

Tuesday – July 14, 2020- 5:00 p.m.

This formal meeting was conducted by use of simultaneous communication in which the following participated by simultaneous communication: 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; City Attorney Brad Branham; and City Clerk Magdalen Burleson.

Mayor Manheimer said that the City Council wants the public to still have the opportunity to participate in the decisions of your government. She then explained the 3 options for providing public comment - voicemail; live call in; and email.

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 23, 2020

B. RESOLUTION NO. 20-124 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE FISCAL YEAR 2020-21 UTILITY CUT CONCRETE REPAIR PROJECT

Action Requested: Adoption of a resolution authorizing the City Manager to execute a contract with Patton Construction Group, Inc. in the amount of \$236,930 plus a 15% contingency of \$35,539.50, for a total of \$272,469.50 for the Fiscal Year (FY) 2020-21 Utility Cut Concrete Repair.

Background:

- The City of Asheville Public Works Streets Division administers the Street Cut Utility Program. This program is an enterprise fund that is supported by the participation of and work generated by partner agencies (Duke Energy, PSNC, City of Asheville Water Resources, and City of Asheville Stormwater Division).
- As part of this program, both city and external utilities partner with the Streets Division to make repairs to City-owned infrastructure that results from utility improvements and repairs. At times, these activities cut concrete infrastructure such as curbs and sidewalks. When this occurs, the Utility Cut Program must have a method to address these areas.
- This contract serves as an instrument to address the unpredictable nature of these cuts in the City infrastructure and eliminates the possibility of City employees being removed from the more routine scheduled maintenance of existing infrastructure. The quantity and location of the concrete repairs performed under this contract is dictated by development and repair work performed by the partner utilities. This is the eighth year that a private contractor has performed this service.
- The project was advertised on April 20, 2020 and the following bids were opened on May 7, 2020:

Patton Construction Group, Inc., Arden, NC	\$236,930.00
Appalachian Paving and Concrete, Asheville, NC	\$269,675.00
B.H. Graning Landscapes, Sylva, NC	\$484,234.40

- Construction is anticipated to start in July 2020 and the contract is intended to last through the fiscal year.

Vendor Outreach Efforts:

- Staff performed outreach to minority- and women-owned businesses through solicitation processes which include posting on the State's Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- In addition, the Business Inclusion Manager posted the advertisement on the following Facebook pages: African American Business Association, CoThink, Local Black Business, Vendors, and Crafters, Black Business Network, WNC Women Entrepreneurs, The Color of Asheville, Latinos de Asheville y Hendersonville, and Asheville Area Black Businesses, Professionals, Entrepreneurs.
- No minority- or women-owned business enterprises submitted a bid to be the prime contractor on the project.

Council Goal(s):

- This action aligns with the 2036 City Council Vision in that it will make "getting around Asheville easy" (Transportation and Accessibility) and "maintain and improve the City's infrastructure" (Smart City).

Pro(s):

- Provides for the timely repair of concrete infrastructure that has been damaged by the installation of utilities.

Con(s):

- Repairs will cause temporary disruption to pedestrian and vehicular traffic.

Fiscal Impact:

- The Street Cut Utility Program is an enterprise fund that is funded by fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost, meaning that the City realizes full cost recovery. Funding for the contract is contingent upon Council approval of the FY 2020-21 budget on June 23, 2020. Funding for the contract is contingent upon Council approval of the FY 2020-21 budget on July 28, 2020.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract with Patton Construction Group, Inc. in the amount of \$236,930.00 plus a 15% contingency of \$35,539.50 for a total of \$272,469.50, for the project known as FY 2021 Utility Cut Concrete Repair Contract

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C. RESOLUTION NO. 20-125 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE AREA ARTS COUNCIL TO CREATE A BLACK LIVES MATTER MURAL AROUND PACK SQUARE PLAZA

Action Requested: Consideration to authorize City Manager to enter into an Agreement with Asheville Area Arts Council to install Black Lives Matter mural at Pack Square Plaza.

Background:

- The City wishes to express itself in matters of public concern, including in matters of racial equity.
- The City has previously used Agreements with not for profit organizations as a method of creating temporary public artworks on the City's behalf.
- The Asheville Area Arts Council (AAAC) has raised the majority of funds needed to install and maintain a City-commissioned Black Lives Matter mural in Pack Square Plaza, and anticipates reaching their goal of \$22,100 by the end of the month.
- No City funds are needed to complete the project. City fees will be waived because it is a City project.
- The Agreement would specify maintenance roles and requirements for the mural.
- The Agreement would be for no longer than one year and would include the right for the City to remove the mural at any time.
- AAAC proactively held a competitive process to procure the three lead artists for the project; all of those artists and the sixteen assistant artists creating the mural are African Americans.
- The mural would be installed at a date to be determined.

Council Goal(s):

- An Equitable and Diverse Community

Committee(s):

- None.

Pro(s):

- Contracting with this not for profit provides the City with ability to artistically express itself in matters of public concern, furthering Asheville's identity as a place built on creative culture and economies
- Contract results in the hiring of 19 African American artists.

Con(s):

- Some community members may not agree with the City's expression.

Fiscal Impact:

- The City will provide minimal services, such as providing and installing barricades, blocking parking meters as part of this project. The cost for the materials and artist stipend will be donated by the AAAC.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an Agreement with the Asheville Area Arts Council to create a temporary Black Lives Matter Mural at no cost to the City.

Councilwoman Smith spoke in support of installation of the Black Lives Matter Mural and thanked the artists who worked on this art. She thanked the Asheville Arts Council spearheading the project and raising funds. She hoped that we use this moment for Asheville's healing.

An Asheville resident felt this is a hollow, meaningless gesture.

In response to Mayor Manheimer, Councilwoman Smith said there will be a meeting later this week and a timeline will be forthcoming.

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

Councilwoman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously by roll call vote.

III. PRESENTATIONS & REPORTS:

A. MANAGER'S REPORT - 30/60/90 DAY PLAN

City Manager Campbell said that she will provide an update on the 30/60/90 day work plan in response to the Black Asheville Demands coalition requests.

She said over the next several months, as part of my Manager's report, she will be updating Council and the community on the 30/60/90 day work plan we developed in response to requests from the Black Asheville Demands coalition. The 30/60/90 day work plan is designed to provide a definitive schedule and outline to begin the work necessary to respond to requests from the coalition. Plan outlines and assigns duties, responsibilities, timelines for various groups including City departments, City Council and Advisory Committees.

Update on 30 days includes (1) Resolution to remove or repurpose monuments and shroud until a decision is reached by a Task Force (a) Resolution passed unanimously by City and County 6/9 and 6/19 respectively; (b) Monuments have been removed or shrouded; (c) City and County have received applications to be on the Task Force; and (d) Final decisions due in the next 30 days; and (2) Work with the community on the renaming of streets - process already in place to rename any city street (a) African American Heritage Commission met to discuss on July 9, 2020. The Commission's recommendation was to provide support on identifying names of historic local black leaders, but to not lead the engagement portion of this project; and (b) Public engagement process is being developed.

Update on 60 days includes (1) Continue partnering with Asheville City Schools and Buncombe County Schools to address Opportunity Gaps (a) Schedule meeting with Superintendent to discuss path forward for Equity Collaboration Initiative; and (b) Early August determine next steps for initiative; (2) Community conversations around budget to support transparency and needs (a) Developing community engagement process; (b) Meeting with key groups and individuals to test and further develop the proposed engagement process; (c) Plan to launch broader community engagement process in early August; and (d) Seeking input to determine how to provide services that advance social, economic and racial equality; and (3) Initiate conversations with the district attorney's office regarding the decision for Mr. Hickman; (a) City Attorney's office working with DA's office and Restorative Justice process related to probation process.

Update on 90 days includes (1) provide protocol, practices overview of assessment, plans and implementation by City government; and resources allocation data from the Equity and Inclusion Department on the City's Website (a) Requested and received clarification as to the request; (b) Assessing and documenting the role of the Office of Equity and Inclusion; (c) Determining amount of influence and impact of this department on decision making related to City policies, budgets, hiring practices, contracting, etc.; (2) Better understand and work through solutions for: (a) Creation of "Harm Free Zones" - Research to gain better understanding of what it is and legality; and (b) All Civilian Oversight Committee - Draft proposals completed and negotiations with PBA ongoing; (3) Utilize best practices to recruit people of color (a) Work underway to review job descriptions and training requirements; and (3) Develop Race and Gender Conscious Policy in response to the disparity study as part of City contracting and

procurement (a) Proposed draft policy being developed; and (b) Committee review and then to full Council in September.

Moving forward (1) We have heard the community; (2) We want to respond and move forward together; (3) Racism is a systemic problem, bigger than police and the City cannot solve it alone and within 90 days; (4) The solutions need to be strategic and collaborative; and (5) We will engage with the public as well as County government, schools, health care providers, the private sector and other organizations to address social and economic disparities.

In response to Councilwoman Mayfield, City Manager Campbell said that we are also looking at the process to address renaming Pritchard Park. .

In response to Councilwoman Mayfield, City Manager Campbell spoke about how we are looking at policing and the budget. We will have a public hearing on a short interim budget on July 28 but it won't have any major shifts. Basically it is a procedural step to allow us to start the larger conversation we want to have with the community. After a three month robust conversation we will adopt a new budget that will hopefully get at some shifts in the budget for this year. There will be another conversation about how the process moves forward year after year for the longer plan.

In response to Councilman Haynes, City Manager Campbell said that the interim budget on July 28 will only be for three months and we will start with the baseline budget with no increases.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO SOLICIT COMMENTS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS ANNUAL ACTION PLAN FOR FISCAL YEAR 2020-21

Councilman Kapoor moved to continue the public hearing to solicit comments for the Community Development Block Grant and HOME Investment Partnership Act funds Annual Action Plan for Fiscal Year 2020-21 to July 28, 2020. This motion was seconded by Councilman Young and carried unanimously by roll call vote

B. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 99999 COURTLAND AVENUE, 99999 WOODSIDE PLACE, AND 99999 GUDGER STREET FROM URBAN VILLAGE TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to rezone property located at 99999 Courtland Avenue, 99999 Woodside Place, and 99999 Gudget Street, from Urban Village to RS-8 Residential Single-Family High Density District. This public hearing was advertised on July 3 and 10, 2020.

Action Requested: Rezone three properties from Urban Village (UV) to Residential Single-family, High Density (RS-8).

Background:

- The rezoning petition consists of three separate parcels with a combined area of approximately 0.40 acres located at 99999 Courtland Ave., 99999 Gudger St., and 99999 Woodside Pl. (PINs 9649-11-0689; 1622 & 0671) and are owned by Mahan Kalpa Khalsa Trust and 1031 Beckstrom LLC.

- The subject properties are 0.28, 0.06 and 0.06 acres respectively. The largest parcel is split-zoned but is predominantly zoned Urban Village (UV) with a very small portion zoned RS-8. The two smaller lots are both zoned UV in their entirety.
- The larger 0.28 acre parcel is located within the Montford Historic District. No changes to the Historic District overlay or the boundary is proposed. The Asheville Buncombe Historic Resources Commission granted preliminary subdivision plat approval earlier this year.
- The properties have frontage along, and are accessed from, Gudger St. and/or Woodside Pl.
- The properties were included in a large rezoning application from 2007 that included 51 lots totalling 9.89 acres that were intended to be combined for the purpose of executing a large, mixed-use development. The masterplan was approved but never implemented and has subsequently expired; however, the UV zoning designation remains in place.
- The UV zoning requires the approval of a master plan involving a minimum of five acres. Without a rezoning, the properties cannot be developed individually.
- The expiration of the former plan, combined with the condition of numerous individually owned parcels, reduces the likelihood that an urban village would ever be developed.
- The proposed RS-8 zoning would allow for the three properties to be recombined and redivided in a more efficient manner to allow for single-family residential development.
- The purpose of the UV zoning is to create a high-quality, mixed use development that contributes to the place-making character of the built environment and that is economically vital and pedestrian-oriented with an organized layout that encourages the full range of access by patrons and users. Without a master plan that meets these criteria, the UV zoning is ineffective.
- The purpose of the RS-8 zoning district is to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development. The majority of the parcels directly adjacent or in proximity to the subject properties are zoned RS-8.
- The subject properties are located in and/or border the Montford Historic District which consists primarily of single-family residences. The properties to the north and south are zoned RS-8 and developed with single family homes; the property to the east is also zoned RS-8 and is developed with an Middle school (Montford North Star Academy) which is one of the few non-residential land uses supported in residential areas; the properties to the west are undeveloped and remain zoned UV. Schools and single family residences are generally regarded as compatible land uses and the proposed RS-8 single-family zoning would support new development that is consistent with the surrounding uses, as well as the historic district.

Council Goal(s):

- A well-planned & livable community

Committee(s):

- A preliminary subdivision plat was reviewed and approved by the Asheville Buncombe Historic Resources Commission on January 8, 2020.
- The Planning & Zoning Commission reviewed and approved the rezoning petition unanimously (6:0) on July 1, 2020.

Pro(s):

- Removes a zoning designation that does not allow small lot development.
- Assigns a designation consistent with the surrounding zoning and uses.
- Supports consistency with the Montford historic district's development pattern.
- Allows opportunity for infill housing in a locationally efficient area.

Con(s):

- None.

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that the Traditional Neighborhood future land use designation is assigned to more compact and walkable residential areas that provides a range of housing types at a moderate density (4-8 units/acre) with the RS-8 zoning district identified as an appropriate zoning found within Traditional Neighborhood areas.
- This rezoning supports opportunity for infill housing in a very walkable and strategically located neighborhood, thus aligning with key goals in the *Livable Built Environment* Plan section.

Fiscal Impact:

- None

When Vice-Mayor Wisler asked if the entire Urban Village area should be rezoned to RS-8, Ms. Tuch said that staff did discuss that; however, there are still some large parcels in that zone and someone may wish to come along and develop an urban village. In addition, RS-8 may not be appropriate on some of the borders. Since the City will be revising the Unified Development Ordinance, staff felt it would be best to wait until that review. If individual property owners wish to be rezoned, staff will look at them on a case by case basis.

Mr. Tikkun Gottschalk, attorney representing the owner , explained how they believe the rezoning of this property to Urban Village was an inadvertent error and urged Council to support the rezoning.

Mayor Manheimer opened the public hearing at 5:46 p.m.

An individual felt that it was inappropriate to be discussing rezoning of this property since years before it was part of urban renewal and at the end of this meeting, Council is asking for reparations to Black people.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing will be accepted for an additional 24 hours. Therefore, Vice-Mayor Wisler moved to recess this item until July 28, 2020, at which time this public hearing will be voted. This motion was seconded by Councilman Kapoor and carried unanimously by roll call vote.

C. PUBLIC HEARING TO CONSIDER CONDITIONALLY REZONING PROPERTY LOCATED AT 61 INNOVATION DRIVE FROM COMMERCIAL INDUSTRIAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONE, ALONG WITH A CHANGE IN THE FUTURE LAND USE MAP FROM INDUSTRIAL/MANUFACTURING TO EMPLOYMENT/ANCHOR INSTITUTION CENTER

Vice-Mayor Wisler, moved to continue the public hearing to conditionally rezone property located at 61 Innovation Drive from Commercial Industrial District to Institutional District/Conditional zone, along with a change in the Future Land Use Map from Industrial/Manufacturing to Employment/Anchor Institutional Center to July 28, 2020. This motion was seconded by Councilman Young and carried unanimously by roll call vote

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 20-127 - RESOLUTION AMENDING THE 2019-20 U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN TO ALLOCATION FUNDS TO HELP PREVENT, PREPARE FOR, AND RESPOND TO COVID-19

Mayor Manheimer said that this public hearing was held on June 23, 2020, and in accordance with recent legislation amending North Carolina G.S. § 166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing were accepted for an additional 24 hours.

After receiving additional public comment, Mayor Manheimer closed the public hearing and said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Young moved to adopt a resolution to approve the City's submittal to HUD for the proposed use of CDBG funds for COVID-19. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

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VI. NEW BUSINESS:

A. RESOLUTION DELEGATING AUTHORITY TO THE CITY ATTORNEY TO ENTER INTO A CONTRACT WITH HILLARD HEINTZE TO EVALUATE AND PROVIDE A REPORT ON THE ASHEVILLE POLICE DEPARTMENT RESPONSE TO THE RECENT PROTESTS

City Attorney Branham said that this is consideration to authorize the City Attorney to contract with Hillard Heintze in an amount not to exceed \$82,500 to conduct an evaluation of the Asheville Police Department (APD) response to the recent protests including a report to be provided to City Council.

Background:

- In late May and early June of 2020, the City of Asheville experienced several public protests relating to the enduring national problems of police brutality, institutional racism, and the unlawful and unjustified killing of George Floyd on May 25, 2020.
- The APD responded to these protests which included crowd control measures such as tear gas and the arrests of some protestors.
- By request, APD officers were assisted by other local police agencies as well as the National Guard.
- A City-wide curfew was established by Mayoral declaration from June 2nd - June 5th which restricted public protesting nightly after 8:00 pm, however many protestors ignored the curfew.
- The City has received numerous complaints regarding the operational response by ADP during the protests.
- The City Council determined that a thorough and transparent assessment of that response was necessary.

Council Goal(s):

- A Diverse Community
- A Well-Planned and Livable Community

Committee(s):

- Public Safety

Pro(s):

- This evaluation of the APD response will provide a competent, thorough, and independent assessment which will allow City Council and the public to better understand these events, as well as provide ADP with strategies for improvement if applicable.
- The resulting final report will be produced in a transparent and unbiased manner in order to bolster public trust in the process.

Con(s):

- The funds expended on this contract could be utilized elsewhere to address community concerns and budgetary shortfalls during the economic downturn created by the recent pandemic.

Fiscal Impact:

- For the month of July, the City is operating under an interim budget, which per § 159-16, only allows for appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses. Since this contract would not likely be considered a usual ordinary operating expense, full funding for the contract won't be available until adoption of the annual budget ordinance on July 28, 2020. The estimated total for services to be provided is between \$66,000 and \$72,000, excluding expenses. Additional contingency funds are included in the requested delegation of authority to account for final expenses. The contract will be funded from the Asheville Police Department Budget.

City Attorney Branham said that in a June 15, 2020, letter, the City Council unanimously directed me to provide a recommendation of an outside independent agency to conduct a thorough review of the ADP response to the recent protests in Asheville. Since that time, his office has conducted the search for a firm to perform this task. He is now prepared to recommend the firm of Hillard Heintz.

He said that as background, he would like to provide the Council with some information about Hillard Heintze (1) They are a Consultant and Assessment firm specializing in security risk management around the world; (2) Since its founding in 2004, they have provided consulting and evaluation services for corporate entities, individuals, and governments; (3) One of their areas of service expertise is providing assessments for Law Enforcement agencies (a) Specifically focusing on improving efficiency and effectiveness of the police force; (b) Strengthening management operations, as well as oversight; (c) Advancing Community-focused policing; (d) Enhancing the internal affairs function; and (e) Building a new platform of integrity to enhance community trust; (4) Through this work, they have conducted evaluations of numerous policies agencies around the Country; (5) The team that would conduct our evaluation consists of 4 Person Unit which includes: (a) A mix of law enforcement professionals and Attorneys with; (b) Extensive experience as Department Chiefs, criminal justice and civil rights legal practitioners, as well as professors of criminal and constitutional law; (c) They have experience in performing assessments and advising police departments in numerous cities such as Washington D.C., New Orleans, Louisiana, Chicago, as well as for police departments in Central and South America; (d) They have provided consulting services for the Dept. of Homeland Security, U.S. Customs and Border Protection, and the U.S. State Department; (e) They have facilitated numerous community dialogues regarding policing throughout the Country; (f) They bring experiences in civil rights mediation; and (g) They have also recently provided consulting services in North Carolina around the toppling of the Silent Sam Statue in Chapel Hill.

He said it is also important to note regarding the independence of this firm, that they have no prior relationship with the City of Asheville, APD, or any member of the command structure of APD.

He said that upon review of their credentials, research of past work, as well interviews with their assessment team, he felt that Hillard Heintze possesses the necessary competence, experience, and expertise to conduct a thorough, fair, independent, and unbiased evaluation of the APD response to the recent protests, and produce a meaningful and transparent report to presented to the Council.

City Attorney Branham then described what the evaluation process will look like (1) The assessment will review the APD response to the protests during the period of May 30 – June 6th, including the crowd control efforts such as the utilization of tear gas and other projectiles, and the destruction of supplies at the protester medic area; (2) As part of their process, and final report, they will provide the Council with an assessment on our policies and practices, in addition to a review of what occurred during the protests. This will serve as professional advice on, among other things, our use of Tear Gas; (3) This information could then be used as the basis to make policy or disciplinary decisions within the department; (4) This will be done in 3 phases: (a) Phase 1 (1-2 weeks) They will review of all relevant policies and procedures, reports, and operational plans, as well as conduct initial meetings with my office and other pertinent City representatives; (b) Phase 2 (3-6 weeks) They will conduct on site (or virtual) public engagement and analysis. This includes viewing body cam footage, site visits, individual interviews with members of APD, City staff, and members of the public, as well as conducting open forum(s) with the community; and (c) Phase 3 (7-9 weeks) Analyze all collected information and coordinate with my office to prepare a final report to be presented publicly to the Council. In total, the process will take 3-4 months, including a multi-day on-site visit for up to 4 personnel). Including preparation of the final report and presentation to the Council, the total cost is expected to be \$82,550. Based upon the experience and expertise of the evaluation team, as well as the time and process involved, he believed this cost is well in line with the market rate of similar firms for this type of contract. Therefore, he recommended the firm of Hillard Heintze to conduct the analysis of the police response to the recent protests as requested by the Council.

In response to Councilman Haynes, City Attorney Branham said that the company will also look at whether or not the APD policies were followed regarding chemical and rubber munitions; and whether their actions or policies conform with modern day best practices for police services.

Councilman Haynes said that during the June 23 Council meeting, he asked for the use of banning tear gas to be on the July 28 agenda. However, due to a lack of support at this time, some members of Council desired to wait on findings of the evaluation before addressing the use of force methods deployed. But what can we expect to receive in these findings? They may conclude that some of the actions taken by the APD were inappropriate under the circumstances but they will most certainly conclude that no laws were broken. They will likely provide information showing these so-called non-lethal uses of force to be widely accepted methods of crowd control leaving it up to us, Council and the community to decide whether or not it was or is the right thing to do. While he sincerely hoped this evaluation spells out errors made and offers possible solutions through policy changes, it will not do our work for us. He asked that the appropriate steps are taken to authorize Council to view body cam footage from these protests. And since there can be no vote tonight on the banning of these weapons, He asked that the crowd control weapons deployed during these protests go to the Public Safety Committee to be addressed individually concerning their safety along with looking at possible alternatives and whether or not they should continue to be available to the Asheville Police Department.

Mayor Manheimer agreed with Councilman Haynes in that the majority of Council did not wish to put the tear gas item on the agenda tonight as they would like to hear the results of the consultant's review before proceeding.

Councilwoman Smith moved to authorize the City Attorney to execute the contract with Hillard Heintze to perform an evaluation of the Asheville Police Department response to the recent protests and to prepare a final assessment to be presented to the City Council during a public meeting. This motion was seconded by Councilman Young.

Twenty-six individuals spoke against spending over \$80,000 on consultants for various reasons, some being, but are not limited to: there is already evidence from videos, body cams and witnesses so a report is not necessary; let the existing Citizens-Police Advisory Committee perform the investigation; the make-up of the firm is largely white people; funds for the consultant should be paid for out of the APD budget; modern policing standards are part of the problem; this money could be spent on addressing Black Lives Matter demands; this investigation seems like a delay tactic; defund the APD by 50%; if the right questions are not asked for the firm's scope, then we won't get the right answers; and the study should also involve the Blue Lives Matter protest.

One individual supported the firm examining the behaviors of the APD.

Mayor Manheimer said that after the protests, the City Manager put forward a review of the APD conduct during the protests; however, City Council felt a more objective review was necessary and asked the City Attorney's Office to find a firm that can provide a more transparent and unbiased report. Unfortunately, the price of the firm was not known but she doubted a much different price could be found due to the pricing of consultants. After listening to the comments, she felt there is an interest in a different approach.

Councilman Haynes, who at one time supported the outside review, said that he no longer supports this third-party review, but would support a local evaluation. He felt there will be inaction for at least four months. If the contract is approved, he asked that the study be extended to cover actions of APD at the Blue Lives Matter protest as well.

Councilwoman Smith said that initially at the Public Safety Committee, the Committee wanted to look into some of the actions from a policy and procedural perspective. Then City Manager Campbell volunteered to take the matter in their own hands and conduct an investigation. There was some concern about the best method to go about an investigation of the APD and that is how the decision was made to ask the City Attorney's Office to provide a recommendation of an outside independent agency to conduct a thorough review of the ADP response to the protests. Since hearing the cost and the public comment, she withdrew her motion to approve the contract and would support a motion to table.

Mayor Manheimer asked the Public Safety Committee to look at this issue in conjunction with the City Attorney's Office that can look at policies and procedures.

Councilman Kapoor was very supportive of the idea that City Council take responsibility and oversee this investigation. As an elected body, we have a duty to look at this in an objective way and if Council is not satisfied with the regulations, they have the ability to change them. He felt the full Council should review and be a part of the investigation, not just receive a recommendation from the Public Safety Committee to the full Council. He did support a third-party review because they have the expertise on what people do in that field. He felt that City Council won't sit quietly for a whitewash report, and that we need professional help on if what was done was justified.

Vice-Mayor Wisler felt that City Council does not have the expertise to know what the APD did was legal or not. She felt it would be good to have people who have the expertise and knowledge of what other policing organizations across the country are doing to give us recommendations. She suggested we re-look at the scope and ask for recommendations regarding policies and procedures going forward.

Councilwoman Mayfield was supportive of moving this item to the Public Safety Committee and to make a recommendation to the full Council about the process. She agreed with Councilman Kapoor that the responsibility for this study ultimately rests with City Council. After the Public Safety Committee's recommendation on process, she wanted to be a part of the next steps. Their recommendation could include if we need an in-house study or a consultant along with the specific questions we want addressed, i.e., what other communities use for control who do not use tear gas. She was concerned about the study being done in-house because it's the people who did the wrong studying whether they did the wrong. She didn't think the people would trust the in-house study. If we have a third-party study, then you have outside people coming in with an objective mind and lens looking at what the APD did. City Council has a history of getting reports and making changes, and she would expect the same thing out of this study.

In response to Councilwoman Mayfield, City Attorney Branham said that the unit assigned to this study from the consultant firm consists of a four person team, two of which are people of color. He said the contract will be funded from the Asheville Police Department Budget.

Councilwoman Smith moved to table this matter and asked that the Public Safety Committee provide a recommendation to Council concerning the process, noting that all of Council was welcome to provide their input into that recommendation. This motion was seconded by Councilwoman Mayfield and carried on a 6-1 roll call vote, with Councilman Kapoor voting "no."

City Attorney Branham advised that the motion to table or to defer consideration takes it off City Council's agenda for up to 100 days. At the end of 100 days the action will expire. City Council can bring the action back up again anytime within the 100 days.

B. RESOLUTION NO. 20-128 - RESOLUTION SUPPORTING COMMUNITY REPARATIONS FOR BLACK ASHEVILLE

Councilman Young said "In this moment, we have a lot of issues to deal with that affect all citizens. Moreover, the death of George Floyd has been a catalyst to the nation's largest civil rights movement - a movement that is supported by Black Americans but also by white allies of the Black community. Allies that I am thankful for and allies that I deeply appreciate. Nonetheless this is a movement that largely describes the treatment of Blacks in America for a sustained period of time. The blood capital that we have banked to spend today to fight for significant change came predominantly not from our allies but from Black men, women and children who died to get to this very moment, generation so to speak. Hundreds of years of Black blood spilled that basically fills the cups we drink from today. And so, when it pertains to policy that involves largely the lives of Black residents of the City of Asheville, I am a Black man with a Black family and anything that we do, in my mind, has to outlive the emotions of this present moment. Because the future success of my own children and our current and future society depends on the sustained success of the systemic changes that we seek. And not just the budgetary priorities in the moment. Albeit it's important as well. We can multitask, but to say it bluntly, this is our moment, these are our lives and this is our capital. I cannot speak for everyone else, but when I help craft policy that will affect the majority of our City's Black residents, I can truly say my heart and my head are literally in the game. And I look at my own children as my north star, my guiding light for success because their lives and their peers' lives depend on it. My dedication to those children, my children, truly drives my personal need to be successful with a policy such as

this. To those folks who are out there listening and watching, I want folks to understand that we will not be the last Council or City staff to see these policies through. It is my mission to help make, what I believe, the American dream tenable for basically all of our citizens. And, with that said, I want to say that there is this concept that is the American dream that we all have equal opportunity to generate the kind of wealth that brings meaning to the words "live, liberty and the pursuit of happiness." Even though Black Americans, we've been denied that. So, it's simply not enough to remove statutes. Black people in this country are dealing with issues that are systemic in nature and it may feel good to some to see a symbol of oppression fall, such as a Confederate monument, to join the rallying cry to defund the police (to that I say power to the people); however, the same stemics that allowed statues to go up and the disparities in police to continue are the very same systemics that recycle itself generation after generation after generation and still remain regardless of this Council or its financial allocations. So, the days of incremental change, I believe, have left us. And, in the now we require what I believe is to be institutional change to move forward. That is why the creation of generational wealth within our Black community is important. It will sustain families for future generations and is the key to the proverbial American dream. And as far as the other systemic institutional change, institutional change is exactly what we should be seeking. And we are seeking. Not incrementalism or gestures of allie-ship. We need to be made whole. And I've said it before. In areas of health care, education, employment, criminal justice, business ownership, home ownership, overall equity, and as I've mentioned before generational wealth. And I don't want, I'm speaking for me now personally, I don't want to be made whole though one singular action or shuffling of money that another elected body can change at a drop of a dime. I want generations to be made whole for systematic action. The same systemic actions that got us here and have produced policy that outlived many dead politicians and generations of dead Black Americans. That is what we need to focus on. This resolution will ground us deeply and prepare the community to move forward on this promise that we are going to speak about tonight, regardless of what Council, regardless of what City Manager and regardless of what staff will be here. We want to be grounded so this necessary work will be sustained and anything less than systemic change is just feel good politics in the moment period."

Councilwoman Smith said "I think the first step towards rectifying any societal problem is to acknowledge that there is an action problem in the first place. So, in my mind, this resolution is the first step in that it names that list of historic wrongs that have been perpetuated against the Black community up until this very day. A lot of feedback that we have gotten so far by email is that, why should we pay for that happened during slavery. And my pushback against that is that reparations is more than restitution for what happened during the TransAtlantic Slave Trade. It is a dark evil sin of child slavery that is the root of all injustice and inequity at work in American life today. So it is institution that serves as the starting point for the building of strong economic floor for white America while attempting to keep Blacks forever subordinate to its progress. I wish our educational system would have done a greater job at revealing the origins and the lasting impacts of the many dimensions of racism so that accepting these truths early on in life and building empathy so that we can have an even analysis of what injustice in America was like for Black people, it will make a United States more possible. So, this resolution goes a long way in articulating that. I appreciate the resolution and that is why I am dedicating my yes vote tonight to honor my elders, both past and present. I would like to see the latter part of the resolution, be it therefore resolved, the solution part of the document, to show that these are not just flowery words on paper. This will mean that any report generated by a commission, or anyone tasks within the Asheville City staff will come back with tangible programs that have real line item monetary resources attached to them. And this means fully funding our transit system and affordable housing, but also mapping out our assets - the City assets, while looking at other municipalities who are doing a great job of coming up with innovative ways to address these generational wealth gap in Black communities. And I trust that what will come out of this, the direction of this resolution, will bring us back some shovel-ready projects and some fully funded programs that actually deal with things like the discriminatory use of eminent domain. It hurt us.

It hurt us deeply. And with that being said, I want to read something that was gathered some years ago that impacted my life when I returned to Asheville. It is a publication by the North Carolina Humanities Council. This was written by Priscilla Ndiaye. She's also a member of the Southside Community, like I am, a member of the Southside Community and this kind of quantifies what was lost, just in the south side, what we call the South. 'In the East Riverside area, said by the late Reverend Wesley Grant, we lost 1100 homes, 6 beauty parlors, 5 barber shops, 5 filling stations, 14 grocery stores, 3 laundromats, 8 apartment houses, 7 churches, 3 shoe shops, 2 cabinet shops, 2 auto body shops, 1 hotel, 5 funeral homes, 1 hospital and 3 doctor offices.' It's been said that what happened with urban renewal in this City, not slavery, but urban renewal, in this City came up to about over 400 acres of desimated homes and businesses and this urban renewal project locally was the largest in the southeastern part of the United States. This is what impacts me day to day. This is what still impacts this community. Anybody who goes throughout this community and you interact with Black people both young and old, this is felt. We feel it. Not only in our bodies in the way we interact and psychologically. So, we took a pause a couple weeks ago on our budget adoption to have some real conversations and these conversations would generate how we increase equity in this community. So, I want to say to the professional staffing here, at the City of Asheville, that we need to bring a red pen to the table to actually circle expenditures and to really show how they directly relate to the stated goals in this resolution."

Vice-Mayor Wisler said "Asheville, through this resolution, really has shown leadership. I was excited to see that the State of California just also is going to study reparations and I just hope that we will be just that little spark that will really get this conversation not only going in Asheville, but in North Carolina and across the country. I'm looking forward to voting for this resolution."

Councilman Kapoor said "he wanted to direct these comments to those of you who may be skeptical about what we are trying to do here tonight. I want to go to what Councilwoman Smith talked about in the beginning of her comments which was the recognition that we have a problem here in the City of Asheville. That is clear here. And regardless of whether or not you want to use the term 'reparations' or otherwise, the data is clear that we have significant disparities in this City. You can look at the numbers that are put out by the State of Black Asheville. You can look at the racial equity gap, if you will, in the School District. If you look at those datas, the issue there is one of race. Personally I don't think we can shy away from that. I think it's critically important for a city like Asheville to look at that. Because that doesn't benefit anyone to have a significant equity gap in this city. It holds us back. It holds us back as community members and holds us back into what the city can do. So, I think whether you want to call it 'reparations' or whatever you want to call it, I think significant investment in the Black community is absolutely warranted. It is warranted not just from the perspective of the moral, having Councilman Young and Councilwoman Smith have eloquently talked about here, but again for those of you who are skeptical, think about it from the practical perspective as well. We don't want our city held back by these gaps. And if the moral or human isn't enough to sway you, I hope thinking about this and thinking about what Councilman Young talked about, the American dream, we want everyone to be successful in Asheville. We absolutely want to do that. And, we need to invest in all our communities here, but in particular we need to understand the disparity that we have here in our community now. And we need to rectify those to the extent we can. And that is why I'm absolutely supportive of what Council is doing tonight with this resolution."

Councilwoman Mayfield said "this is an amazing moment. It's sobering and somber and incredibly exciting and also incredibly way overdue. This resolution, you know, it doesn't fix everything. I think I've heard some criticism that it's just vague and where is it going to actually get us. It is just the first step. As Sheneika said, it is the first step, but we have to take this first step if we are to begin to undue the centuries of wrongs that have been perpetrated on our Black neighbors and communities. The challenge for us and work going forward is to do exactly what

Keith called for - which is for us to really intentionally address the policies, the programs, the funding, the systems that have landed us where we are right now, which is a place of great disparity. And to really address the obstacles that have kept Black and Brown communities from being successful in all the ways that their white counterparts are - the rest of us are. I hope you will create new policies, programs, funding structure systems that will replace the ones that we have now and really go a long way in repairing the damage that has happened and that continues today. It's not in the past. It continues today. And Keith is right, this is not just about the budget, but the budget is the big stick that we carry. And we heard a lot in the past, and I've heard a lot since I've been on Council, that budgets are moral documents. And, I think that is true. We need to do a lot. I don't know how we're going to do it but we need to do a lot and we need to shift a lot of where we are spending to make it the moral document it needs to be to create the systematic change that we are trying to accomplish. It will not happen overnight and we cannot do this alone. I hope people have noted that the resolution is aimed not just at the City, at the County, at standalone institutions in our community - we all bear the responsibility, the burden of having created it and we all bear the responsibility of needing to fix it. And that is everything from the largest corporation that is based here to the smallest organization. We all have a role. And I really do want us to think big. We need to be thinking very differently about how we do things going forward - what we fund. Two particular things that I have found myself saying this a lot since I've been on Council. Well we don't fund education and we don't do health. That's the County - go talk to the County. Well, the County ain't doing everything that needs doing. And if that means that the City needs to step up and we need to start funding and investing in schools, we need to start investing in our healthcare system and accessibility to health care and making particular investments in women, our children and our families, then that's what we need to do. Now sadly I won't be around for most of this. I am time limited and I have months. But I will be a partner with the City and with Council and with staff in this work going forward. Wherever I am, I will be a partner and hopefully I will be in a position to be having some of these same conversations at a very different level of government that also needs to happen. I pledge that I will endeavor to lead this conversation in those forums."

Councilman Haynes said "first I would like to thank Councilman Young for taking the lead in bringing this resolution to Council. And secondly, acknowledge that while this resolution provides a great opportunity to begin reparations it is only the first step and will require the continued support of this and future councils to move towards fruition. I would also like to point out that this can directly tie into the call for defunding the APD. It seems only fitting that an institution that has historically brought so much harm to Black people could and should provide through a 50% reduction in their budget and much needed resources to begin the reparation process."

Mayor Manheimer said "I too want to thank Councilman Young for bringing this forward and I want to thank all of you for your thoughtful comments tonight, and for your bravery in moving forward on this. We are in this together sometimes in the sense that we receive a lot of comments from the public that everyone else doesn't see, mostly via email, and this is unfortunately still a divisive topic, although more momentum is growing around it, I think in Asheville, in North Carolina and throughout our nation. But reading some of the comments we received from folks that don't support a resolution like this, I imagine it must be extremely painful to read those comments, so I want to compliment you on your bravery to move this forward. This is not for the faint of heart to try to work on. Tough topics like this. So thank you all so much. And I want to thank the community. While we did receive some comments from folks that don't support it and in particular folks that don't live in Asheville that wanted to tell us they don't support it. We did receive a lot of support from folks right here in Asheville and that helped so much when you are trying to do something that is hard to do and somewhat controversial. To hear that outpouring of support. So thank you to the community for those of you who have already chimed in and made it clear that this is something you support. And the Racial Justice Coalition for working with Councilwoman Young to bring this forward. So thank you for your work."

Each Council member read a portion of the following resolution: “WHEREAS, Black People have been unjustly Enslaved; and WHEREAS, Black People have been unjustly Segregated; and WHEREAS, Black people have been unjustly Incarcerated; and WHEREAS, Black People have been denied housing through racist practices in the private realty market, including redlining, steering, blockbusting, denial of mortgages, and gentrification; and WHEREAS, Black People have been denied housing, displaced and inadequately housed by government housing policies that include discriminatory VA/FHA practices, Urban Renewal, and a variety of local and federal “affordable” housing programs; and WHEREAS, Black People have been consistently and widely impoverished by discriminatory wages paid in every sector of the local economy regardless of credentials and experience; and WHEREAS, Black People have experienced disproportionate unemployment rates and reduced opportunities to fully participate in the local job market; and WHEREAS, Black People have been systematically excluded from historic and present private economic development and community investments and, therefore, black-owned businesses have not received the benefits of these investments; and WHEREAS, Black people have been segregated from mainstream education and within present day school programs that include AG, AP, and Honors; and WHEREAS, Black students have experienced the denial of education through admission, retention and graduation rates of every level of education in WNC and through discriminatory disciplinary practices; and WHEREAS, Black People historically and presently receive inadequate, if not detrimental, health care as exemplified by disproportionate morbidities and mortality rates that result from the generational trauma of systemic racism, discriminatory treatment by medical professionals, and discriminatory medical practices such as involuntary sterilizations, denial of adequate testing, denial of preventative and curative procedures; and WHEREAS, Black People have been unjustly targeted by law enforcement and criminal justice procedures, incarcerated at disproportionate rates and subsequently excluded from full participation in the benefits of citizenship that include voting, employment, housing and health care; and WHEREAS, Black People have disproportionately been forced to reside in, adjacent to, or near Brown Zones and other toxic sites that negatively impact their health and property; and WHEREAS, Black People have disproportionately been limited to the confined routes of travel provided by public transportation; and WHEREAS, Black People have disproportionately suffered from the isolation of food deserts and childcare deserts; WHEREAS, systemic racism was created over centuries and will take time to dismantle; WHEREAS, state and federal governments have a responsibility to adopt programs, policies, and funding to address reparations; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: The City Council of the City of Asheville: (1) apologizes and makes amends for its participation in and sanctioning of the Enslavement of Black People; (2) apologizes and makes amends for its enforcement of segregation and its accompanying discriminatory practices; (3) apologizes and makes amends for carrying out an urban renewal program that destroyed multiple, successful black communities; (4) calls on other organizations and institutions in Asheville that have advanced and benefitted from racial inequity to join the city in its apologies and invites them to address racism within their own structures and programs and to work with the city to more comprehensively address systemic racism; (5) calls on the State of North Carolina and the federal government to initiate policymaking and provide funding for reparations at the state and national levels; (6) directs the City Manager to establish a process within the next year to develop short, medium and long term recommendations to specifically address the creation of generational wealth and to boost economic mobility and opportunity in the black community; (7) fully supports its equity department, staff and its work, and encourages the city manager to utilize their talents when forming policy and programs that will establish the creation of generational wealth and address reparations due in the black community as mentioned above; (8) seeks to establish within the next year, a new commission empowered to make short, medium and long term recommendations that will make significant progress toward repairing the damage caused by public and private systemic Racism. Other local government community organizations may also be invited to have representation on the Commission. The task of the Community Reparations

Commission is to issue a report in a timely manner for consideration by the City and other participating community groups for incorporation into their respective short and long term priorities and plans. Accountability for achieving equity will be enforced in the appropriate offices. The report and the resulting budgetary and programmatic priorities may include but not be limited to increasing minority homeownership and access to other affordable housing, increasing minority business ownership and career opportunities, strategies to grow equity and generational wealth, closing the gaps in health care, education, employment and pay, neighborhood safety and fairness within criminal justice; (9) calls on the city manager to give, at minimum, a bi-annual update to the city council on the progress of work performed pursuant to this resolution.”

Councilwoman Mayfield hoped we can create the commission in a different way and involve the community more to identify the people to serve on it.

Nineteen individuals spoke in support of the resolution and spoke to Council on various items, including, but not limited to: demanding 50% of the Asheville Police Department’s (APD) budget be invested in long-term safety strategies including supporting Black startups/business, eliminating the racial opportunity gap in Asheville City Schools; defund the APD; remove Vance monument; abolish the APD; request Mayor Manheimer; ban excessive use of force and chemical weapons against citizens; and provide a comprehensive plan for reparations.

Three individuals spoke in opposition to the resolution as they were not responsible for things that happened 200 years ago.

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

Councilman Young moved for the adoption of Resolution No. 20-128. This motion was seconded by Councilwoman Smith and carried unanimously by roll call vote.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Eighteen individuals spoke to Council on various items, including, but not limited to: support the resolution supporting community reparations for Black Asheville; demanding 50% of the Asheville Police Department’s (APD) budget be redirected to the Black community; defund the APD; remove Vance monument; abolish the APD; don’t hire the consultant firm to study the actions of the APD during the protests; remove police presence from schools and hospitals; request Mayor Manheimer and Police Chief Zack to resign; ban excessive use of force and chemical weapons against citizens; need for budget transparency; City is running the black communities out; rename streets named after former slave owners and replace those names with the names of historic local black leaders; opening up the City is harming the residents; and pay volunteers for their work on committees.

Mayor Manheimer announced that the July 28, 2020, City Council formal meeting will be held in-person at Harrah’s Cherokee Center-Asheville with social distancing measures. Public comment will include written emails along with pre-recorded comments.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 10:08 p.m.

CITY CLERK

MAYOR