

Monday – March 12 , 2019 - 4:30 p.m.
Council Chamber - 2nd Floor of City Hall

Special 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 Debra Campbell; Interim City Attorney Sabrina Rockoff; and City Clerk Magdalen Burleson

Mayor Manheimer opened the special meeting to appoint a new City Attorney.

RESOLUTION NO. 19-41 - RESOLUTION APPOINTING BRAD R. BRANHAM AS CITY ATTORNEY

Mayor Manheimer was pleased to announce that after a competitive nationwide search, they are pleased to announce that they have named Brad R. Branham as Asheville's next City Attorney. Mr. Bradham brings a depth of knowledge on topics such as transit, affordable housing, complex redevelopment of city-owned land, and other legal challenges that must be tackled to continue to deliver a better quality of life for all of Asheville's residents.

On behalf of Council, Mayor Manheimer thanked Interim City Attorney Sabrina Rockoff, Mr. Peter Kanipe and other attorneys in Ms. Rockoff's firm to help fill in during this transition period. She also thanked the City Attorney's Office staff for their patience during this transition.

Councilwoman Mayfield moved to appoint Brad R. Branham as City Attorney effective April 8, 2019. This motion was seconded by Councilman Kapoor and carried unanimously.

Mr. Branham thanked City Council for giving him this opportunity. He said he was truly honored at being offered this position. He appreciated Council's support.

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At 4:36 p.m., Mayor Manheimer adjourned the special meeting and said the regular formal meeting will begin at 5:00 p.m.

Tuesday – March 12, 2019 - 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; City Manager Debra Campbell; Interim City Attorney Sabrina Rockoff; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

Councilman Haynes said that he regrets that at the last Council meeting he didn't publicly voice his support for Buncombe County Sheriff Quentin Miller's policy on ICE cooperation and detention. This is exactly the kind of leadership he expected from our new Sheriff and he applauds him in this effort.

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 26, 2019**
- B. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICY ADOPTED JANUARY 26, 2016**

Summary: Each year the N.C. ABC Commission, in compliance with Chapter 18-B700, Article 7, g (2), requires its ABC boards to get annual approval of board travel policies from their appointing authorities. Section g (2) of 18B-700 states, "The local board shall annually provide the appointing authority's written confirmation of such approval...".

The ABC Board formally requests the City of Asheville's written confirmation of the Asheville Board of Alcoholic Control Travel Policy.

- C. RESOLUTION NO. 19-42 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT ADDITIONAL GRANT FUNDS UNDER THE EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY, FOR THE HIGH INTENSITY DRUG TRAFFIC AREA 2018 GRANT**

ORDINANCE NO. 4731 - BUDGET AMENDMENT FOR THE HIGH INTENSITY DRUG TRAFFIC AREA 2018 GRANT

Action Requested: Adoption of (1) a resolution authorizing the City Manager to accept additional grant funds for the Asheville HIDTA 2018 Grant; and (2) a budget amendment in the City's Special Revenue Fund in the amount of \$238,789.

Background:

- On October 23, 2018, the City Council approved resolution 18-276 authorizing the City Manager to enter into an agreement to accept grant funds under the Executive Office of the President, Office of National Drug Control Policy in the amount \$106,627. This new modification of \$238,789 is an increase to the previously approved amount for a new total of \$345,416.
- The purpose of the Asheville HIDTA program is to reduce drug trafficking and production in the United States, specifically in places where drug related activities are having a significant harmful impact.
- The Asheville HIDTA is comprised of members of the United States Drug Enforcement Agency, Asheville Police Department, and the Sheriff Office's of Buncombe, Henderson, Swain and McDowell Counties. The Asheville Police Department acts as fiduciary for the program.
- The additional funds will be used for overtime, services and supplies, such as intelligence and surveillance software, mobile phones and pagers, desktop, laptop and notebook computers, cameras and office supplies. The expenditure of all funds are tracked and audited by local and Federal authorities.

Council Goal(s):

- Connected and Engaged Community

Committee(s):

- Public Safety Committee - February 25, 2019
- Finance & Human Resources Committee – February 26, 2019

Pro(s):

- Federal HIDTA funds will be used for investigative purposes and program expenses.
- Continue to foster partnerships with Federal and local law enforcement agencies.

Con(s):

- Funding from the Office of National Drug Control is awarded annually.

Fiscal Impact:

- There is no impact to the City’s General Fund Budget. Any amount spent by the City is reimbursed in total by the Federal government.

Motion:

- Motion to adopt (1) a resolution authorizing the City Manager to accept grant funds and (2) a budget amendment in the amount of \$238,789 through the Office of National Drug Control Policy to modify the Asheville HIDTA 2018 Grant.

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**D. RESOLUTION NO. 19-43 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO EXECUTE A CONTRACT WITH BRYANT LAND AND
DEVELOPMENT INC. FOR THE FISCAL YEAR 2019 ASPHALT
PATCHING PROJECT**

Action Requested: Adoption of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$175,030.00 plus a 20% contingency of \$35,006.00 (\$210,036.00 total) for the contract known as FY 19 Asphalt Patching.

Background:

- Asphalt preservation is a process that applies a 1/8” thick layer of asphalt to the existing asphalt surface. This layer helps protect the existing asphalt and will extend its service life before milling and full resurfacing is required.
- This contract is for preparatory work to be accomplished before the work covered by the Fiscal Year 2019 Asphalt Preservation contract.
- A list of streets will be addressed by this contract. The project was advertised on December 17, 2018, and the bid opening was January 10, 2019. We received the following bids.

Bryant’s Land and Development, Inc. of Burnsville, NC	\$175,030.00
WSH Construction of Charlotte, NC	\$179,200.59
French Broad Paving of Marshall, NC	\$443,650.00

- A 20% contingency (\$35,006.00) has been added to allow payment of any unforeseen costs that may arise during construction.

Council Goal(s):

- Transportation & Accessibility

- Smart City

Committee(s):

- n/a

Pro(s):

- This work prepares 5.4 miles of roadways for the application of an asphalt preservation treatment. The preservation treatment will add to the lifespan of the existing pavement and will delay full resurfacing of the streets.
- Will improve mobility and safety on city streets.

Con(s):

- None

Fiscal Impact:

- The total budget for the Fiscal Year 2019 Streets Program is \$2.8 million. Funding for this contract is coming partly from the Fiscal Year 2019 budget and from partly unused funds from previous fiscal years.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a contract in the amount of \$175,030.00 and a 20% contingency of \$35,006.00 (\$210,036.00 total) for the contract known as Fiscal Year 2019 Asphalt Patching, City of Asheville Project K1901 to Bryant Land and Development, Inc.

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E. RESOLUTION NO. 19-44 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SLURRY PAVERS INC. FOR THE FISCAL YEAR 2019 ASPHALT PRESERVATION PROJECT

Action Requested: Adoption of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$418,359.40 plus a 15% contingency of \$62,754.00 (\$481,113.40 total) for the contract known as Fiscal Year 2019 Asphalt Preservation.

Background:

- Asphalt preservation is a process that applies a 1/8 inch thick layer of asphalt to the existing asphalt surface (as opposed to a full overlay which is 1 inch to 1 1/2 inch thick). This layer helps protect the existing asphalt and will extend its service life before milling and full resurfacing is required.
- The list of attached streets will be treated as part of this contract. The project was advertised on December 17, 2018, and the bid opening was scheduled January 10, 2019. The City did not receive the minimum number of bids required to open bids at the first bid opening. The contract was re-advertised and a second bid opening was scheduled for January 18, 2019. Slurry Pavers, Inc. of Richmond, Virginia was the only bidder at \$418,359.40.
- A 15% contingency (\$62,754) has been added to allow payment of any unforeseen costs that may arise during construction.

Council Goal(s):

- Transportation and Accessibility
- Smart City

Committee(s):

- n/a

Pro(s):

- Will apply a preservation treatment to approximately 5.4 miles of roadways within the Asheville City limits. The preservation treatment will add to the lifespan of the existing pavement and will delay full resurfacing of the streets.
- Will improve mobility and safety on city streets.

Con(s):

- None.

Fiscal Impact:

- The total budget for the Fiscal Year 2019 Streets Program is \$2.8 million. Funding for this contract is coming partly from the Fiscal Year 2019 budget and from unused funds from previous fiscal years.

Motion:

- Motion to adopt a resolution authorizing the City manager to execute a contract with Slurry Pavers, Inc. in the amount of \$418,359.40 and authorize the City Manager to approve upto a 15% contingency of \$62,754.00 (\$481,113.40 total) for the contract known as Fiscal Year 2019 Asphalt Preservation, City of Asheville Project K1901.

RESOLUTION BOOK NO. 40 - PAGE 267

F. RESOLUTION NO. 19-45 - RESOLUTION AUTHORIZING THE SUEZ OZONE SYSTEM AS A PREFERRED BRAND ITEM FOR THE MILLS RIVER OZONE FACILITY EQUIPMENT REFURBISHMENT PROJECT

Action Requested: Adoption of a resolution to: (1) approve the written justification for the use of Suez as the preferred brand item for the Mills River Miscellaneous Plant Upgrades Project, Phase I: Mills River Ozone Equipment Refurbishment; (2) approve the specifications for Suez ozone feed equipment and control modules; and (3) add Suez as an independent line item in the "Unit Price Work" Bid Form when the construction portion of the project is bid.

Background:

- Ozone is used at the Mills River Water Treatment Plant (MRWTP) as part of the water treatment process.
- The existing ozone equipment at the MRWTP is 20 years old and at the end of its useful life.
- The Water Resources Department's Mills River Water Treatment Facility Ozone Equipment Refurbishment will soon be ready to bid.
- The total project is estimated to cost \$898,000 and will include: Replacement of ozone dielectrics and generator internal components, and PLC-based controls.
- Once completed, the system's disinfectant feed system is anticipated to better remove source water contaminants from the drinking water supply as well as reduce the need for secondary disinfectants (chlorine).
- NCGS 133-3 allows the City to specify a preferred brand item based on performance standards if the preferred item will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item, or both and a justification identifying these criteria is made available in writing to the public.
- The attached Exhibit "A" is a memorandum from the project engineers CDM Smith outlining the justification to maintain the existing Asheville Suez Ozone System. This is

being presented and requested for approval in order to meet the requirements of NCGS 133-3.

Council Goal(s):

- Financially Resilient City.

Committee(s):

- N/A

Pro(s):

- Designating Suez as a preferred brand reduces the total project cost by maintaining the existing Suez brand ozone system rather than total replacement.
- An upgraded system will provide greater removal of bacteria, viruses, cryptosporidium and may help reduce the use of chlorine.
- This project is aligned with the City's and The Water Resources Department's goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approving Water Resources to use Suez may avoid additional costs of bidding the removal and replacement of the entire feed system at a future time.

Con(s): None

Fiscal Impact:

- There is no fiscal impact to this action. The Suez ozone feed equipment and control modules will be added as an independent bid item to the total construction cost of the entire Project.

Motion:

- Adopt a resolution to: (1) approve the written justification for the use of Suez as the preferred brand item for the Mills River Miscellaneous Plant Upgrades Project, Phase I: Mills River Ozone Equipment Refurbishment; (2) approve the specifications for Suez ozone feed equipment and control modules; and (3) add Suez as an independent line item in the "Unit Price Work" Bid Form when the construction portion of the project is bid.

RESOLUTION BOOK NO. 40 - PAGE 268

G. RESOLUTION NO. 19-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND AMEND AN INTERGOVERNMENTAL AGREEMENT WITH BUNCOMBE COUNTY TO IMPLEMENT THE SECOND YEAR OF A GRANT FUNDED WEATHERIZATION PROGRAM WITH A CITY MATCH

Action Requested: Adopt a resolution to authorize the City Manager to negotiate and execute an amendment to the Inter-Local Agreement with Buncombe County to implement the 2nd year of a grant funded weatherization program (Energy Upgrade Program) to include a \$15,000 match already budgeted from the Fiscal Year 2019 Budget for Energy Innovation Task Force (EITF) Initiatives.

Background:

- Last year, the City partnered with the County to apply for a grant through the Southeast Sustainable Communities Fund (SSCF).

- The City and County entered into an Interlocal Agreement on November 21, 2017, to implement a weatherization program called Energy Upgrade Program effective from November 30, 2017, to January 31, 2020.
- The first year of the program leveraged \$150,000 from the SSCF grant, \$15,000 from the City, \$60,000 from the County and \$27,800 in in-kind support from Duke Energy and the North Carolina Sustainable Energy Association (NCSEA).
- The first year of the program provided weatherization services to 31 homes.
- The SSCF approved a second year of funding of \$150,000 and the County has agreed to provide an additional \$60,000 match. The City is now being asked to provide a \$15,000 match.

Council Goal(s):

- A Clean and Healthy Environment
- Quality Affordable Housing

Committee(s):

- Finance and Human Resources Committee - January 22, 2019 - recommended approval.

Pro(s):

- SSCF approved a second year of funding totalling \$150,000 and the County has agreed to supply a \$60,000 match.
- Council approved \$205,000 in the FY19 budget to support Energy Innovation Task Force (EITF) initiatives.

Con(s):

- None

Fiscal Impact:

- \$15,000 already budgeted from the Fiscal Year 2019 budget for EITF Initiatives

Motion:

- Adopt a resolution to authorize the City Manager to negotiate and execute an amendment to the Inter-Local Agreement with Buncombe County, entered into on November 21, 2017, to implement the 2nd year of a grant funded weatherization program (Energy Upgrade Program) to include a \$15,000 match already budgeted from the Fiscal Year 2019 Budget for Energy Innovation Task Force (EITF) Initiatives.

RESOLUTION BOOK NO. 40 - PAGE 307

H. RESOLUTION NO. 19-47 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING & CONCRETE INC. FOR THE EAST CHESTNUT STREET BRICK SIDEWALK REHABILITATION PROJECT

Action Requested: Adoption of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract with Appalachian Paving & Concrete Inc. in the amount of \$276,250.00 plus a 15% contingency of \$41,437.50 (\$317,687.50 total) for the contract known as E. Chestnut Street Brick Sidewalk Rehabilitation.

Background:

- East Chestnut Street is scheduled to be resurfaced in spring of 2019.
- While surveying the current ADA ramps on E. Chestnut staff determined that the entire brick sidewalk had deteriorated to the point that it needs to be replaced. The Public

Works Department collaborated with the City's Historic Resources staff to ensure that our project preserves the historic character of the street.

- The scope of this project is from Merrimon Avenue to Charlotte Street on the south side of the street.
- This project was advertised on January 16, 2019, and bids were opened on January 30, 2019. They results were as follows:
 - Appalachian Paving & Concrete, Inc. of Swannanoa, NC
\$276,250.00
 - Patton Construction Group of Arden, NC
\$412,300.00
- A 15% contingency (\$41,437.50) has been added to allow payment of any unforeseen costs that arise during construction.

Council Goal(s):

- Transportation and Accessibility
- Smart City

Committee(s):

- n/a

Pro(s):

- Will rehabilitate approximately 1,200 linear feet of brick sidewalk. The section from Central Avenue to the western end of the brick sidewalk is especially hazardous because the existing bricks have been worn smooth by use.
- Will improve mobility and safety on city sidewalks.

Con(s):

- None

Fiscal Impact:

- The funding for this project is from savings from previous asphalt resurfacing projects. Resurfacing funds have historically been used to repair sidewalks along roads that are scheduled to be resurfaced. This project is funded with CIP funds. The total cost of this contract, including contingency, is \$317,687.50.

Motion:

- Motion to adopt a resolution awarding the contract to Appalachian Paving & Concrete, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$276,250.00 plus a 15% contingency of \$41,437.50 (\$317,687.50 total) for the contract known as East Chestnut Street Brick Sidewalk Rehabilitation, City of Asheville Project K1901.

RESOLUTION BOOK NO. 40 - PAGE 308

I. ORDINANCE NO. 4732 - ORDINANCE ENACTING A THROUGH TRUCK PROHIBITION ALONG SYCAMORE DRIVE FROM SWEETEN CREEK ROAD TO HENDERSONVILLE ROAD

Action Requested: Adoption of an ordinance enacting a through truck prohibition along Sycamore Drive in South Asheville.

Background:

- The City of Asheville Code of Ordinances Section 19-60 regulates trucks traveling along designated residential streets.
- Large trucks are routinely using Sycamore Drive as a “shortcut” between Sweeten Creek Road and Hendersonville Road.
- Large trucks are not able to safely navigate the limited horizontal clearance at the Norfolk Southern railroad trestle, resulting in the trucks getting stuck.
- These events cause delay to the traveling public, require resources to help them clear the area, and sometimes damage the public infrastructure and private property.

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- n/a

Pro(s):

- Prohibits through trucks from using Sycamore Drive.
- Keeps through trucks on US numbered routes.
- Eliminates delay to the traveling public.

Con(s):

- None

Fiscal Impact:

- The cost of installing and maintaining truck prohibition signs is included in the current operating budget.

Motion:

- Motion to approve an ordinance enacting a through truck prohibition along Sycamore Drive from Sweeten Creek Road to Hendersonville Road in South Asheville.

ORDINANCE BOOK NO. 32 - PAGE 313

J. MOTION ADOPTING A REVISED 2019-20 OPERATING BUDGET SCHEDULE

K. RESOLUTION NO. 19-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SIDEWALK MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ACCEPT MAINTENANCE RESPONSIBILITIES FOR A NEW SIDEWALK AND A BUS SHELTER PAD ALONG THE SOUTHBOUND APPROACH OF HENDERSONVILLE ROAD FROM OVERLOOK ROAD TO HOME TRUST BANK

Action Requested: Adoption of a resolution authorizing the City Manager to 1) execute a sidewalk maintenance agreement with the N.C. Dept. of Transportation (NCDOT), 2) for the City to accept maintenance responsibility for a new sidewalk and a bus shelter pad constructed by the NCDOT along the southbound approach of US 25 (Hendersonville Road) from SR 3503 (Overlook Road) to Home Trust Bank, and 3) to reimburse the NCDOT 100% of the actual cost for bus shelter improvements estimated to be \$2,200.

Background:

- The NCDOT has identified a need to make improvements at the intersection of US 25 (Hendersonville Road) and SR 3503 (Overlook Road).
- The City approved a resolution supporting the project on March 13, 2018.
- According to NCGS 160A-296 and NCDOT policy, the City must maintain the sidewalk.

Council Goal(s):

- Transportation and Accessibility
- A Well Planned and Livable Community

Committee(s):

- None

Pro(s):

- A new section of sidewalk will be constructed
- Bus shelter improvements are included in the project.

Con(s):

- The City is responsible for maintaining the new sidewalk and bus shelter.

Fiscal Impact:

- The estimated \$2,200 cost of constructing a bus shelter pad is included in the current operating budget.

Motion:

- Motion to approve a resolution authorizing the City Manager to 1) execute a sidewalk maintenance agreement with the North Carolina Department of Transportation (NCDOT), 2) for the City to accept maintenance responsibility for a new sidewalk and a bus shelter pad constructed by the NCDOT along the southbound approach of US 25 (Hendersonville Road) from SR 3503 (Overlook Road) to Home Trust Bank, and 3) to reimburse the NCDOT 100% of the actual cost for bus shelter improvements estimated to be \$2,200.

RESOLUTION BOOK NO. 40 - PAGE 309

L. RESOLUTION NO. 19-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION (FBRMPO) FOR SECTION SECTION 5310 FUNDS, AND IF SUCCESSFUL, TO ACCEPT THE GRANTS AND SIGN ALL

**THE APPROPRIATE AGREEMENTS WITH THE FBRMPO, FEDERAL,
AND/OR STATE AGENCIES**

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

Background:

- The FBRMPO has opened a call for projects to use Federal Transit Administration Section 5310 Funds and they will be distributed via a competitive process.
- Section 5310 Funds provide enhanced mobility to seniors and individuals with disabilities.
- The application deadline is March 29, 2019.
- Staff is pursuing funding in the amount of \$187,500 to help offset the annual cost of paratransit service.

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- Finance & HR Committee - February 26, 2019 - approved unanimously

Pro(s):

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

Con(s):

- The City is responsible for the 20% local match which equates to \$37,500.

Fiscal Impact:

- The local match of \$37,500 will be included in the proposed FY 2019-20 operating budget.

Suggested Motion:

- Motion to approve a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization and to execute appropriate agreements with the French Broad River Metropolitan Planning Organization, Federal, and/or State agencies.

RESOLUTION BOOK NO. 40 - PAGE 310

**M. RESOLUTION NO. 19-50 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY
FOR FIRE PROTECTION AND AMBULANCE AND RESCUE SERVICES**

Action Requested: Adoption of resolution authorizing the City Manager to enter into an agreement with Buncombe County for fire protection and ambulance and rescue services.

Background:

- The Asheville Special Fire Protection & Ambulance and Rescue Service District of Buncombe County was established and created effective July 1, 2016. It is comprised of the Biltmore Estate property, and portions of the Haw Creek District. It is served by the Asheville Fire Department for fire protection, ambulance, and rescue services.

- The Biltmore Estate has been served by the City of Asheville Fire Department since 1995 and Haw Creek has been served by the City of Asheville Fire Department since 2009 through contracts with Buncombe County.
- The County levies a special tax in the Asheville Special Fire Protection & Ambulance and Rescue Service District and appropriates those funds to the City of Asheville.
- The funds collected by the County as a result of the tax collected and the corresponding sales tax revenue due the District will be paid to the City by the last day of each month in twelve equal monthly installments.
- At the end of the fiscal year, the County will reconcile the monthly payments made to the City and the actual amounts collected to make a final adjusted payment in July of the following fiscal year.
- The Asheville Fire Department will furnish fire protection and other emergency services as part of the Buncombe County EMS System in the Asheville Special Fire Protection & Ambulance and Rescue Service District and will provide the necessary equipment and personnel.
- The term of the current agreement will end June 30, 2021.

Council Goal(s):

- Connected and Engaged Community

Committee(s):

- Finance & Human Resources Committee - February 26, 2019 approved unanimously
- Public Safety Committee - February 25, 2019 approved unanimously

Pro(s):

- This contract provides revenue for the City of Asheville that is greater than the cost of services.

Con(s):

- None

Fiscal Impact:

- The agreement has an overall positive fiscal impact on tax revenues received by the city.
- The fire tax rate for the Haw Creek area of the District is \$8.60, and the fire tax rate for the Biltmore Estate area of the District is \$8.50
- In FY19-20, property, sales, and DMV tax revenues generated by the district and appropriated to the City are estimated at \$385,578.
- In FY 18-19, service provided in these districts cost approximately \$2,000.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an agreement with Buncombe County for fire protection and ambulance and rescue services.

RESOLUTION BOOK NO. 40 - PAGE 311

N. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FLETCHER HOSPITAL INC. (D/B/A ADVENT HEALTH HENDERSONVILLE) FOR PHYSICIAN SERVICES AT THE EMPLOYEES HEALTH CENTER

Dr. Paul Martin felt that this proposal did not meet the minimal requirements of the RFP, the RFP received no input from stakeholders in developing the RFP requirements, the submission process was rushed, there was no true recruiting efforts on venue frequented by

physician candidates, Park Ridge did not receive a vote of approval from the selection committee; and local physicians were not recruited. He asked that this item be pulled for further review.

Interim Assistant City Manager Peggy Rowe said that we are under a temporary agreement with Park Ridge. We did do an RFP and we did invite Dr. Martin to participate in the RFP but he declined to do so. We believe Park Ridge is a good provider of the services that we need for our employees. It includes not only the physician on site, but also other services provided by Park Ridge.

Staff was directed by the majority of Council to provide Council with a memorandum addressing Dr. Martin's concerns.

O. RESOLUTION NO. 19-52 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT IF AWARDED, THE 2020 DWI TASK FORCE GRANT

Action Requested: Adoption of a resolution authorizing the City Manager to apply for and accept a grant from the North Carolina Governor's Highway Safety Program (NCGHSP). This grant will fund one (1) year of the multi-jurisdictional DWI Task Force that includes the Asheville Police Department (APD) and the Buncombe County Sheriff's Office (BCSO).

Background:

- Impaired drivers are a serious concern to public safety. The NCGHSP has funded the DWI Task Force since October, 2013 and continues to award funding to combat impaired driving within Buncombe County.
- The DWI Task Force is to focus efforts on educating the public to the dangers of driving while impaired. This education is done through partnership with other agencies including local high schools and non-profit organizations.
- The DWI Task Force is comprised of four APD officers and two BCSO deputies. APD will continue to assign one sergeant and three officers while BCSO will continue to assign two deputies. APD acts as fiduciary for the program.
- The total of the grant is \$465,689.00 and requires a 75% local match. The City of Asheville's portion of the match is \$237,440.75. The Buncombe County match is \$111,826.00. This represents a slight increase from the previous fiscal year program.
- The City's match is higher than the County's match because the City has more staff covered by the grant. The City has four police officers paid out of the grant while the County has two deputies.

Council Goal(s):

- Connected and Engaged Community

Committee(s):

- Public Safety Committee - February 25, 2019 meeting. Approved unanimously.
- Finance & Human Resources Committee – February 26, 2019 meeting. Approved unanimously.

Pro(s):

- Grant funds are used to pay for 25% of officer salaries, benefits and training costs.
- Potential reduction of impaired driving collisions, injuries and deaths.

Con(s):

- Funding from the NCGHSP is evaluated annually and is only available for a one year period.

Fiscal Impact:

- The City of Asheville match for Fiscal Year 2020 is \$237,440.75. This amount will be included in the APD proposed Fiscal Year 2020 budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to apply for and accept grant funds from the North Carolina Governor's Highway Safety Program.

RESOLUTION BOOK NO. 40 - PAGE 313

P. RESOLUTION NO. 19-53 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON APRIL 23, 2019, TO CLOSE AN UNOPENED RIGHT-OF-WAY KNOWN AS COMMERCE STREET

Action Requested: Adoption of a resolution to set a public hearing for April 23, 2019, for the closure of an unopened right of way known as Commerce St.

Background:

- N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.
- Biltmore Iron and Metal has petitioned the closure and owns one adjacent property, 1 Meadow Rd. (PIN # 9648-50-7911 and 9648-51-6002). Adjoining the petition is Asheville Area Habitat for Humanity, 33 Meadow Rd. (Pin # 9648-51-6002 and 9648-50-4827)
- This closure allows maximum land use potential for further development complying with Living Asheville - A Comprehensive Plan for our Future.

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Multimodal Transportation Committee - January 23, 2019 - Recommended closing the right of way and working with the property owner to secure a greenway easement along the river.

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources.

Con(s):

- None

Fiscal Impact:

- None

Motion:

- Motion to adopt resolution of intent to set a public hearing, April 23, 2019.

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Q. RESOLUTION NO. 19-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO GRANT AN EASEMENT TO DUKE ENERGY

PROGRESS FOR ELECTRICAL UTILITY IMPROVEMENTS AT RICHMOND HILL PARK

Action Requested: Adoption of a resolution authorizing the City Manager to grant an easement to Duke Energy Progress for electrical utility improvements at Richmond Hill Park.

Background:

- Richmond Hill Park is a 150 acre park in West Asheville. The park lacks supporting amenities and planned improvements include new restrooms, a picnic shelter and site lighting. These improvements were funded as part of the 2016 bond program and the project is now moving forward.
- Electrical power will need to be extended into the park in order to provide these improvements. DEP has agreed to provide the extension of electrical services if the City provides the requested easement.
- An exhibit is attached showing where the electric line will be located. The easement will be 20 feet wide around the electrical infrastructure and 10 feet on all sides of the foundation of any DEP enclosure. The amount of permanent easement is approximately 13,000 square feet. The electrical line and conduit will be buried between the curb and sidewalk. The pad mounted transformer enclosure and manholes will be visible from the surface.

Council Goal(s):

- A Well Planned and Liveable Community

Committee(s):

- Recreation Board on January 14, 2019

Pro(s):

- The park improvements will increase community resources by adding new amenities and providing restrooms.
- Improves safety for users after dark, as additional site lighting is programmed.

Con(s):

- This project will generate a new, continuing electric bill after the improvements are constructed.

Fiscal Impact:

- City general funds will be used to pay the electric bill after the improvements are constructed.

Motion:

- Motion to approve a resolution authorizing the City Manager to convey an electrical easement to Duke Progress Energy (DEP) at Richmond Hill Park.

RESOLUTION BOOK NO. 40 - PAGE 316

R. RESOLUTION NO. 19-55 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON APRIL 23, 2019, TO CLOSE AN UNOPENED RIGHT-OF-WAY KNOWN AS ROSE STREET

Action Requested: Adoption of a resolution to set a public hearing for April 23, 2019, for the closure of an unopened right of way known as Rose St.

Background:

- N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.
- Pet Vet Properties, LLC has petitioned the closure and owns two adjacent properties, 2 Hansel Ave. (PIN # 9638-48-8500) and 100 Rose St. (PIN # 9638-48-7515)
- This closure allows maximum land use potential for further development complying with Living Asheville - A Comprehensive Plan for our Future.

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Multimodal Transportation Committee - January 23, 2019 - MMTC unanimously supported the closure.

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con(s):

- None

Fiscal Impact:

- There will be no fiscal impact related to this closure.

Motion:

- Motion to adopt resolution of intent to set a public hearing, April 23, 2019.

RESOLUTION BOOK NO. 40 - PAGE 317

S. RESOLUTION NO. 19-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT IF AWARDED, THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM 2020 BIKESAFE NC GRANT, YEAR 1

Action Requested: Adoption of a resolution authorizing the City Manager to apply for and accept a grant from the North Carolina Governor's Highway Safety Program (NCGHSP) for Year 1 of the Bike/Safe NC program to allow the promotion of motorcycle safety within the Western Region.

Background:

- The Bike/Safe NC program is a partnership with the Governor's Highway Safety Program and the North Carolina State Highway Patrol that is aimed at reducing motorcycle fatalities.
- The primary goal of the BikeSafe NC program is to decrease statewide motorcycle fatalities by 25 percent from the 2013-2017 average of 179.4 to 134.00 by the end of September 2020.
- Grant funds will be used to promote awareness by contacting motorcycle dealers, clubs and associations to discuss current highway safety activities, training opportunities like Rider Skills Days and to provide legal updates. The City of Asheville, via the Asheville Police Department, will act as fiduciary for the program.
- The total of the grant is \$5,000 and does not require local matching funds.

Council Goal(s):

- Connected and Engaged Community

Committee(s):

- Public Safety Committee - February 25, 2019 meeting. Passed unanimously.
- Finance & Human Resources Committee – February 26, 2019 meeting. Passed unanimously.

Pro(s):

- Grant funds are used to pay for travel and training.
- Potential reduction of statewide and regional motorcycle fatalities.

Con(s):

- None

Fiscal Impact:

- There is no impact to the City of Asheville's General Fund budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to apply for and accept grant funds from the North Carolina Governor's Highway Safety Program.

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

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

Councilwoman Mayfield moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda "N". This motion was seconded by Councilman Haynes and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. DO THE WRITE THING CHALLENGE

Ms. Tanya Presha, Academic and Program Support Coordinator, along with Ms. Kaylee Pearce, 2018 National Ambassador of the Do the Write Thing Challenge (which is an initiative of the National Campaign to Stop Violence) spoke about her experience and encouraged City Council to the reading and scoring the upcoming essays on the March 21st and 22nd.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 130 AND 99999 ROCK HILL ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMUNITY BUSINESS I/CONDITIONAL ZONE FOR THE REUSE OF AN EXISTING BUILDING FOR AN ACUPUNCTURE CLINIC AND WELLNESS USE; AND AMENDMENT TO THE FUTURE LAND USE MAP FROM RESIDENTIAL NEIGHBORHOOD TO NEIGHBORHOOD CENTER

Mayor Manheimer announced that the applicant has withdrawn his request for conditional zoning.

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNOPENED RIGHT-OF-WAY OFF FAIRFAX AVENUE

RESOLUTION NO. 19-57 - RESOLUTION TO PERMANENTLY CLOSE AN UNOPENED RIGHT-OF-WAY OFF FAIRFAX AVENUE

Streets Manager Chad Bandy said that this is the consideration of a resolution to permanently close an unopened right-of-way off Fairfax Avenue. This public hearing was advertised on February 15, 22, March 1 and 8, 2019.

Action Requested: Adoption of a resolution for the permanent closure of an unopened right of way off Fairfax Ave.

Background:

- N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.
- Christopher D. Meyer has petitioned the closure and owns both adjacent properties, 700 Haywood Rd. (PIN # 9638-24-3333) and 12 Fairfax Ave. (PIN # 9638-24-3235)
- This closure allows maximum land use potential for further development complying with the Living in Asheville Comprehensive Plan..

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Multimodal Transportation Committee - October 24, 2019, September 26, 2018, and November 28, 2018 - Recommendation to move it forward with no vote.

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con(s):

- West Asheville Presbyterian Church currently accesses its propane tanks and fellowship hall via the former bank drive-through if the petitioner would allow the Church to continue to access the propane tank through the parking lot.

Fiscal Impact:

- None to the City.

Councilwoman Smith noted that not only will the Church's access to their propane tanks be restricted, but if the right-of-way is closed, their handicapped access to the fellowship hall will also be restricted because they drive over the right-of-way.

In response to Councilwoman Mayfield, Mr. Bandy said that the property owner owns both sides of the right-of-way and would like to combine them into one parcel. He believes the property owner would like to build a veterinary clinic on his property but he was not aware of any site specifics, e.g., the footprint of the building.

Mr. Tom Holman, attorney representing the owners of the property at 700 Haywood Road, are excited about improving their property and adding a neighborhood small animal veterinary practice to serve the community. The final closure of this unopened alley will not in any way change the manner in which this property has been used in over 75 years. N.C. Gen. Stat. sec. 160A-299 grants the Council the power to close any street or road or portion thereof if the closure will not impair the access to any other property owner (which it won't); and the closure will not be contrary to the public interest (it will benefit the public interest). The closure will allow for more efficient use of the property without any artificial impediment that presently splits the parcel and benefits no one. Likewise, the closure will also help encourage improvements to the property that will help enhance it consistent with the zoning designation. He then showed some pictures that this alley was never intended to serve anything other than 700 Haywood Road. In 1920, 700 Haywood Road consisted of 4 parcels which fronted Haywood Road. All those lots are now owned by the applicant, as is the rear lot. There is no evidence that the alley has ever been opened to the public or used in any way other than access to the 4 front parcels. Consistent with that, he showed the recombination of the 4 properties in 1945 which a home on two of the parcels had a garage in their back on the alley which serviced the two parcels. He then showed a survey of the specific location of the alley. He appreciated the Church's concern that it has had the benefit of the use of this adjacent property during the last 2+ years since the bank has been closed. And, before then he understands there was an accommodation provided for by the bank because due to the bank's hours. The property owners want to be good neighbors, but they can't agree at this point what level of accommodation they can provide for this property, but it's not likely to be a drive-through just like any other property owner. Since purchasing the property, the property owners worked with the Church to agree to some form of accommodation, but that was not able to happen. All the accommodations would be entirely voluntary. The owners want to cooperate with the church.

In response to Councilman Kapoor, Interim City Attorney Rockoff said that the question before Council is that under N.C. Gen. Stat. sec. 160A-299, it grants the governing body of a municipality to close any street or road or portion thereof upon the following conditions: notification by registered mail to the adjoining property owners, publication of the notice, and determination by the governing body that the closing of said road is not contrary to the public interest and that no individual owning property in the vicinity of said street or road or in the subdivision in which is located said street or road will thereby be deprived of reasonable means of ingress and egress to his property.

Councilwoman Mayfield felt that if we close this alley, then it deprives the Church of access to two parts of their building that they currently use.

Mr. Holman said that the Church is asking for continued use of the alley which prohibits the property owners functional use of their property.

At 5:44 p.m., Mayor Manheimer opened the public hearing.

Mr. Billy Robinson, representing the West Asheville Presbyterian Church, said he disagreed that the closing will not deprive any individual owning property in the vicinity any reasonable means of ingress or egress. Over 61 years the congregation has had access via the alley. If the alley is closed, handicapped people will have to park on Haywood Road or Fairfax Avenue and walk to the fellowship hall. If the alley is closed, it will also impede the servicing of the propane trucks and they would have to move the children's playground to the front yard of the Church at Haywood Road, which they are not eager to do. He understood that the property owner talked to the Minister of the Church, and the Treasurer, but the Minister has no voice in the operation of a congregation. Therefore, he has not entered into any conversations with the congregation. The Multimodal Transportation Commission said they would like to have some time to negotiate an agreement but there has been no substantial movement by the property

owner to do so. He said that they also did not receive any notification of this closing, and found about about the closing by a sign being posted on the corner.

Mr. Patrick Price, member of West Asheville Presbyterian Church, said that Mr. Meyer (the property owner) approached the Minister in June of 2018 and the Minister died shortly thereafter. Then their Secretary retired. Mr. Meyer then approached the Treasurer of the Church. He, Mr. Price, then talked with Mr. Meyer and asked him to show them what his plans were for the property and he never got back to him. He felt that Mr. Meyer has no plan for the property. He said that the property is still owned by the bank. We have no objection to close the alley as long as we have access to the fellowship hall.

Mayor Manheimer closed the public hearing at 5:43 p.m.

Mr. Bandy explained that under the statutes, the only required mailings are to the adjacent property owners of the alley who would receive half ownership of the alley and since the property owner owns both properties on each side of the alley, no mailing was required.

Mr. Holman said that it is is not fair or accurate to say that his clients have not been acting in good faith. There has been over a year of communication and he sent a letter to the attorney he was told represented the Church on October 31, 2018, with a detailed proposal. His client has had this property under contract since October 2017 and they are the owners of the property. He restated that the final closure of this unopened alley will not in any way change the manner in which this property has been used in over 75 years

Mayor Manheimer said her understanding is part of the requirements around this closure are to meet the zoning requirements for the Haywood Road Corridor Overlay. She understands that the investor does not want to spend a lot of money on a plan until they know they can get the alley closed. She hears that the Church is making a prescriptive easement claim to be able to continue to access their property the way they have been doing for a very long time. That is not something Council can get involved in. We cannot negotiate property claims between two property owners. She was sympathetic to both sides and hoped some resolution can be reached about access.

Councilwoman Mayfield said she has no problem ultimately supporting the closure of the alley, but her interest is in seeing the two parties try to come together to create some sort of access agreement.

Vice-Mayor Wisler said this is a dispute between two property owners and she felt Council does not have the authority to be involved.

Councilman Young felt that the two property owners need to work together for some type of easement for the Church.

Councilwoman Smith said a portion of residents attend this Church who are not able-bodied to readily access the fellowship hall.

Councilman Kapoor felt that we have to abide by our statutes. He has sympathy for the Church but our requirements as a Council is to apply the law.

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 to permanently close an unopened right-of-way off Fairfax Avenue. This motion was seconded by Councilman Kapoor and carried on a 4-3 vote, with Councilwoman Mayfield, Councilwoman Smith and Councilman Young voting “no”.

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C. PUBLIC HEARING TO CONTINUE CONSIDERATION OF THE CONDITIONAL ZONING OF 324 BILTMORE AVENUE FROM REGIONAL BUSINESS DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONE FOR THE CONSTRUCTION OF A 7-STORY, 103 ROOM HOTEL

ORDINANCE NO. 4733 - ORDINANCE TO CONDITIONALLY ZONE 324 BILTMORE AVENUE FROM REGIONAL BUSINESS DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONE FOR THE CONSTRUCTION OF A 7-STORY, 103 ROOM HOTEL

Urban Planner Jessica Bernstein said that this is the continued consideration of the conditional zoning of 324 Biltmore Avenue from Regional Business District to Lodging Expansion/Conditional Zone for the construction of a 7-story, 103 room hotel. This matter was originally heard on October 23, 2018, but withdrawn. This public hearing was advertised on March 1 and 8, 2019.

Action Requested: Approval of a conditional zoning request at 324 Biltmore Avenue from Regional Business (RB) to Lodging Expansion Conditional Zone (LODG EXP CZ)

Background:

- The project site consists of a 0.78 acre parcel located at 324 Biltmore Avenue (PIN 9648-46-4336) and owned by Milan Asheville, LLC. The contact for the project is Warren Sugg.
- The proposal is to construct a new 88,593 square foot lodging facility with 103 rooms. The building is seven stories in height, except for within a 100 foot radius of nearby residential zoning, where the building height is reduced to 25 feet.
- There is a single vehicular access point from Biltmore Avenue that provides access to a maximum of 106 structured parking spaces.
- Ten foot wide sidewalks are provided along both frontages. A transit shelter will be provided at the corner of Biltmore Avenue and White Fawn Drive.
- The site will be improved with landscaping and open space as required by code with the conditions noted below.
- The design complies with design and operational standards as required by the proposed zoning district, Lodging Expansion Conditional Zone (LODG EXP CZ).
- The area is currently identified as an Employment / Anchor Institution Center on the Future Land Use Map in the Living Asheville Comprehensive Plan, where limited lodging uses are seen as complementary and supportive of nearby employment clusters.
- The applicant is requesting the following conditions be approved for this proposal:
 - Zero-foot setbacks along the front and side; three foot on the corner side and 10 feet for the rear. District standards are five feet for the front, 15 feet for the side and 25 feet for the rear,
 - Reduction in rear property line buffer to 10 feet in some areas (but increases up to 23 feet in other areas) where 15 feet is required,
 - Provision of large planters along Biltmore Avenue in lieu of street trees due to conflicts with utility lines and Department of Transportation prohibitions, and
 - Increase in impervious surface standards to 82 percent where 80 percent is allowed.

Council Goal(s):

- A Well-Planned and Livable Community
- Transportation and Accessibility

Committee(s):

- Technical Review Committee - September 17, 2018 - approved with conditions
- Planning & Zoning Commission - October 3, 2018 - recommended approval (6-0)
- City Council originally heard this request on October 23, 2018, but the applicant requested a continuance prior to a vote to be re-considered at a later date

Pro(s):

- The use and development is aligned with the designated Future Land Use category of the Living Asheville Comprehensive Plan for this area
- The applicant has included wide sidewalks, bike parking and a transit shelter on the site as well as an offer to provide bus passes to any guest or employee
- The applicant met on multiple occasions with members of the adjacent neighborhood and altered several site plan elements to better meet their requests and mitigate impacts such as noise, trash and access
- The proposal would support visitors to the Mission Hospital campus and other nearby medical uses

Con(s):

- The proposal does not expressly comply with all development standards as noted above

Fiscal Impact:

- None noted.

Ms. Bernstein said the only change from staff's perspective since this was before Council in October is a condition that the signage will comply with the allowances for similar uses in the Regional Business District.

In response to Councilwoman Mayfield, Ms. Bernstein said that there is one house immediately behind the proposed hotel but she has not spoken with that property owner about this hotel. She said the zoning district has a 100 foot radius from single-family or residential zoning, and the height is restricted to the height of that zoning district, which is 40 feet. She said they have actually reduced the height adjacent to that house is 25 feet, noting the grade change too. The tallest portion of the building (7-story) is at Biltmore Avenue. The applicant is asking for a reduction in the rear buffer, but in that particular section, the buffer is actually wider than the required 15 feet width.

Mr. Wyatt Stevens, representing Milan Asheville LLC, said that his applicant has had a series of neighborhood meetings and at one of the meetings Mr. Patel met with the owner of the house behind the hotel project. To his knowledge, she has no objection to this project with the reduced height and increased buffer. In his opinion, the only house whose view would be affected by the hotel is the house behind the hotel project. Higher up White Fawn there are additional houses but they are not oriented to the west and he didn't think that any of those homes will have their views affected by this 90-foot hotel. He said this is a good project from a good local family and they have proven to be good corporate citizens. He is convinced that this hotel will anchor all kind of important development in that location. This project is aligned with the future land use category in the Living Asheville Comprehensive Plan. He felt this project will also make safer that part of the City by a full-time security guard, security cameras and eyes on the street. On extended stay hotels of this type, 70-75% of the room nights go to business travelers,

families, patients, people who are visiting Mission Hospital, and tourists on the weekends. Asheville needs a pro-business development and this hotel meets that. Changes from the October meeting include the elimination of 163 hotel rooms on Smoky Park Highway - this hotel will have 103 hotel rooms. Also another change is that the Tourism Development Authority is going to look at how tourists impact our infrastructure. They have reached out to Mission Hospital and offered preferential pricing to families of patients at the Hospital, along with preferential pricing to the families of children in the Caiyalynn Burrell Child Crisis Center across the street. They have talked with Rev. Scott Rogers of the Asheville-Buncombe Community Christian Ministry (ABCCM) about opportunities to provide more jobs for veterans and other beneficiaries of ABCCM. They talked with Mountain Housing Opportunities and the Housing Authority of the City of Asheville regarding the revitalization of Lee Walker Heights. They will be able to provide a job training program (similar to ABCCM) for the residents of Lee Walker Heights. In addition, they will provide free bus passes to the residents of Lee Walker Heights, all of their staff and all of the hotel guests who would like one. They have also committed \$125,000 for a playground at Lee Walker Heights upon approval of this zoning application. They understand that affordable housing is our number one problem in Asheville. He explained that it doesn't make sense to put affordable housing on a ¾ acre piece of property. But, because they want to be good community partners, they have agreed to make a contribution of \$100,000 a year for 5 year to the Affordable Housing Trust Fund, once the hotel receives their Certificate of Occupancy and they are open for business. This property currently pays approximately \$3,500 a year in taxes to the City. This will be a significant \$18-20 Million investment so the taxes to the City will be in the range of \$85-90,000 a year. He said this is a good project and asked for Council's approval.

Mr. Stevens, and Mr. Monark Patel, responded to Councilman Haynes regarding the job training program, why the site cannot be used for any kind of housing development, and how many full-time employees will the hotel hire, along with their pay.

Mayor Manheimer opened the public hearing at 6:31 p.m.

The following individuals spoke in support of the conditional zoning of property at 324 Biltmore Avenue, for several reasons, some being, but are not limited to: hotel is adjacent to Mission Hospital and will serve serious lodging needs for families visiting patients; fits into our aspirations of the success of the Lee Walker Heights transformation; recommendation of a new traffic signal be installed at Biltmore Avenue and White Fawn Drive; Monark Patel is a native businessman and good employer with many investments into the community; good to have a park for Lee Walker Heights; preferential pricing for families for Mission Hospital patients is a need; and hotel will have a positive impact on the community:

David Nutter
Pastor Ronald Gates, Greater Works Church of God and Christ
Luella Whitmire
Pastor James E. Roberts, Fairmont Baptist Church
Amber Banks
Kate Briggs, resident on Florence Street
Downtown resident and property owner in the area

The following individuals spoke against the conditional zoning of property at 324 Biltmore Avenue in its current form for several reasons, some being, but are not limited to: this is a very small lot and if it's not big enough for housing, why is it big enough for a hotel; Oakhurst is part of downtown and Council should not add another hotel to downtown; the \$625,000 Mr. Patel is being asked to commit should not be a reason why the zoning should change; hotel should comply with the height standards; very few jobs would be created; negative impact on the surrounding neighborhood; hotels crowd out other opportunities; will block the views of the

Oakhurst neighborhood; majority of Mission's patient population are Medicaid/Medicare recipients and will not be able to afford an extended stay hotel room; this hotel will be one of the top 20 tallest buildings in Asheville and will change the look of this corridor; a 92-foot solid hotel 10-feet from Biltmore Avenue is not a good precedent for this area; there is already a Residence Inn on the other side of Mission Hospital; just because Mr. Patel is a nice person is no reason we should approve this project; hotel should activate the ground floor with business space; owner of the house directly behind the hotel has not given their support the hotel; hotel is not in keeping with the neighborhood; and the neighborhood has no resources as the closest grocery store is 1.9 miles away:

Kristen Daniels, Secretary of Oakhurst Neighborhood Association
Joel Atyas
Seay Stephens, resident of Oakhurst neighborhood
Resident of the Oakhurst neighborhood

Mayor Manheimer closed the public hearing at 7:08 p.m.

Vice-Mayor Wisler viewed this hotel as part of the downtown area. Within one mile of Mission Hospital we have 181 rooms and within 2 miles of Mission Hospital we have 1,430 rooms, so she did not see the need for another extended stay hotel close to Mission Hospital.

Councilwoman Smith wondered where the rally cry was when the community behind this area was all African American owners. No one stood up to protect and preserve the historic richness of their community. And now that a hotel is coming forward, everyone is speaking for the preservation of something they call rich. Comforts, such as a scenic view of Mt. Pisgah, were not considered. Not to shame and blame, but there has been a lot lost in that community.

Councilman Haynes was opposed to the project.

Councilwoman Mayfield said that she looks at each hotel on a case by case basis. She looks at what are the community benefits the development brings, and in this case \$500,000 to the Affordable Housing Trust Fund, \$125,000 for a playground at Lee Walker Heights, and the job training program are community benefits enough for her to support this project. In her view, this does have a pretty minimal impact on the adjacent neighborhood. What happens on that corridor is not really so much about the neighborhood behind. Biltmore Avenue is a commercial corridor. The steps to reduce the impact of the house immediately behind the hotel is to be commended. This is also the improvement of a vacant lot. In our Living Asheville Comprehensive Plan, Asheville is moving down Biltmore Avenue. This development is more consistent with what will be coming from downtown, with buildings close to the sidewalk. There are three transit lines that go on this street, and the hotel is also providing a bus shelter. Even though she always wants to see more housing, there will be hundreds of housing and affordable housing across the street.

Mayor Manheimer said that because of the tax structure in North Carolina, we are not able to harness visitor taxes very well and we are left with a deficiency in the funding we need to improve the City's services, e.g., paving a street, building a new sidewalk, etc. Shortly after the October meeting when this was originally discussed, the Tourism Development Authority contacted her and said they have engaged a consultant to look at a multi-year plan to fund capital through the room tax in conjunction with the City. Personally, that is the kind of change she wanted to see before she could move forward with considering another hotel. The City will also continue to look at revenue diversification. She recalled conversations about better managing hotel growth in the City. One significant change that has happened is that this Council changed the entire process for hotel applications. It used to be that many hotel applicants didn't need to come before Council for consideration and now all of them do. That gives Council the opportunity

to have a discussion about each application on its own merit. Because of that process change, we are seeing a lot more community benefits from hotel applications.

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

Councilman Kapoor moved to approve the conditional zoning for 324 Biltmore Avenue from Regional Business (RB) to Lodging Expansion Conditional Zone (LODG EXP CZ) and find that the request is reasonable, is in the public interest and is consistent with the city's comprehensive plan in that: (1) the proposal is aligned with the Future Land Use map in the Living Asheville Comprehensive Plan; and (2) the development is located within close proximity to medical and commercial uses that would be well served by the proposed use; (3) the project is walkable to downtown and directly accessible to transit; and 4) the proposed hotel is an active use that would contribute to the vibrancy of this area of the city. This motion was seconded by Councilwoman Mayfield and carried on a 4-3 vote, with Councilman Haynes, Vice-Mayor Wisler and Councilman Young voting "no".

ORDINANCE BOOK NO. 32 – PAGE 314

D. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 1 SOUTH TUNNEL ROAD FROM REGIONAL BUSINESS DISTRICT TO MIXED USE EXPANSION/CONDITIONAL ZONE TO ALLOW A MIXED-USE DEVELOPMENT THAT INCLUDES RESIDENTIAL, RETAIL, SERVICE AND ENTERTAINMENT USES

At this time, Interim City Attorney Rockoff left the dais due to a conflict of interest with her law firm. In her place, Associate City Attorney Eric Edgerton presided over this matter.

Principal Planner Shannon Tuch said that this is the consideration to conditionally zone 1 South Tunnel Road from Regional Business District to Mixed Use Expansion/Conditional Zone to allow a mixed-use development that includes residential, retail, service and entertainment uses. This public hearing was advertised on March 1 and 8, 2019.

Action Requested: Request to conditionally rezone a portion of 1 S. Tunnel Rd. from Regional Business District to Mixed Use Expansion District/Conditional Zone for the purpose of constructing a mixed-use development.

Background:

- The subject property includes a single 15.88 acre lot zoned Regional Business (RB) that is part of the larger Asheville Mall property but is owned and operated separately from the rest of the mall.
- The request is to rezone from Regional Business (RB) to Mixed Use Expansion - Conditional Zone (MXD EXP - CZ).
- The area is identified as Town Center on the Future Land Use Map which describes multi-story, high density, mixed use development in a compact urban form with strong relationship to the public realm and effective multi-modal transportation connections.
- The existing Sears department store is proposed to be demolished while the existing automotive center will be renovated and adaptively reused.
- In addition to the one-story renovated automotive center, the development will include the construction of six new buildings. Five of the six new buildings are one-story commercial buildings ranging in size from 1,300-5,000 square feet. The sixth building, building "B" is six stories, approximately 92 feet in height, and over 320,000 square feet in size.

- The first story of building B will be a 72,000 square foot commercial space including a multi-screen movie theater. Above the commercial ground level is five additional stories containing 205 residential units.
- Connected to Building B is a 2 ½ story parking structure with approximately 145 parking spaces.
- The existing surface parking lot will be partially demolished and rebuilt to accommodate the new construction and to incorporate additional landscaped improvements. Approximately 707 surface parking spaces are provided.
- Vehicular access to the property is unchanged and accommodated through three different access points (White Pine Dr., Tunnel Rd. & S. Tunnel Rd.). The primary entrance is from S. Tunnel Rd.
- Sidewalks varying in width from 5 feet to 10 feet are added throughout the project area.
- The project has been revised to address conditions and other comments from the Planning and Zoning Commission meeting including a full landscape buffer, a sidewalk along Brackettown Rd., 10% (21) of the units to be affordable, and pervious paving for the surface parking on the east side (front) of the project area.
- In response to the Traffic Impact Analysis, numerous traffic related site changes are required by NCDOT as part of their approval.

Council Goal(s):

- A Well-planned and Livable Community.

Committee(s):

- Technical Review Committee - September 17, 2018 - approved with conditions.
- Planning & Zoning Commission - January 14, 2019 - approved 5-2.

Pro(s):

- Provides a mix of uses, including residential units, in a strategic and locationally efficient area of the city
- Aligns with the Future Land Use Map, Town Center designation, in the Living Asheville Comprehensive Plan, in that the proposal allows for a mix of uses, higher density residential and buildings up to 10 stories high.
- Pedestrian and bike access is improved with the addition of sidewalk and sharrows.
- The landscape buffer along the western property boundary between the project area and the adjacent single family neighborhood will be widened to comply and will be enhanced with additional plant material. A fence is also proposed.
- Reduces the amount of impervious surface on the property.
- Provides a prominent, hardscaped public gathering area in front of buildings "B" and "A".
- 10% of the residential units (21 units) will be affordable to individuals earning at or below 80% AMI for a minimum period of 20 years.

Con(s):

- Requires a number of modifications to basic development and design standards in the UDO, including some standards central to successful, well designed urban centers:
 - Buildings are not oriented and fronting on the primary corridor.
 - Parking is located between the front building face and pedestrian zone.
 - Building B exceeds the maximum building size, footprint size and height for buildings in the Mixed Use Expansion District (this is offset by the provision of affordable units).
- Does not align with the Future Land Use Map, Town Center designation, in the Living Asheville Comprehensive Plan, in that the proposal does not meet the goal of a minimum of two-story building construction and a compact urban street grid to help guide future growth to a more efficient, urban form.

- A significant portion of the project design reflects a one-story, suburban form with extensive surface parking and is being driven by leasing requirements of national retail and entertainment tenants.

Fiscal Impact:

- There is no direct fiscal impact.

After Ms. Tuch reviewed the background, along with the pros and cons, she noted some of the exceptions to the Mixed-Use Expansion and UDO, such as it doesn't meet all of the landscape requirements, particularly for the parking lot and building impact, there are a number of sidewalks that are not 10-feet wide, the overall massing and height exceed what is normally allowed for Building B, and a number of the buildings are set back more than 25-feet from the primary corridors. In addition to evaluating a project for its ability to comply with the UDO, staff also looks at the project's ability to support the Living Asheville Comprehensive Plan. This project has a lot of positive features and to some degree it does align with the vision for Town Center which is described in the Future Land Use Map, particularly in that it re-energizes a commercial center, it provides some vertical density in Building B, it provides some improved multi-modal access with the sidewalks, and it designates 10% (or 21 units) to be affordable. Despite this, staff continues to have concern and does not support the project primarily because it does not include what we believe to be the most defining characteristic of a Town Center project - to incorporate a compact urban street grid with smaller blocks and pedestrian facilities for more walkability with multi-story buildings fronting the streets. The project as it is currently designed appears to be more consistent with the Urban Corridor designation in the Living Asheville Comprehensive Plan opposed to Town Center designation in that it is more focused on moving cars and has a more suburban design. The Town Center designation is a vision but it describes a compact urban street environment, very walkable, up to 10 stores depending on the surrounding context, very vibrant and lively.

In response to Mayor Manheimer, Ms. Tuch showed a grid on the site plan of the property that would fit the Living Asheville Comprehensive Plan. Sometimes we expect Town Center properties to evolve over time so what is critical at this stage is to establish that compact urban grid pattern.

Ms. Tuch said that the applicant has made numerous changes since the Planning & Zoning Commission. Two of the four conditions, the applicant agreed to in the meeting. The other two they have since agreed to which was the affordable housing component and the sidewalk along Brackettown Road. The new site plan which staff received this morning does include a micro-park (a small green space area).

Regarding the height of the project, Ms. Tuch said the Mixed-Use Expansion District caps height at 80 feet and we measure height from the main point of entry to the ceiling of the highest occupiable floor. This project would be 92 feet. There is also some additional equipment on top. The Town Center description describes 2-10 stories depending on the surrounding context. That is a little subjective. When a development project proposes to exceed a standard in some way we look to see what is the public benefit or what are the merits of the project that might help balance that impact. In this particular case it provides some affordable units.

In response to Mayor Manheimer, Ms. Tuch said the project triggered a Traffic Impact Study, which was also reviewed and approved by the N.C. Dept. of Transportation (NCDOT). The NCDOT recommended a number of changes that would have to occur as it relates to this project, which most occurring within their right-of-way. To some degree, the Traffic Impact Study and the NCDOT did look at the connection to Brackettown Road, but it did not recommend any particular improvements or other changes to that intersection with White Pine Drive.

Mr. W. Louis Bissette, attorney representing Seritage Growth Properties, said this is a great project. This is a mixed use project with entertainment, retail, and 205 multi-family units which 21 will be dedicated to affordable housing for 20 years. The pre-application for this project began in November of 2017 and they met with the neighborhood in December of 2017. They have continued to do revisions to this project since then, e.g., widened buffer, an 8-foot fence along the rear of the property, a 5-foot walking path which will connect with the dog park, redesign of the parking in the front, took out angle parking and put in parallel parking, etc. He felt this is a great adaptive reuse project for the abandoned Sears store. The Living Asheville Comprehensive Plan was adopted mid-way through their project, noting they were designing their project at least 9 months before the Plan was adopted. However, they feel still feel they comply. He asked Council to not let the perfect be the enemy of the good. The project can't be perfect for a lot of reasons. They are not starting from a square piece of land; they are reusing part of the Auto Center and part of the base of the old Sears building; there are retaining walls on the property; topographical problems; and there are agreements with the Mall that they have to abide by. The Sears building is now valued on the tax rolls at \$11 Million but this is a \$40 Million project. They have already signed a lease with a movie theatre, there will be restaurants, and 205 mid-range apartments plus the affordable housing. He urged Council to approve this project.

Mr. Paul D'Arelli, Senior Vice-President of Seritage Growth Properties, briefly spoke about his company. Their mission is to redevelop and own revitalized shopping, dining, entertainment and mixed-us destinations that provide enriched experiences for consumers and local communities, and that create long-term value for their shareholders. He reiterated some of the adjustments and accommodations that were important to the neighbors and staff as outlined by Mr. Bissette. He said the grid concept has just been brought to their attention in the last few days so it's challenging for them to re-think re-gridding out the access lines, but if Council looks at their plan, they do have a grid. He asked for Council's approval.

Mayor Manheimer was excited to have a redevelopment of the Sears site. We hope we will see more reuse of older properties in the City. She felt positive about the project but was concerned as we have outstanding issues not meeting the Living Asheville Comprehensive Plan, in which this area includes building development with a grid-like pattern. That Plan was adopted last summer after a lot of input from the citizens. She wondered if the applicant would be willing to postpone this for at least a month to go back to the drawing board to see if a grid concept would work for the site and if so, what that might look like. We want to make sure that this first development sets the stage for future development.

Mr. D'Arelli said this is a challenging proposition for them as they have a signed lease. They have been working with staff after the Planning & Zoning Commission meeting and the grid concept was not focused on. He said he was not sure he could come back with any meaningful changes based on the existing site constraints.

Councilman Kapoor also wanted to see the project move forward, noting that this is a complex project. However, he felt we are not at an impasse and thought there might be a good opportunity for the developer to get closer to the Living Asheville Comprehensive Plan vision.

Councilwoman Mayfield agreed with Mayor Manheimer and Councilman Kapoor in that Council is excited about this vast improvement to the site, but unfortunately this development is in the unfortunate position to redevelop in one of our Town Centers and there is a particular vision for that.

Mayor Manheimer opened the public hearing at 8:25 p.m.

Several Kenilworth Forest residents and a representative of the Coalition of Asheville Neighborhood supported the project; however, there were still outstanding issues they would like

to have addressed and encouraged a delay until those issues have been addressed. As the stated their issues/concerns, they also offered possible solutions. Those issues/concerns are, but are not limited to: neighborhood not notified of recent changes, e.g., dog park; increase traffic impact on White Pine Drive and need for internal signage to direct traffic away from Brackettown Road; mechanical equipment noise abatement; need for rear parking lot tree islands for abatement of light and sound; need to lower height to 80-feet to confirm with existing ordinance.

David Nutter spoke in support of the project in that this is a case of long range comprehensive planning and short-term current planning which both are necessary for the life of communities. This proposal offers the community very valuable improvements to the Asheville Mall and hoped additional additional design improvements can be negotiated with the developer.

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

Councilman Young was concerned about the affordable housing aspect and asked the developer to increase the affordable housing component to 40% at 60 AMI for 30 years. He noted that the chairman of Seritage Growth Properties is also chairman of the company that shut Sears and KMart stores nationwide, leading to tens of thousands of job losses, including in those in Asheville.

Mr. D'Arelli said that while Sears did close on this project, this development will bring back retail jobs.

Mr. D'Arelli then asked Council to continue this public hearing until April 23, 2019.

Vice-Mayor Wisler then moved to continue this public hearing until April 23, 2019. This motion was seconded by Councilman Kapoor and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

B. BOARDS & COMMISSIONS

Regarding the Asheville City Board of Education, the following individuals applied for the vacancies, met the requirements and submitted essays: Martha Geitner, John Mosconi, Pepi Acebo, Shaunda Sandford, W. Scott Powell, James C. Carter and Melissa Kledis. It was the consensus of the Boards & Commissions Committee, and consensus of Council to interview all seven individuals.. Those interviews will take place on Tuesday, March 26, 2019, beginning at 9:45 a.m. in the Council Chamber with appointments made at the formal meeting on that same evening.

Regarding the Citizens-Police Advisory Committee, there was no applications for the seat for a Housing Authority representative. Therefore, it was the recommendation of the Boards & Commissions Committee and the consensus of Council, to readvertise for the seat for a Housing Authority resident.

RESOLUTION NO. 19-58 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Board of Electrical Examiners.

Mr. Kenneth Frisbee (layman) has resigned, thus leaving an unexpired term until July 1, 2018.

The following individual applied for the vacancy: Roger Vaught

Vice-Mayor Wisler moved to appoint Roger Vaught, as layman to the Board of Electrical Examiners, to serve a three-year term, term to expire July 1, 2021, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 40 - PAGE 322

RESOLUTION NO. 19-59 - RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Homeless Initiative Advisory Committee.

Marcia Bacoate has resigned as a member of the Homeless Initiative Advisory Committee, thus leaving an unexpired term until November 1, 2010.

The following individuals applied for the vacancy: Amber Banks, James Hartye, Josh Ivey, Annie Carpenter, Karen George, Shannon Watkins, Ellenore Holbrook, Sarah Tarpey, Patrick Casale and Patrick Gensert.

Vice-Mayor Wisler moved to appoint James Hartye to serve the unexpired term of Ms. Bacoate, term to expire November 1, 2020, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 40 - PAGE 323

RESOLUTION NO. 19-60 - 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 Homeless Initiative Advisory Committee.

John Christiansen has resigned as a member of the Human Relations Commission, thus leaving an unexpired term until June 1, 2021. In addition, there is a vacancy for a seat never filled.

The following individuals applied for the vacancy: Yvonne Cook-Riley, Gretchen Gudites, Margaret Small, Tracy Elliott, Allison Scott, Greta Byrd, Matilda Bliss, Stephanie Krucher, Ingrid Kalwitz, Grant Millin, J. Vann Vogel, Carol Buffum, Ivan Melchor, Celeste Fletcher, Michael Hayes, Britni Ness, Bettie Council and Nicole Townsend.

Vice-Mayor Wisler moved to (1) appoint Nicole Townsend to serve the unexpired term of Mr. Christiansen, term to expire June 1, 2021, or until her successor has been appointed; and (2) appoint Ingrid Kalwitz to serve a two-year term, term to expire June 1, 2021, or until her has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 40 - PAGE 324

RESOLUTION NO. 19-51 - RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Recreation Board.

Tiffany De'Bellott has resigned as a member of the Recreation Board, thus leaving an unexpired term until June 30, 2020.

The following individuals applied for the vacancy: Lucious Wilson and Craig Ruhland.

Vice-Mayor Wisler moved to appoint Lucious Wilson to serve the unexpired term of Ms. De'Bellott, term to expire June 30, 2020, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 40 - PAGE 312

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Two individuals spoke about Council's need to fight the state on redistricting.

An individual spoke about the lack of minority support in Asheville, in particular as it relates to the Asheville School System.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:35 p.m.

CITY CLERK

MAYOR