

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sheneika Smith; Councilwoman Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sage Turner; Councilwoman Gwen C. Wisler; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer said that the City of Asheville is expecting heavy rains over the weekend due to Hurricane Ian. City staff is coordinating emergency response and urged residents to sign up on the City’s website to get alerts. She hoped the best for everyone in the path of the hurricane.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Mayor Manheimer said that due the cancellation of the VeganFest event on October 2, 2022, due to weather, it was requested that Consent Agenda “F” regarding possession and consumption of alcoholic beverages and/or unfortified wine at the Asheville Veganfest be allowed on October 16, 2022.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 13, 2022**

- B. RESOLUTION NO. 22-213 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ENVIRONMENTAL TESTING SOLUTIONS FOR THE FREE LEAD TESTING PROGRAM ANALYSIS PROJECT TO PROVIDE LEAD ANALYSIS**

Action Requested: Adoption of a resolution authorizing the City Manager to enter into a three year contract with Environmental Testing Solutions for \$125,000.00 to provide lead analysis.

Background:

- This contract provides free Lead Testing for all City of Asheville Water Customers to help expand the Lead Awareness Education Program.
- The program will help customers determine if there is a lead issue with their household plumbing or service lines.
- The lead analysis is free for any City of Asheville Water Customer.
- The testing will help Water Resources identify any areas where lead could be present in the service lines and prepare for the Lead and Copper Rule Revisions that are effective October 16, 2024.
- Testing information collected will provide documentation to aid in applying for State grants or low interest loans to help replace service lines in affected areas, especially underserved communities.

Vendor Outreach Efforts:

- The City utilized standard outreach methods, including posting on the State’s Interactive Purchasing System.

- There were no commercial laboratories certified by the NC State Laboratory of Public Health to analyze lead in drinking water in the City's database.
- An informal bid request was performed.
- Seven laboratories provided bids.
- None were Minority/Women-Owned Business Enterprises.
- Environmental Testing Solutions was awarded the contract.
- The vendor met all bid request requirements, were the lowest bidder, and are a locally owned small business.

Council Goal(s):

- A Clean and Healthy Environment

Committee(s):

- N/A

Pro(s):

- The testing program will inform water customers about potential lead in their homes.
- The testing information will help Water Resources gain a better understanding of potential areas of concern.

Con(s):

- None

Fiscal Impact:

- Water Resources will enter into a three year contract with Environmental Testing Solutions for \$125,000.00.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into a three year contract with Environmental Testing Solutions to provide all sampling bottles and to subcontract to an NC State Laboratory of Public Health certified lab for lead analysis of drinking water.

RESOLUTION BOOK NO. 43 - PAGE 272

C. RESOLUTION NO. 22-214 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO STUDY THE FEASIBILITY OF INSTALLING SOLAR ON NORTH FORK RESERVOIR AND LAKE JULIAN

Action Requested: Adoption of a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to study the feasibility of installing solar on North Fork Reservoir and Lake Julian.

Background:

- The City will enter into an interlocal agreement with Buncombe County to give the authority to retain professional services for various feasibility studies (cost/benefit, utility infrastructure, environmental impact, service impact, etc.) of installing a floating solar energy system on the North Fork Reservoir.
- Buncombe County will manage vendor outreach, procurement, agreements for all professional services required and all fees associated with such services.
- The City will coordinate with Buncombe County staff and associated vendors to schedule access to the site and provide relevant information.
- The City will have a role in determining feasibility studies to be conducted.

- Feasibility of a floating solar system will also be considered concurrently for Lake Julian.
- The City does not own this site.

Council Goal(s):

- Thriving Local Economy
- A Clean and Healthy Environment

Committees(s):

- Planning and Economic Development, September 12 - supported interlocal agreement with Buncombe County for Solar Feasibility Study.

Pro(s):

- Supports [Resolution 18-279 Establishing a 100% Renewable Energy Goal](#)
- Supports [Resolution 20-25 Declaration of a Climate Emergency](#)
- Action prioritized in [Moving to 100% Renewable Energy Roadmap](#)

Con(s):

- This is a complex site for a variety of reasons, it is of the utmost importance that Council and the community understand that this effort may not result in solar being installed on the North Fork Reservoir.
- Feasibility may be deemed impractical due to:
 - A possible change in Water Supply I (WS1) designation (which is the most pristine designation available). North Fork Reservoir is the largest and most important source of water for the City of Asheville and is recognized as one of the best water sources within the state of North Carolina.
 - Any change in quality negatively impacts our ability to provide the best drinking water possible.
 - Lack of compliance with existing view shed agreement with the Blue Ridge Parkway
 - Ability to maintain security of our source of water at the reservoir which is currently highly restricted.
 - Impacts on endangered wildlife. Resident Bald Eagles use this reservoir, which may be impacted by a project of this nature.
 - Restrictions or potential requirement coming from the easement with the Conservation Trust of North Carolina
 - Lack of available utility infrastructure to connect to the utility grid
 - Ability to withstand water fluctuation in extreme weather conditions (most recently Tropical Storm Fred)
 - The cost of the project may outweigh the benefits and funding has not been currently identified

Fiscal Impact:

- No City funds will be utilized to complete this study.
- Buncombe County has budgeted \$150,000 in total for studies at both North Fork Reservoir and Lake Julian. Buncombe County will provide 100% of the funding required for the feasibility studies and the only cost to the City will be through dedicated staff time.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to study feasibility of installing solar on North Fork Reservoir and Lake Julian.

D. RESOLUTION NO. 22-215 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE FISCAL YEAR 2023 UTILITY CUT CONCRETE REPAIR PROJECT

Action Requested: Adoption of a resolution authorizing the City Manager to execute a contract with Appalachian Paving and Concrete, Inc. in the amount of \$266,125.00 plus a 19.5% contingency of \$51,894.37, for a project total of \$318,019.37, for the Fiscal Year 2023 Utility Cut Concrete Repair contract.

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 and work generated by partner agencies (Duke Energy, Dominion Energy, City of Asheville Water Resources, and City of Asheville Stormwater Division).
- As part of this program, both internal 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 tenth year that a private contractor has performed this service.
- The contract was advertised on July 29, 2022 and bids were scheduled to be opened on August 18, 2022.
- Only one bid was received.
- On the first scheduled bid opening the City is required to receive at least three bids to open.
- The contract was readvertised on August 19th and the opening was scheduled for September 1st.
- The following bid was received: Appalachian Paving and Concrete, Inc. of Swannanoa, NC: \$266,125.00
- The contract work is expected to begin during the middle of October and to take approximately one calendar year to complete.

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.

- Staff also checked the City of Asheville list of certified MWBE business, the NC Historically Underutilized Business database, and the NCDOT MWBE database for potential contractors.
- Only two companies from an identified disparity group were found in the ten-county area and staff directly contacted those companies.
- The companies did not bid for this contract.

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None

Pro(s):

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

Con(s):

- None

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 this contract is available in the Street Cut Utility Fund operating budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Appalachian Paving and Concrete, Inc. in the amount of \$266,125.00 plus a 19.5% contingency of \$51,894.37 (\$318,019.37 total) for the Fiscal Year 2023 Utility Cut Concrete Repair contract.

RESOLUTION BOOK NO. 43 - PAGE 274

E. ORDINANCE NO. 4971 - BUDGET AMENDMENT FOR THE MULTIMODAL TRANSPORTATION PLANNING FOR THE EAST PATTON CORRIDOR

Action Requested: Adoption of a budget amendment to appropriate \$264,000 in the Special Revenue Fund for the purpose of multimodal transportation planning for the East Patton Corridor.

Background:

- The City applied for a transportation planning grant from the French Broad River Metropolitan Planning Organization (FBRMPO) in January 2022 for the purpose of conducting a multimodal transportation planning study for the East Patton Corridor, roughly between the Jeff Bowen Bridge and Pritchard Park.
- The purpose of the study is to evaluate the NCDOT design for the corridor that is part of the larger I-26 project and identify opportunities for multimodal transportation and placemaking improvements, such as sidewalks, bike lanes, greenways, public spaces and transit, as well as enhance connectivity to existing residential neighborhoods and

mixed-use centers, and manage or possibly reduce regional vehicular traffic on Patton Avenue east of the Jeff Bowen Bridge.

- The City Council approved [Resolution 22-1](#) at their meeting held on January 11, 2022, authorizing staff to submit an application requesting \$350,000 in grant funds with a 20% match (\$70,000), however, the FBRMPO awarded only \$220,000, therefore the City's match is \$44,000.
- The total appropriated amount is \$264,000.
- The Council resolution also authorized the City Manager to execute the necessary agreements with the FBRMPO if funds were awarded.
- This action is to authorize a budget amendment to accept the grant funds and allocate the required matching funds.
- Approval of the budget amendment will allow the City to execute the grant agreement with the FBRMPO and begin work on the study.
- The Planning and Urban Design Department is the lead department and the Transportation Department will provide support.

Council Goal(s):

- A well-planned and liveable community
- Transportation and Accessibility

Committee(s):

- None

Pro(s):

- This is an opportunity to design optimal safety and aesthetically pleasing multimodal transportation connections between the I-26 Connector project and Patton Avenue as it enters downtown after crossing the Jeff Bowen Bridge.
- This is an opportunity to create a welcoming gateway on the west side of downtown Asheville.
- The study area, particularly at the intersections of Patton Avenue and Clingman and Hilliard and Clingman are areas where multiple greenways converge.
- This project will allow safer crossings and connections for the greenways.
- There will be grant opportunities to assist with the funding once it is added to the City of Asheville's Capital Improvement Project (CIP) list.

Con(s):

- This study will create a design that will need to be implemented by the City of Asheville.

Fiscal Impact:

- Funding for the required \$44,000 City match has been identified within the current General Fund operating budget.

Motion:

- Motion to approve a budget amendment and authorize the City Manager to accept the funds from the FBRMPO and use the funds for the purpose of a planning study of the East Patton Avenue Multimodal Transportation and Streetscape Designs.

ORDINANCE BOOK NO. 34 - PAGE 245

F. RESOLUTION NO. 22-216 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE VEGANFEST ON OCTOBER 16, 2022

**RESOLUTION NO. 22-217 - RESOLUTION AUTHORIZING THE POSSESSION
AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED
WINE AT THE SURREAL SIRKUS ARTS FESTIVAL ON OCTOBER 29, 2022**

Action Requested: Adoption of resolutions to permit the possession and consumption of malt beverages and/or unfortified wine at the Asheville Veganfest and the Surreal Sirkus Arts Festival.

Background:

- N. C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on the public streets and on property owned, occupied or controlled by the City and to regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events.
- The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority; and that ordinance, codified as Section 11-11 in the Code of Ordinances of the City of Asheville, provides that the City Council may adopt a resolution making other provisions for the possession of malt beverages and/or unfortified wine at a special event or community festival.
- The following organizations have requested that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at the events:
 - Triangle Vegfest for the Asheville Veganfest to occur at Pack Square Park on Sunday, October 16, 2022, from 11:00 a.m. - 6:00 p.m.
 - Arts2People for the Surreal Sirkus Arts Festival to occur at Pack Square Park on Saturday, October 29, 2022, from 1:00 p.m. - 10:00 p.m.
- Alcohol boundaries are defined for each request as per the accompanying event site maps.

Council Goal(s):

- These actions have no direct connection with the City Council 2036 Vision.

Committee(s):

- None

Pro(s):

- Allows fundraising opportunities for the sponsoring nonprofit organizations

Con(s):

- None

Fiscal Impact:

- None

Motion:

- Motion to permit the possession and consumption of malt beverages and/or unfortified wine at Asheville Veganfest and the Surreal Sirkus Arts Festival.

**RESOLUTION NO. 22-216 - RESOLUTION BOOK NO. 43 - PAGE 275
RESOLUTION NO. 22-217 - RESOLUTION BOOK NO. 43 - PAGE 278**

**G. RESOLUTION NO. 22-218 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO EXECUTE AN ADDENDUM TO THE AXON ENTERPRISE INC.**

CONTRACT FOR THE BODY WORN CAMERA/TASER PROGRAM FOR LICENSING OMITTED IN THE ORIGINAL CONTRACT

Action Requested: Adoption of a resolution to allow for Asheville Police Department to add additional funding to the existing contract #92100297 with Axon Enterprise Inc for Unlimited Annual Payments omitted in error from original contract terms.

Background:

- The Asheville Police Department (APD) entered into a new, consolidated, five year contract with Axon on December 15, 2020 for our existing Body Worn Camera/Taser program, Fleet vehicle in-car camera program, and our Interview Room platform.
- APD had previously been managing three separate five year Axon contracts for these programs.
- Each contract had a different start and end date as well as different invoicing dates.
- The intent of creating the new five year contract was to not only simplify the management of these different contracts into one document with one annual invoice, but also afforded APD the additional benefit of locking in the 2020 price points for the five year life of the new consolidated contract.
- When Axon generated the consolidated quote for the new contract, the original five year term for licensing (Unlimited Annual Payment) from each original contract was retained instead of extending them through the end of the new five year contract's term.
- These Unlimited Annual Payments include unlimited storage on Evidence.com, product warranties and licensing of equipment.
- This contract amendment will add these required missing fees for our Fleet vehicle cameras for the last three years of the contract as well the missing fees for our Interview Room platform for the last year of the contract at the price points they would have been originally included at back in 2020.
- These fees should have been included in the new five year contract in December of 2020 and we are asking to add them in now at the same price point they were quoted when the contract was initiated.
- The total increase in cost over the final three year period of the contract to correct this oversight is \$345,990.68.
- City Council approval is required.

Vendor Outreach Efforts:

- Axon is the current vendor for the body camera/taser program and utilizes pricing per the OMNIA Cooperative Contract.
- Due to pricing from a cooperative contract, no outreach to minority and women owned businesses was conducted.

Council Goal(s):

- Smart City, Connected and Engaged Community

Committee(s):

- Public Safety Committee - 9/27/22

Pro(s):

- Increase safety by continuing to provide equipment beneficial to officers and the public
- Strengthen agency accountability and transparency to the public
- Reduce complaints and resolve officer involved incidents
- Identify and correct potential internal agency problems

- Benefit public safety by accurately documenting officer interactions and evidence collection
- Used in policy compliance checks such as consent search interactions and documentation
- Compliance with National best practices of using a BWC platform to document officer interactions
- Simplify the management of different contracts into one document with one annual invoice and locking in the 2020 price points for the five year life of the new consolidated contract

Con(s):

- Increase in cost from the original 5 year agreement

Fiscal Impact:

- An additional \$104,792.00 will be required in FY23 and FY24, and \$136,406.68 in FY25. The additional funds needed for the current fiscal year will be allocated from within the existing APD budget.

Motion:

- Motion to approve the resolution authorizing the Asheville Police Department to add additional funding to our existing contract #92100297 with Axon Enterprise, Inc for Unlimited Annual Payments omitted in error from original contract terms.

RESOLUTION BOOK NO. 43 - PAGE 281

H. RESOLUTION NO. 22-219 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MILLER 3 CONSULTING INC. FOR CONSULTING SERVICES TO COMPLETE THE FISCAL YEAR 2022-23 DISPARITY STUDY

Action Requested: Adoption of a resolution authorizing the City Manager to execute a contract with Miller 3 Consulting, Inc. for consulting services to complete the City of Asheville's Fiscal Year 2022-23 Disparity Study.

Background:

- A disparity study determines whether a governmental entity is awarding public contracts in a manner that disproportionately excludes or limits participation by minority, women-owned, and disadvantaged business enterprises (M/WBEs).
- Such a study compares the utilization of M/WBEs with the availability of M/WBEs in the relevant market area.
- A disparity study is legally required for the City to continue its race and gender conscious Business Inclusion (M/WBE) program.
- Asheville's most recent disparity study was conducted in 2018 covering fiscal years 2012 through 2017, reviewing the City's contractual awards in construction, goods, services, architectural, and engineering services.
- In April 2019, the study was presented to the Asheville City Council and indicated that both women-owned businesses and minority-owned businesses (African American, Hispanic, Asian, and Native American owned businesses) showed substantial disparities on contracts that the City awarded during the study period.
- The 2018 Disparity Study established a strong basis in evidence that supports the use of narrowly tailored race- and gender-conscious procedures to more adequately address the ongoing effects of marketplace discrimination on City contracts.

- The study recommended race- and gender-conscious measures to address identified disparities.
- This Disparity Study provided the strong evidentiary basis needed for the City of Asheville to create a new Business Inclusion Policy which prescribes additional methods by which the City may achieve parity.
- The Asheville City Council adopted the policy on October 27, 2020, with an effective date of January 1, 2021.
- Pursuant to law, a new disparity study must be conducted at least every (5) five years in order to continue any race- and gender-conscious contracting program.
- The sunset provision within the Business Inclusion policy is November 1, 2023, so a new disparity study is needed to evaluate the effectiveness of the City's Business Inclusion Policy and provide the legal justification for continuing the program, if warranted.
- Given this upcoming expiration, the City issued a Request for Proposals on July 14, 2022 for qualified vendors to complete a disparity study in keeping with current case law and appropriate statistical research methodology, utilizing the time frame of July 1, 2017 through June 30, 2022.
- The study will determine the utilization of M/WBEs by the City for the appropriate time frame through a review of all or a statistically significant portion of the City's respective contracts for General Services, Professional Services, Construction and Repair, and procurement of goods.
- The results of the disparity study will provide recommendations for updates of the City's goals, market area and recommendations for changes in the current Business Inclusion Program.
- The RFP review team consisted of representatives from the following departments: Community and Economic Development, Capital Projects, Equity & Inclusion, and IT Services - Office of Data & Performance.
- The selection criteria included: Experience and qualifications of the firm and proposed staff, relevant experience & references, proposed project plan, proposed cost, overall proposal & completeness.
- Interviews with the firms were also conducted by the review team.
- After a thorough review of the submitted proposals, Miller 3 Consulting, Inc. was the top ranked firm of the selection team.

Vendor Outreach Efforts:

- The City utilized standard outreach methods, including posting on the State's Interactive Purchasing System.
- The City received four proposals, three being Minority Business Enterprises.
- The selected firm is a minority-owned business.

Council Goal(s):

- Diverse Community
- Thriving Economy

Committee(s):

- Planning and Economic Development Committee -- Sept. 12, 2022, information only, no vote was taken.

Pro(s):

- Completion of a disparity study is required to maintain compliance with Federal law to continue any race- and gender-conscious contracting program.
- The results and recommendations of the FY23 Disparity Study will inform updates to the Business Inclusion Program to ensure it is compliant with all current legal requirements and best practices.

Con(s):

- None identified

Fiscal Impact:

- Funding for this contract is available in the Community and Economic Development Department operating budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Miller 3 Consulting, Inc. for consulting services to complete the City of Asheville's FY23 Disparity Study in the amount of \$287,275.00.

RESOLUTION BOOK NO. 43 - PAGE 282

I. RESOLUTION NO. 22-220 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A ROAD AND DRAINAGE EASEMENT TO THE N.C. DEPT. OF TRANSPORTATION FOR THE CONSTRUCTION OF ROAD AND DRAINAGE IMPROVEMENTS ALONG MILLS GAP ROAD NEAR THE WATER TANK

Action Requested: Adoption of a resolution authorizing the City Manager to convey a road and drainage easement to NCDOT for the construction of road and drainage improvements along Mills Gap Road near the water tank.

Background:

- The City of Asheville owns real property at PIN #9655-43-8306 on Mills Gap Road.
- A water tank is located on this site along with associated water distribution lines.
- NCDOT is requesting this easement in order to complete a road widening project that includes turning lanes at selected intersections.
- A six (6) foot sidewalk will be installed on the east side of the road.
- The project will also include corrections to ongoing drainage issues.
- NCDOT approached both the Water Resources Department and the Real Estate Office to process the easement.
- Water Resources has reviewed documents and plans to insure that there will be no damage to their infrastructure as a result of the project.
- The Real Estate Office reviewed the appraisal that has been certified by the state appraisal office and it was appropriately conducted.
- NCDOT is compensating the City \$45,200 for the following:
 - .189 acres of Right of Way
 - .037 acres of Temporary Construction Easement
 - .020 acres of Permanent Drainage Easement
 - .226 acres of Permanent Utility Easement

Council Goal(s):

- A Well Planned and Livable Community

Committee(s):

- None

Pro(s):

- The road in front of the City's water tank will be improved along with its drainage system.

Con(s):

- The land is unavailable for City use and NCDOT will be able to control what occurs within a portion of the City's right of way.

Fiscal Impact:

- The City will receive approximately \$45,200 for a road and drainage easement and right of way for the granting of this easement, which will benefit the Water Enterprise Fund.

Motion:

- Motion to approve the resolution authorizing the City Manager to grant this easement to the NCDOT in order to make road and drainage improvements on Mills Gap Road near the City's water tank.

RESOLUTION BOOK NO. 43 - PAGE 283

J. RESOLUTION NO. 22-221 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND SUBMIT THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT FEDERAL FISCAL YEAR 2022 CONTINUUM OF CARE CONSOLIDATION APPLICATION ON BEHALF OF THE NC-501 ASHEVILLE-BUNCOMBE CONTINUUM OF CARE, AND TO SIGN AND SUBMIT THE CITY OF ASHEVILLE'S PLANNING AND HOMELESS MANAGEMENT INFORMATION SYSTEM GRANT APPLICATION, AND ACCEPT ANY FUNDS AWARDED

Action Requested: Adoption of a resolution authorizing the City Manager to sign and submit the Federal FY2022 Continuum of Care Consolidated Application on behalf of the NC-501 Asheville-Buncombe Continuum of Care, and to sign and submit the City of Asheville's Planning and Homeless Management Information System grant applications and accept any funds awarded.

Background:

- The U.S. Department of Housing and Urban Development (HUD) Continuum of Care program provides federal resources to local communities for homeless and housing programs.
- Communities access funding by applying together through a designated lead agency, called the Collaborative Applicant.
- The City of Asheville is the Collaborative Applicant for the NC-501 Asheville-Buncombe Continuum of Care, and is responsible for submitting the Consolidated Application to HUD, which consists of individual project applications submitted by local agencies and a narrative application describing the community's collective efforts to end homelessness.
- Each Continuum of Care has a designated Governance Board responsible for reviewing and ranking local project applications and making funding recommendations to HUD.
- The Homeless Initiative Advisory Committee (HIAC) serves as the Governance Board for the NC-501 Asheville-Buncombe Continuum of Care.
- The notice of funding opportunity was posted on the City's website August 8, 2022 and distributed widely.
- Project applications were received from Homeward Bound, Helpmate, and the City of Asheville.
- Project applications were reviewed, scored, and ranked by the Finance Workgroup of HIAC.
- At its September 13, 2022 meeting, HIAC unanimously approved the Finance Workgroup's recommendation to submit project applications totalling \$1,977,474 to HUD.
- The recommendation includes renewal funding of existing grants awarded to the City of Asheville to operate the Homeless Management Information System on behalf of the

community (\$63,744) and a non-competitive Planning Grant to fulfill its duties as Collaborative Applicant (\$55,034).

Vendor Outreach Efforts:

- N/A

Council Goal(s):

- Quality Affordable Housing
- Connected and Engaged Community

Committee(s):

- Homeless Initiative Advisory Committee - unanimously voted to approve the Consolidated Application, including recommending specific funding amounts for each applicant, at its September 13, 2022 called meeting.

Pro(s):

- Renews federal resources for housing programs that help people exit homelessness
- Supports Council priority on Homelessness Strategies

Con(s):

- None noted

Fiscal Impact:

- If awarded, the City will receive \$55,034 in Planning costs to fulfill its role as CoC Lead and \$63,744 to operate the Homeless Management Information System (HMIS).
- Both grants are renewals of existing funding.
- These grants are budgeted as part of the annual budget process.

Motion:

- Motion to adopt a resolution authorizing the City Manager to sign and submit the FY2022 Continuum of Care Consolidated Application on behalf of the NC-501 Asheville-Buncombe Continuum of Care, and to sign and submit the City of Asheville's Planning and Homeless Management Information System grant applications and accept any funds awarded.

RESOLUTION BOOK NO. 43 - PAGE 284

K. RESOLUTION NO. 22-222 - RESOLUTION APPROVING IN PRINCIPLE THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE OF UP TO \$20,000,000 OF MULTIFAMILY HOUSING REVENUE BONDS FOR THE ACQUISITION AND REHABILITATION OF BATTERY PARK APARTMENTS

Action Requested: Adoption of a resolution approving the issuance of bonds by the Housing Authority of the City of Asheville for Battery Park.

Background:

- Battery Park (TC2) Senior Housing Limited Partnership (the "Borrower") has requested that the Asheville Housing Authority (the "Issuer") issue up to \$20,000,000 in multifamily housing revenue bonds for the acquisition and rehabilitation of Battery Park Apartments.
- Battery Park is a 100% subsidized senior housing community for residents aged 62 and older, located at 1 Battle Square in downtown Asheville, consisting of one, 14-story building with 122 affordable apartments (113 one-bedrooms and 9 two-bedrooms).

- The building was originally constructed in the early 1920s as the Battery Park Hotel and underwent an extensive adaptive reuse in the 1980s to allow for affordable housing.
- The property has been listed on the National Register of Historic Places since 1977.
- The property has been well maintained and managed by National Church Residences, but has not undergone a substantial renovation since 2005.
- The rehabilitation will address critical capital needs of the building to improve safety, accessibility and extend its useful life.
- All 122 units at Battery Park are currently, and will continue to be, covered by a long-term Section 8 Housing Assistance Payment project-based subsidy making them affordable to households at and below 60% AMI.
- Construction is scheduled to commence in September 2022 and will have a duration of approximately 16 months.
- The Internal Revenue Service requires that any bonds issued by the Housing Authority for developments such as this have the financing plan approved by the City Council, following a public hearing with respect to such plan.
- Staff notes that approval does not obligate the City in any way to issue or pay for the bonds, or for any debt taken on by the developer.

Council Goals:

- Quality Affordable Housing

Pro(s):

- 122 units of affordable senior housing will be preserved and renovated.

Con(s):

- None.

Fiscal Impact:

- This action requires no City resources and has no fiscal impact.

Motion:

- Motion to adopt a resolution approving in principle the issuance by the Housing Authority of the City of Asheville of up to \$20,000,000 of multifamily housing revenue bonds for the acquisition and rehabilitation of Battery Park Apartments.

In response to Nina Tovish, City Attorney Branham, along with the Executive Director of the Housing Authority of the City of Asheville David Nash, explained the resolution in that it is a procedural requirement.

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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 Turner moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. BUNCOMBE COUNTY BOND PROGRAM

Buncombe County Commission Chair Brownie Newman gave City Council a brief update on the County's Bond Program. He said the 2022 Affordable Housing and Conservation Bond Referendums would address two issues (1) Ability of regular people to afford a decent home (rental and homeownership); and (2) Preserving natural areas and working farms and expanding trail and greenway network. Regarding feasibility, in November 2021, Buncombe County requested the Trust for Public Land's (TPL) Technical Advice and Assistance for Feasibility Study of dedicated ongoing sources of public funding to support goals. In January 2022, they received TPL's Feasibility Study. And, in April 2022, there was Impact Research Polling of likely November general election voters. The recommended funding source is General Obligation Bonds. For that, voter approval is required. The County has an AAA rating, and bonds allow for strategic investments in capital projects. General Obligation Bonds are backed by the full faith and credit of local government and voter approval is required. They typically receive excellent interest rates.

Bonds are the most common finance mechanism for land conservation in NC, and they are frequently used to fund affordable housing as well. Bonds raise substantial amounts of money up front allowing for strategic investments in capital projects. This provides the opportunity to be proactive. The county will manage retirement of debt and natural increases of tax base to minimize tax increases. Regarding bond implementation, the Local Government Bond Act details steps necessary to issue bonds. In June 2022, the Buncombe County Commissioners voted to adopt bond orders. And, in August 2022, the application for General Obligation bonds was approved by the NC Local Government Commission. The Conservation Ballot Language is "SHALL the order authorizing \$30,000,000 of bonds to pay the capital costs of acquisition and improvement of land or interests therein for conservation and protection of natural resources and preservation of farmland, including but not limited to, the development of greenways and trails for recreation purposes, and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?" He noted that bonds are generally required to address a single subject. Buncombe County's conservation goals are (1) 18% of the county's more than 420,000 is currently in some form of conservation; (2) goal is to conserve additional 6,000 acres between now and 2030 to increase overall conservation of land in Buncombe County to 20%; and (3) Agricultural Advisory Board will make recommendations on prioritizing investment in conserving family farms. The Affordable Housing Ballot language is "SHALL the order authorizing \$40,000,000 of bonds to pay the capital costs of housing for the benefit of persons of low or moderate income, including construction of related infrastructure improvements and the acquisition of related land and rights-of-way, and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?" Regarding Buncombe County's affordable housing goals and uses of bond funds, (1) 1,850 affordable rental units for households at less than 80% AMI and average of 60% Area Median Income (AMI); (2) 400 affordable homeownership units for households at less than 80% AMI; and (3) 500 home repair projects with a focus on seniors and residents with disabilities. Regarding oversight and transparency, the bonds legally obligate the County to spend the funds on the stated purpose (1) annual independent audit by external audit firm; (2) transparency webpage dedicated to bond investments; (3) resolution establishing a General Obligation Bonds Community Oversight Committee; and (4) bond managers and program level advisory boards.

Chair Newman, responded to various questions/comments from Council, some being, but are not limited to: how can we as a City and County impact and mitigate the disproportionate impact of property taxes on historically black neighborhoods, legacy neighborhoods, renters, and commercial properties (supporting our local businesses); did the County's study incorporate the concept of short-term rentals and is it anticipated that the County will rethink their policy allowing whole house short-term rentals; and hope that City and County staff can come up with solutions for the disproportionate impact of property taxes and short-term rentals through either zoning or taxation discussion.

B. MANAGER'S REPORT

Noise Ordinance Update

Interim Assistant City Manager Ben Woody introduced the City's new Noise Ordinance Administrator Todd Justice. Mr. Woody reviewed the following key takeaways from the update today: (1) The overall number of noise complaints generally remains consistent with the previous five years; (2) As part of Reimagining Public Safety, noise ordinance enforcement shifted from Asheville Police Department (APD) to Development Services Department (DSD); (3) In the past year DSD closed 71% of the total noise complaints. APD still responded to some after hours complaints; (4) Chronic complaints and violations have decreased due to objective decibel standards, clear prohibitions, and staff outreach efforts; (5) Business operations that adjoin residential areas can comply with the decibel standards but still generate a high number of complaints; and (6) Subjective noise disturbance standards in public space presents compliance challenges for staff.

Mr. Woody reviewed the background of (1) DSD was tasked with revising the Noise Ordinance in Spring 2019; (2) Extensive stakeholder engagement; and (3) Revised ordinance adopted July 2021 and implemented September 15, 2021. He reviewed the steps of complaint filed, complaint logged, complaint investigated and data shared.

With charts , he reviewed (1) the total number of noise complaints from Sept. 2017- August 2018 - 1,511; Sept. 2018 - August 2019 - 1,872; Sept. 2019 - August 2020 - 1,753; Sept. 2020 - August 2021 - 1,439; and Sept. 2021 - August 2022 - 1,671. This shows the number of complaints over the past year are fairly consistent with the last five years; (2) noise complaints by month - For this 12 month period, complaints were disproportionately high for SEP and OCT. Likely due to the newness and awareness of new ordinance. As expected, the Summer months showed the greatest activity; (3) noise complaints by time; (4) noise complaints by type - Residential complaints are the most frequent and the most difficult to investigate and abate. Often due to lack of evidence (including complainant contact information). Because of this, the compliance team has to often rely on establishing a pattern of complaints about a particular property; (5) noise complaints by source - Even though the majority of the Noise Complaints are investigated and closed by Compliance staff, the majority of the calls for service come through the non-emergency line and APD has the initial option to respond; and (6) noise complaints by geography - as shown below:

	Sept. 2018 - Aug. 2019	Sept. 2020 - Aug. 2021	Sept. 2021- Aug. 2022
Downtown	195	133	202
WECAN, Aston Park, South French Broad, Bartlett Arms	98	113	108
South Slope, Lee Walker Heights	28	84	87
Montford, Hillcrest	95	53	85
Burton Street, Brucemont/Louisiana, Falconhurst	72	19	77
East/West Asheville, Pisgah View	94	65	48
Montford, Klondyke	73	56	68

South French Broad, Livingston Heights, Erskine-Walton	105	40	55
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In addition, he used a chart to show the noise complaints by closure code.

Regarding the role of the APD regarding noise complaints, the APD's role since Noise Compliance Program launched in Sept. 2021: (a) Continue to respond to after hours (after 9:00 p.m.) noise complaints as available and when safety protocols are required; (b) 29% of complaints closed by APD; and (c) 24% fewer noise complaints received through the non-emergency line than previous year.

He reviewed what is working well (1) Ordinance and Program Administration (a) Multiple methods to file a complaint; and (b) Using data to identify, track, and follow-up on noise complaints; (2) Ordinance Compliance from Businesses Operations (a) Reduction of chronic complaints and/or violations; (b) Investigative response and sound level fieldwork request; and (c) Sound exceedance permits as an educational and compliance tool; (3) Outreach and Education to Multifamily Developments (a) Reduction in repeat complaints; and (b) Staff established relationships with 64 apartment complexes; and (4) Ordinance Elements (a) Clear prohibitions on the time, day, and location of construction, waste-haulers, medical/educational facilities, and fireworks; and (b) The application of objective decibel standards.

He outlined some challenges (1) Ordinance and Program Administration (a) Every complaint is investigated, but not necessarily a violation; (b) Public expectation of staff availability and response times; and (c) Complaints of a criminal nature are sometimes filed as noise complaints (illegal activities, domestic violence, etc.); (2) Ordinance Compliance with Subjective Standards (A) Downtown Amplification - Most individuals voluntarily comply; however, compliance is difficult when an individual is unwilling to cooperate; and (B) Motor Vehicle Violations (a) Typically limited to absence of muffler or modified exhaust system; and (b) Ability of city personnel to enforce as a noise violation; and (4) Ordinance Elements - Commercial and Industrial Districts abutting Residential Districts - Ordinance does not establish transition standards for business operations that abut a residence (e.g., Haywood Road).

Next steps include (1) continue to assess the noise ordinance and program to determine its effectiveness; (2) increase community education efforts and targeted enforcement strategies to address current challenges; (3) work with the Noise Advisory Board to develop recommended changes to current standards; and (4) provide regular updates (every 12-18 months) to City Council.

Mr. Woody, responded to various questions/comments from Council, some being, but are not limited to: appears that black and brown residential neighborhood complaints have decreased; need to continue to work with the music venues and residents; noise areas still being challenged are construction times, HVAC units and music venues; and loud vehicle violations in the downtown area.

IV. PUBLIC HEARINGS:

D. 650 BREVARD ROAD (LAUREL WOODS II)

Mayor Manheimer said that the two public hearings will be combined into one; however, two votes will be taken.

PUBLIC HEARING TO CONSIDER A HOUSING TRUST FUND LOAN TO VOLUNTEERS OF AMERICA FOR 54 APARTMENT UNITS AND TO

REHABILITATE 50 AFFORDABLE EXISTING UNITS FOR SENIORS AT 650 CARIBOU ROAD

RESOLUTION NO. 22-223 - RESOLUTION APPROVING A HOUSING TRUST FUND LOAN TO VOLUNTEERS OF AMERICA FOR 54 APARTMENT UNITS AND TO REHABILITATE 50 AFFORDABLE EXISTING UNITS FOR SENIORS AT 650 CARIBOU ROAD

Affordable Housing Specialist Kevin Lynn said this is the consideration of adopting a resolution approving the Volunteers of America’s (VOA) request for a \$1.5 million Housing Trust Fund (HTF) loan with 2% interest and deferred for a period of 30 years and secured with a deed of trust, for the purpose of developing affordable housing.

Background:

- VOA Asheville is pursuing a Low Income Housing Tax Credit development project for the rehabilitation and expansion of the existing Laurel Wood Apartments, located at 650 Caribou Road in the Shiloh neighborhood.
- As part of the facility’s rehabilitation and expansion, VOA is requesting a \$1.5 million loan from the Housing Trust Fund with 2% interest, deferred for a period of 30 years to help finance the project.
- Total repayment to the Housing Trust Fund at maturity is estimated at \$2,717,042.
- VOA provides affordable housing to seniors at the Laurel Wood Apartments and will continue to serve this population with the expanded facility.
- Laurel Wood Apartments currently provides affordable rental housing to individuals aged 62 and above.
- Following the facility expansion, housing will be made available to individuals aged 55 and above.
- Upon completion, the project will comprise 104 total units.
- The rehabilitation and expansion project will result in the rehabilitation of 50 existing one bedroom units and the construction of 54 new units that will be a mixture of one bedroom and two bedroom units.

Proposal

- The rents will range in affordability from 40% of (Area Median Income) AMI to 80% of AMI, the average rent will be 60% of AMI
- VOA’s \$1.5 million Housing Trust Fund request represents 6.6% of proposed total development costs.
- The timeline for the project includes starting construction late fall 2022 and completing construction in spring 2024.
- 12 of the new units will be set aside for project-based vouchers.

Unit Mix/Affordability/Accessibility Matrix

Count	Bedrooms	Bathrooms	SF	% of AMI
15	1BDR	1BATH	560	40%
35	1BDR	1BATH	560	50%
8*	1BDR	1BATH	660	60%

27*	1BDR	1BATH	660	80%
7**	1BDR	1BATH	660	60%
5**	2BDR	2BATH	900	40%
5*	2BDR	2BATH	900	80%
2*	2BDR	2BATH	900	60%

*New Construction **New Construction and set aside for Housing Choice Voucher holder

Permanent Financing

Source	Amount	Terms	Percentage of Total Development Costs
1st Permanent Mortgage Boston Capital	\$8,370,000	16 year, 5%	36.87%
2nd Mortgage Asheville HTF	1,500,000	30 year, 2%, deferred	6.61
3rd Mortgage Buncombe County Loan	800,000	20 year, 2%, deferred	3.52
LIHTC Syndication Proceeds Boston Capital	8,857,282	In perpetuity, low income affordability compliance	39.01
Seller Note	2,610,000	In perpetuity - Concurrent with LIHTC low income affordability compliance	11.5
Deferred Developer Fee	563,159	To be paid according to NCHFA guidelines	2.49
Total	\$22,700,441		100%

Housing Trust Fund Policy Compliance

Generally, the application falls within the Housing Trust Fund Policy. The developer is requesting special terms, and the average income of the project is at 60% AMI. The one exception to the policy is that the amount requested is above the current \$1 million cap in the policy.

1. *Maximum Loan Amount: The maximum loan amount available to each developer from the Housing Trust Fund is \$20,000 per affordable unit, and the maximum loan per project is*

\$1,000,000, unless otherwise approved by City Council due to unique features in the project that warrant terms outside of this policy (i.e. permanent affordability, location efficiency, etc.).

- The per unit subsidy is \$14,300 if the loan is spread to cover the construction total of 104 units.

Council Goal(s):

- Quality Affordable Housing
- An Equitable and Diverse Community

Committee(s):

- Housing & Community Development - 9-20-22 - 3-0 to move to City Council

Pro(s):

- This funding will support the development of affordable housing units in the City.
- Affordability period will be in perpetuity
- This project aligns with the City of Asheville's Consolidated Plan goals of prioritizing rental housing affordable to 60% AMI and below.

Con(s):

- The project exceeds the current \$1 million cap in the Housing Trust Fund Policy.

Fiscal Impact:

- Staff estimates that the current available balance in the Housing Trust Fund is approximately \$2.15 million.
- If City Council approves this \$1.5 million appropriation there will be an estimated available balance of approximately \$650,000.
- Staff expects the previous Restaurant Court/Beaucatcher Vistas project funding to be rescinded, which would add \$1 million to the total available funds, for a total of \$1.65 million.

Staff Recommendation:

Staff recommends approval based on the following:

- Refurbishment of an existing 50 unit, affordable senior housing facility (will serve households aged 55 and over after the rehabilitation and expansion project is complete) that has operated successfully for three decades
- Construction of 54 new affordable units
- Set-aside of twelve new construction units for project based vouchers.
- Asheville HTF loan will represent 6.6% of total development costs.
- VOA is a longstanding affordable housing owner/operator in our community with a proven track record nationwide.

Mr. Lynn said the key takeaways from this presentation are (1) Volunteers of America (VOA) is requesting \$1,500,000 for a Low Income Housing Tax Credit (LIHTC) project at 650 Caribou Road; (2) VOA is requesting a loan with 2% interest and deferred for a period of 30 years, secured with a Deed of Trust; (3) Project is 100% affordable with 54 new units and 51 existing units (total of 104 units plus a property manager unit), with a mix of incomes at 80% Area Median Income (AMI) and below; (4) The developer has engaged the Shiloh neighborhood and made adjustments to their site plan in response to the feedback received; and (5) Staff recommends approval by City Council. Regarding the background, (1) The Laurel Wood Apartment Project will build 54 new affordable rental apartments and renovate 51 existing units in the Shiloh neighborhood (one existing unit is for the property manager); (2) The site comprises 14.73 acres; (3) The units will be a mix of 1 and 2 bedroom; and (4) The project is 100% affordable, with an affordability mix ranging from 40% AMI to 80% AMI. Regarding the request for

funding, (1) Laurel Wood Apartments provides housing for seniors and will continue to serve this population following the rehabilitation and expansion project - Upon project completion, the population served will be households aged 55+; (2) Volunteers of America is requesting a loan of \$1.5 million with 2% interest and deferred for a period of 30 years, secured with a Deed of Trust - \$2,717,042 in principal and interest would be due at maturity; and (3) The affordability period will be in perpetuity. Using a chart, he showed the proposed units and income mix; along with proposed sources of funding. Analysis of the Housing Trust Fund policy is (1) Project is renovating 50 existing units and constructing an additional 54 units, resulting in 104 total units that are 100% affordable serving households aged 55+ - The project also includes one existing manager unit, which will also be rehabilitated; (2) Affordability period will be in perpetuity; (3) Under the current proposal for \$1.5 million, the subsidy is \$27,777 per unit if only counting the new construction units. The subsidy is \$14,400 if counting 104 units; (4) The City's portion of the total development costs represents 6.6%, which is good leverage of City dollars; (5) At loan maturity date, repayment of funds will total \$2,717,042; and (6) Under the Housing Trust Fund Policy, special terms are available to projects where 100% of the units are for households at or below 60% AMI (a) This project has 30% of the units for those at 80% AMI; and (b) The average income of residents is 60% AMI, complying with North Carolina Housing Finance Agency guidelines. The exception is the updated request is over the \$1 million Housing Trust Fund Policy cap. He said the Housing and Community Development Committee reviewed the request on Tuesday, September 20, and voted 3-0 in favor of the Housing Trust Fund request. Staff recommends approval based on the following: (1) Refurbishment of an existing 51 unit, senior affordable housing facility (will serve households aged 55+ after construction) that has operated successfully for three decades; (2) Construction of 54 new affordable units; (3) Set-aside of six new construction units for Housing Choice Voucher holders; (4) The requested City of Asheville HTF loan will comprise 6.6% of total development costs; and (5) VOA is a longstanding affordable housing owner/operator in our community with a proven track record.

When Councilwoman Roney acknowledged that VOA is meeting the minimum requirements for providing vouchers, she asked if VOA would be willing to provide 100% vouchers for 60% AMI and below, Ms. Noemi B. Riveira, representing VOA, said that they have a commitment under their financing for vouchers for 12 units.

Councilwoman Turner said that the Housing & Community Development Committee will be amending the Housing Trust Fund Policy, and the number of vouchers and the cap for funds will be topics during those discussions.

**PUBLIC HEARING TO CONDITIONALLY ZONE 650 CARIBOU ROAD
(LAUREL WOODS II) FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM
DENSITY DISTRICT TO RESIDENTIAL EXPANSION/CONDITION ZONE**

**ORDINANCE NO. 4972 - ORDINANCE TO CONDITIONALLY ZONE 650
CARIBOU ROAD (LAUREL WOODS II) FROM RM-8 RESIDENTIAL
MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RESIDENTIAL
EXPANSION/CONDITION ZONE**

Principal Planner Will Palmquist said that this is the consideration of an ordinance to conditionally zone 650 Caribou Road (Laurel Woods II) from RM-8 Residential Multi-Family Medium Density District to Residential Expansion/Conditional Zone for the purpose of constructing a 54-residential unit, multi-family building. This public hearing was advertised on September 16 and 23, 2022.

Action Requested: Adoption of an ordinance to conditionally zone all portions of the property located at 650 Caribou Rd from Residential Multi-Family Medium Density (RM-8) to Residential Expansion - Conditional Zone (RES EXP - CZ).

Project Location and Contacts:

- The project site totals 14.73 acres located at 650 Caribou Rd (PIN 9657-10-3768).
- Owner: Asheville VOA Elderly Housing Inc.

Summary of Petition:

Project Site

- The project site consists of one property totalling 14.73 acres located at 650 and 652 Caribou Rd.
- The site is currently zoned Residential Multi-Family Medium Density (RM-8).
- Given the size of the project (over 50 residential dwelling units) a conditional zoning to the Residential Expansion (RES EXP) district is required.
- An existing two-story affordable senior-living multi-family development is located on the site with 51 dwelling units.
- The site is designated "Traditional Neighborhood" on the city's Future Land Use (FLU) Map.
 - A change in the FLU designation will not be required.

Overall Project Proposal

- New building construction includes 54 senior-living dwelling units located in a new, three-story building.
- The project has been redesigned to site the proposed new building within the interior of the property and further away from neighboring properties.
- Other site improvements include expanded off-street parking and new sidewalks.
- All 54 units (100%) will be designated affordable for a minimum of 30 years.
 - 32 units will be affordable at 80% Area Median Income (AMI).
 - 17 units will be affordable at 60% Area Median Income (AMI).
 - 5 units will be affordable at 40% Area Median Income (AMI).
- 12 of these affordable units will be set aside for project based vouchers.

Site Layout and Design

- Maximum building height for multifamily buildings in the RES EXP district is 60 feet.
- The maximum building height of the proposed project is approximately 28 feet.
- Maximum density in the RES EXP district is 50 units/acre for this project, since at least 20% of the dwelling units are affordable at 80% AMI.
- The proposed project's density is 7.1 units/acre, which includes the proposed and existing dwelling units.
- Front yard, rear yard and side yard setbacks of 15 feet are proposed as is required in the RES EXP district.
- Maximum impervious surface in the RES EXP district for multifamily uses is 80%.
- The proposed project would result in a total impervious area of 20%.

Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, building impact, and property line buffers.
- The RES EXP district requires a 20 foot-wide "Type A" landscape buffer where the subject property is adjacent to any other residentially zoned property, which will be required along the southern and northern property boundaries.
- The project is proposing an alternative compliance for the required landscape buffer of 40-feet in width along the northern property boundary and a portion of the southern property boundary.
 - This alternative compliance option is allowed when an undisturbed area is greater than twice the required buffer width, the number of required plant material in a buffer may be reduced by 50 percent.

- The project is classified as “urban” under the Tree Canopy Preservation standards and has a classification of “Class B”.
- The existing tree canopy is 63.8%.
- The project is required to preserve 10% of the existing tree canopy and is proposing to preserve 57.7% of the existing tree canopy.
- Open space is required at a rate of 15% of the site, resulting in 2.2 acres of open space, with at least one 10,500 square foot area that provides park or plaza-type features.
- The project is providing 11.8 acres of open space.

Access, Sidewalks and Parking

- Access to the site will be provided by an existing driveway located on Caribou Rd.
- A total of 105 parking spaces are proposed for the new and existing dwelling units.
- Based on the total number of dwelling units at the existing and proposed buildings, as well as the type of units which are a combination of 1-bedroom and 2-bedroom units, the minimum/maximum number of required parking spaces is 105/210 for the RES EXP district.
- The RES EXP district requires new 10 foot-wide sidewalks be constructed, both along the primary access corridor and internally throughout the site.
 - The project is proposing a new five foot-wide sidewalk with a five foot-wide planting strip along the site’s frontage on Caribou Rd.
 - The project is proposing five foot-wide sidewalks internal to the site.

Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
 - Five foot-wide sidewalks along Caribou Rd and internal to the site instead of the required 10 foot-wide standard.
 - No bike lanes into the development.

Consistency with the Comprehensive Plan and Other Plans:

Living Asheville Comprehensive Plan (2018)

- The proposed development supports a number of goals in the Living Asheville Comprehensive Plan, including:
 - **Encourage Responsible Growth** - by prioritizing greater densities of development overall, throughout the city as appropriate.
 - **Increase and Diversify the Housing Supply** - by increasing the supply of housing, including affordable housing in proximity to schools, transit and parks.
 - **Make Streets More Walkable, Comfortable and Connected** - by eliminating gaps in the city-wide sidewalk network.
- The proposed development is compatible with the Future Land Use designation of “Traditional Neighborhood” which is proposed, in part, as “a mix of housing types such as single family with accessory dwelling units, duplexes, townhomes and multifamily apartments usually located seamlessly together”.

Shiloh Community Plan 2025

- The Shiloh Community Plan (adopted in 2010) provides goals and strategies for the neighborhood to achieve its long-term vision.
- The proposed development supports a number of goals and strategies in the plan, including:
 - **Quality of Life Goal #3: Work to improve the livability of our neighborhood – particularly housing and safety.**

- *Strategy 2.* Improve pedestrian accessibility throughout the neighborhood, by supporting the development of sidewalks along Caribou Rd.
- **Land Use Goal #2: Provide assistance for affordable housing and home improvement.**
 - *Strategy 2.* Explore opportunities for the construction of affordable housing in the Shiloh community.

Compatibility Analysis:

- The proposed multi-family residential project is compatible with the surrounding land uses, including:
 - The existing, 51-unit affordable, senior-living multi-family development on the site.
 - The Dawnwood Condominiums development, located directly across the site on the west side of Caribou Rd, which consists of 12 two-story, multi-family buildings.
 - Suburban commercial uses located along Hendersonville Rd further to the west.
 - The surrounding single-family houses throughout the Shiloh neighborhood.

Council Goal(s):

- This project is most closely aligned with the council goal of *A Well-Planned and Livable Community*.

Committee(s):

- Technical Review Committee (TRC) - July 18, 2022 - approved with conditions.
- Planning & Zoning Commission (PZC) - August 3, 2022 - continued to 9/7 PZC meeting.
- Planning & Zoning Commission (PZC) - September 21, 2022 - approved, 4:0.

Staff Recommendation:

- Staff recommends approval of this rezoning request based on the reasons stated above.

Mr. Palmquist reviewed the existing and proposed zoning maps, along with the aerial imagery and future land use map. Regarding the overall site plan is (1) existing 2-story, 51-unit senior-living, multi-family housing; (2) new, 3-story, senior-living; (3) 54 new dwelling units (100% affordable); (4) existing driveway access; (5) 105 total parking spaces total; (6) sidewalks: 5'-wide with 5'-wide planting strip on Caribou Road, 5'-wide internal sidewalks; (7) landscaping and open space standards; and (8) tree canopy preservation standards met on-site. He showed some building elevations along with a street view rendering. Regarding conditions, (1) all 54 units (100%) will be designated affordable for a minimum of 30 years (a) 32 units will be affordable at 80% Area Median Income (AMI); (b) 17 units will be affordable at 60% AMI; (c) 5 units will be affordable at 40% AMI; and (d) 12 of these affordable units will accept housing choice vouchers; and (2) technical modifications include (a) 5'-wide sidewalk with 5'-wide planting strip along Caribou Road and 5'-wide sidewalk internally instead of the required 10'-wide standard; and (b) no bike lanes into the development. He outlined the review process and how the project complies with the Living Asheville Comprehensive Plan and the Shiloh Community Plan 2025. Staff concurs with the Planning & Zoning Commission and recommends approval of the proposed conditional zoning.

Councilwoman Roney said that during future technical reviews, she hoped that staff would consider that if there are no bike lanes into the development, that means no bike lanes outside of the development - which might eliminate easy access to parks, grocery stores, etc. on bikes or even electric bikes.

In response to Councilwoman Roney regarding any plans for solar, Ms. Riveira said they have no plans for solar as it is a cost issue. They are, however; working with Duke Energy Design Assistance and will partner with them to do anything they can within their budget. She noted that they will be installing new windows in the existing units and are also maintaining many trees.

Mayor Manheimer opened the combined public hearing at 6:25 p.m.

Ms. Sophie Dixon and Ms. Norma Baynes expressed concerns of wanting their residential single-family neighborhood to remain single-family residential; assurances that the development will remain for seniors; traffic congestion from 167 new units in their area; whether infrastructure in the area will be sufficient for all the new development; and need to keep the rate it is for seniors which is according to their income.

Mayor Manheimer closed the combined public hearing at 6:30 p.m.

Mr. Palmquist explained that multi-family means multiple units in the same building.

Ms. Riviera explained about who can live and visit in the units, noting that the site will always be for seniors as it is deed restricted.

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

Councilwoman Turner moved to approve the Volunteer of America's request for a \$1,500,000 Housing Trust Fund loan to construct 54 new affordable apartments and rehabilitate 50 affordable existing units for seniors. This motion was seconded by Councilwoman Mosley and carried unanimously.

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Councilwoman Wisler moved to approve the conditional zoning request for the property located at 650 and 652 Caribou Rd from Residential Multi-Family Medium Density (RM-8) to Residential Expansion - Conditional Zone (RES EXP-CZ) and find that the request is reasonable, is in the public interest, is consistent with the city's comprehensive plan and meets the development needs of the community in that the request: 1) prioritizing greater densities of development overall, throughout the city as appropriate; 2) increases the supply of affordable housing in proximity to schools, transit and parks; and, 3) eliminates gaps in the city-wide sidewalk network. This motion was seconded by Councilwoman Kilgore and carried unanimously.

ORDINANCE BOOK NO. 34 – PAGE 246

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 22-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE ASHEVILLE CITY BOARD OF EDUCATION FOR MAINTENANCE OF DONATED PLAYGROUND EQUIPMENT AT JONES PARK

City Attorney Branham said that this is the consideration of adoption of a resolution authorizing the City Manager to enter into an interlocal agreement with Asheville City Board of Education regarding the maintenance of donated playground equipment at Jones Park.

Background:

- The Asheville City Board of Education approved an interlocal agreement on September, 19, 2022 to establish the responsibilities of each party related to the ownership, installation, & maintenance of donated playground equipment at Jones Park.
- The Asheville City Board of Education owns property located at 544 Kimberly Avenue, Asheville North Carolina, 28804 commonly known as "Jones Park,"
- Community members have offered to make a financial donation to the School Board to be used exclusively for construction of the playground equipment at Jones Park in its entirety.
- The School Board agreed to appoint Buncombe County ("County") as its agent for construction activities including all necessary bidding and construction activities for the renovation of the playground.
- Upon completion of the installation of the playground the City agrees to oversee maintenance and repair of the playground equipment for a period of 20 years.
- The School Board will continue to maintain the grounds inside and outside of Jones Park (i.e., mowing, trash)
- The City shall maintain adequate property & casualty insurances for any playground equipment installed at Jones Park

Vendor Outreach Efforts:

- Not applicable

Council Goal(s):

- A well-planned and livable community
- A Clean and Healthy Environment

Committee(s):

- None

Pro(s):

- Establishes the expectations for the responsibility of the City as they relate to the ownership, installation, & maintenance of donated playground equipment at Jones Park.
- Supports City Council's FY 2022-23 Neighborhood Resilience and Improve and Expand Core Services priorities through partnership with the Asheville City Board of Education.

Con(s):

- Funding was not planned in the FY23 budget for maintenance of Jones Playground.
- Places liability on the City for playground equipment

Fiscal Impact:

- Any maintenance required for this playground equipment will be funded from within the existing Parks & Recreation operating budget.

City Attorney Branham said the key takeaways from this presentation will be (1) Proposed Interlocal Agreement between the City of Asheville and the Asheville City Board of Education ("ACS") will allow for the construction and ongoing maintenance of the playground; (2) Construction of the new playground will be managed by Buncombe County, and the land will continue to be owned by ACS; (3) The cost of construction will be funded fully by private donations; and (4) The City's responsibility will be limited to maintenance of the playground equipment until the end of the useful life of the equipment and removal thereafter. The background is that (1) The Jones Park playground previously was located on property owned by Asheville City Schools (ACS) near the Ira B. Jones School; (2) The playground was removed due to safety and maintenance concerns in 2021; (3) Thereafter, community members offered to make a financial donation to ACS to fully fund the construction of a new playground at this site:

(4) The Asheville City Board of Education voted unanimously last week to enter into an interlocal agreement with the City of Asheville to construct a new playground and ensure its maintenance for the useful life of the equipment; and (5) City staff, including representatives from Parks and Recreation as well as the City Attorney's Office have reviewed the terms of the agreement and support it. Regarding the interlocal agreement terms (1) ACS will accept the private donation to fund the playground construction; (2) Selection of the construction firm and oversight of the work will be managed by Buncombe County pursuant to existing agreements with ACS; (3) ACS will continue to own the property including land and the playground equipment; (4) Upon completion of construction, the City of Asheville will assume responsibilities for maintenance of the playground equipment consistent with Parks' policies and procedures; (5) The City of Asheville will be responsible for removal of the equipment at the end of its useful life (estimated to be 20 years), unless agreement is determined by ACS; (6) ACS will continue to be responsible for mowing, trash removal, and mulch replacement; (7) City's liability will be limited to any damages resulting from use of the playground equipment; (8) NOTE: City also maintains the authority to jointly approve the playground design; (9) Either party may terminate the agreement with 180 days notice, but will incur responsibility for equipment removal; and (10) At the end of the useful life of the equipment, and removal, the City will have no further responsibility for Jones Park or the playground. Regarding the City of Asheville's financial considerations, (1) City of Asheville will maintain adequate property & casualty insurances for any playground equipment installed; (2) Playground equipment maintenance will be funded from the existing Parks & Recreation operating budget; (3) Removal costs are unknown at this time, but the recent playground removal costs were approximately \$10,000; and (4) City incurs no costs for construction or site maintenance beyond the equipment itself.

Councilwoman Mosley reiterated the horrific story of Candice Pickens (23 years old) and her 3-year old son Zachaeus who were shot at Jones Park on May 11, 2016. Unfortunately Ms. Pickens died, but her son lived after being shot in the face. When she thinks of Jones Park, she remembers Candice and her son. She suggested some type of memorial for her at the site. She was surprised at the pushback at this request, especially since we pride ourselves as being a community of being open, inclusive and since we talk alot about the need for equity. When this issue about maintaining Jones Park was approved by the School Board, two members wanted to start a discussion about naming the park. Therefore, she moved to authorize the City Manager to enter into an interlocal agreement with Asheville City Board of Education regarding the construction and maintenance of a playground at Jones Park and that the Park be renamed after Candice Pickens. This motion was seconded by Vice-Mayor Smith.

Mayor Manheimer wanted to make it clear that Jones Park remains school property and that the Asheville City Board of Education will have to make the ultimate decision on the naming after it moves through their naming process.

Three individuals spoke in support, and one in opposition, of the City maintaining the donated playground equipment at Jones Park.

Ms. Keesha Martinez, mother of Candice Pickens and grandmother to Zachaeus, spoke about Candice's fine qualities and how she made a positive impact on others. She would be honored to have Jones Park named after her daughter.

Councilwoman Roney thanked Councilwoman Mosley for leadership with the renaming amendment. For anyone questioning this action, this is an example of cross-jurisdiction leadership to advance partnerships with our neighborhoods, which is an example of what our community expects us to do. Next, a path to do the same might be plainly outlined for Walton Street, Ravenscroft Reserve, and community gardens. This is an example of important work well done.

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

The motion made by Councilwoman Mosley and seconded by Vice-Mayor Smith carried unanimously.

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VI. NEW BUSINESS:

A. MOTION TO APPROVE THE WATER RESOURCE DEPARTMENT'S 10-YEAR CAPITAL IMPROVEMENT SCHEDULE

Water Resources Director David Melton said that is consideration of a motion to review and approve the Water Resource Department's 10-year Capital Improvement schedule.

Background:

- The Water Resources Department is seeking funding for major capital improvement projects through the NC Department of Environmental Quality's (NCDEQ) Division of Water Infrastructure's (DWI) ARPA grants and State Revolving Funds (SRF) application process.
- The department has already been awarded two grants from the Spring application process:
 - \$400,000.00 for North Fork and Wm. DeBruhl Water Treatment Plant (WTP) Study and
 - \$5,000,000.00 towards the Mills River WTP Miscellaneous Improvements - Phase 2 project
 - The combined \$5,400,000.00 is the maximum amount a non-distressed water system in North Carolina could receive during the Spring 2022 process.
- Council adopts Water Resources five year CIP as a part of the budget process.
- The Water Resources Department is amending the five (5) Year CIP adopted by City Council.
- Two items have changed within the CIP since the previous approval:
 - Adjustments in Revenue for 2023: \$400,000 of the NF & WD WTP Treatment Study and \$5,000,000 for the Mills River WTP Misc. Improvements - Phase 2 project
 - Adjustments to CIP Improvement Program for 2024 of \$15,000,000 for the Mills River WTP Misc. Improvements - Phase 2 project
- Funding through DWI & SRF are based on a points system.
- Having an adopted 10 year capital plan will allow the City to obtain more points on future grant applications.
- The remaining 5 years of this 10 year CIP forecast is meant to assist the department with creating a new rate plan and improve the ability to obtain funding from NCDEQ - DWI's Grants and State Revolving Funds (SRF) programs.

Council Goal(s):

- Improve/Expand Core Services

Committee(s):

- N/A

Pro(s):

- Additional funding through either ARPA grant or State Revolving Funds (SRF) programs will lessen the burden on our ratepayers by providing funds on a low interest or interest forgiveness basis.
- If awarded, funds will significantly reduce the debt issuance required to complete these projects.
- Project will ensure the Mills River Water Treatment Plant (WTP) is more resilient and will have a higher production capacity to serve the growing population.

Con(s):

- Without adequate funding major improvements will be postponed, potentially impacting the City's ability to meet current and future water demands at the Mills River WTP.

Fiscal Impact:

- There is no direct fiscal impact to approving the 10-year capital plan, adjustments to the Water Resources capital budget will continue to be made through the budget development process.
- If awarded, grant funding or low-interest loans will help to fund needed investments in water system infrastructure.

Mr. Melton said that the key takeaways from this report are (1) the N.C. Dept. of Environmental Quality Division of Water Infrastructure (NC DEQ-DWI) State Revolving Funds and American Rescue Plan Act grants are available; (2) the City has been awarded two grants totalling \$5.5 Million; (3) these state grants and funds are used for continual capital reinvestment in system infrastructure; and (4) having a 10-Year Capital Improvements Plan (CIP) will allow the City to be more competitive for future grant applications. The Water Resources Department has received letters of intent to fund two projects from the NC DEQ-DWI - (a) Mills River Water Treatment Plant - rehabilitation Phase II - \$5 Million; and (b) North Fork and William DeBruhl Water Treatment Plants - Water Treatment Study - \$400,000. Adjusting the current 5-year CIP will allow the City to obtain more points on future grant and funding applications. Regarding the 5-Year CIP, (1) Council adopts the 5-year CIP during the budget process, and the first fiscal year is funded; (2) year two and year three contain projects that are planned and may already be designed, or are in the design process; and (3) year four and year five contain projects that are planned, but may not have moved to the design process. Regarding the 10-Year CIP, (1) Water Resources' master plan has a 10-year timeframe; (2) allows for infrastructure lifecycle planning; (3) assists with maintenance and updating of the rate plan; and (4) allows the City to be more competitive for future grant and funding opportunities by increasing the points total. Mr. Melton then showed the 10-Year Capital Improvement Planning project and funding chart.

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

Councilwoman Wisler moved to approve the Water Resources Department's 10-year Capital Improvement forecast. This motion was seconded by Councilwoman Mosley and carried unanimously.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Several individuals spoke to City Council about various things, some being, but are not limited to: concerns about Robinhood Residential, a proposed multi-unit residential development in the Town of Woodfin but surrounded by and accessed through Asheville residential neighborhoods - potential impact on Asheville residents resulting from steep slope instability, stormwater runoff, traffic, public safety, and damage to the viewshed; need for dedicated pickleball courts; success of Asheville App; and comments regarding judicial elections.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:44 p.m.

CITY CLERK

MAYOR