benevolent Association and Asheville Police Officer, was disappointed that Council did not allow for public comment on a item not even on the agenda. Public comment was given on every other motion. Police officers need to be heard too. Regarding the traffic stop data, he showed a map (available on the City's website) which represents the Asheville Police Department's crime reporting data, and a map which showed the traffic stop reporting. The maps look identical. Police are not stopping vehicles based on race, etc., they are stopping vehicles based on where the crimes are occurring. Any attempt to take away the officers' ability of one of their most valuable tools will have a devastating impact on violent crime.

Mayor Manheimer said that Council's practice is to allow public comment on every motion - they are not required to at all. Councilman Young called the question and procedurally that cuts off debate and they vote.

Ms. Diana Loveland agreed with Sgt. Tullis that the vehicle stops correlate with the crime rate. Writing a citation is not the officer's first action when someone is pulled over for a regulatory

or equipment violation. They are either given a warning, a written warning, or a citation and if a citation they are told if they get the violation fixed, the citation will be dropped. However, taking that tool away from the officer in a violent crime area who is trying to deter crime will make crimes go up. She suggested a program for those who can't afford to have something fixed on their vehicle that they can apply to have a zero interest payment plan. She asked Council to support their Police Department and invited Council to do a ride-along with an officer.

Mr. Patrick Conant said that the NAACP has asked for the top 10 locations of where African American drivers are stopped. He asked for more data to be released on traffic stops.

Mr. Jonathan Wainscott said that only 7 police officers have been killed since 1906 and there are other occupations that are much dangerous, i.e., construction workers.

Mr. Rondell Lance, President of the Fraternal Order of Police, urged Council to let them be a part of the conversation so everyone works together.

Regarding the Council's actions on written consent and search policy, Councilman Kapoor said that this is an important issue, but this was not on the agenda and not advertised to the public, didn't go through the committee process, staff was not expecting it, he wasn't expecting it, and we did not even take public comment on it before voting. We talk about on Council the importance of transparency and democratic process but we violated every tenant of that tonight. What many of criticise Congress and the North Carolina General Assembly for doing, we just did tonight. He was embarrassed and wanted to apologize for the citizens of Asheville. Regardless of how you feel about the substance of that issue, how this was done tonight will be a black eye on this Council for years to come.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 11:00 p.m.

CITY CLERK

MAYOR