

Thursday – May 18, 2023 - 11:00 a.m.

#### Agenda Briefing Worksession - For May 23, 2023 Council Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sandra Kilgore (joined meeting at 11:20 a.m.); Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sheneika Smith; Councilwoman Sage Turner; Councilwoman Maggie Ullman; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

City Council held an agenda briefing worksession to discuss the upcoming and future agenda items. In addition, City Council reviewed upcoming City Council committees that will be taking place during the next two weeks.

Discussion occurred on the following other issues and updates:

- Independent Review Committee Update
- AFD Chief Scott Burnette's Retirement
  - [May 30, 2023 Retirement Celebration](#)
  - May 31, 2023 official retirement date
  - Interim Chief designation named shortly
  - National Search Process
- Development Services Department and Planning and Urban Design Department Director Search
- Retreat Follow-up Council Goal Setting Update

At 12:08 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – May 23, 2023 - 5:00 p.m

#### Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sheneika Smith; Councilwoman Sage Turner; Councilwoman Maggie Ullman; 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.

#### **I. PROCLAMATIONS:**

##### **A. PROCLAMATION PROCLAIMING MAY 21-27, 2023, AS “NATIONAL PUBLIC WORKS WEEK”**

Mayor Manheimer read the proclamation proclaiming May 21-27, 2023, as "National Public Works Week" in the City of Asheville. She presented the proclamation to Public Works Director Greg Shuler, along with Will Rumley representing Asset Management; Jason Ogle representing the Streets Division, Rachell Buckner representing the Fleet Division; Sofia Bonilla representing the Administration Division; Craig Harlee representing the Sanitation Division; and Heather Weaver representing the Stormwater Division.

**B. PROCLAMATION PROCLAIMING JUNE 2023 AS POLLINATION CELEBRATION! MONTH**

Councilwoman Turner read the proclamation proclaiming June 2023 as “Pollination Celebration! Month” in the City of Asheville. She presented the proclamation to Phyllis Stiles, Eric Bradford and others who briefed Council on some activities during the month.

**II. CONSENT AGENDA:**

At the request of Mayor Manheimer, Consent Agenda Item “P” was removed from consideration at this meeting. Mayor Manheimer said that while there is strong consensus for the LGBTQ+ community, they are still working on a consensus of the wording of the resolution.

**A. APPROVAL OF THE COMBINED MINUTES OF THE AGENDA BRIEFING WORKSESSION HELD ON MAY 4, 2023, AND THE FORMAL MEETING HELD ON MAY 9, 2023**

**B. RESOLUTION NO. 23-104 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH FRENCH BROAD PAVING INC. FOR THE SULPHUR SPRINGS ROAD RESURFACING PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment with French Broad Paving, Inc. in the amount of \$55,000.00 for the Sulphur Springs Road Resurfacing Contract.

**Background:**

- Upon the start of resurfacing operations, two unforeseen issues with Sulphur Springs Road were discovered.
- Sections of the road were not built upon a gravel base, but were instead built upon an improper base of red clay.
- The area was annexed in 1917 and the road predates the city’s records.
- Because the road has a concrete base, and based on the size of the aggregate, the current configuration is at least 50 years old.
- This issue has led to approximately 385 tons of necessary patching, while the original estimate was 160 tons. The road is a layer of asphalt over concrete.
- The issue was discovered when the asphalt was milled away and the concrete was found to be in very poor condition.
- Several areas were in such disrepair that construction equipment would fall through the concrete and sink 1-2 feet into the clay underneath the concrete.
- This condition was most prevalent between Lucy S. Herring Elementary School and Haywood Road.
- Sulphur Springs Road has had several utility projects performed since the resurfacing contract was advertised.
- The pavement in the impact areas was found to have very little crown (slope) or even a reverse crown.
- Proper crown assures positive drainage, which improves structural longevity and safety.
- In some areas a 5-6 inch application of asphalt had to be applied to establish a standard 2 percent fall from the road center to the curb.
- The increase in required asphalt depth will lead to an approximately 20% overage in asphalt tonnage.

**Vendor Outreach Efforts:**

- N/A - This is a contract amendment.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- None

**Pro(s):**

- Approval of the amendment will allow for Sulphur Springs Road to be properly repaired.

**Con(s):**

- This construction work, although performed via a contractor, will also use City staff administrative time to ensure the work is properly performed.
- The work will be a further disruption to a neighborhood that has experienced a significant amount of construction recently.

**Fiscal Impact:**

- Funding for this contract was previously budgeted as part of the 2016 General Obligation (GO) Bond program and is available in the General Capital Projects Fund.

**Motion:**

- Motion to authorize the City Manager to execute a contract amendment with French Broad Paving, Inc. in the amount of \$55,000.00 for the Sulphur Springs Road Resurfacing Contract.

**RESOLUTION BOOK NO. 44 - PAGE 78**

**C. RESOLUTION NO. 23- 105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH APPALACHIAN PAVING & CONCRETE INC. FOR THE FISCAL YEAR 2023 UTILITY CUT CONCRETE REPAIR PROJECT**

**ORDINANCE NO. 5014 - BUDGET AMENDMENT FOR THE FISCAL YEAR 2023 UTILITY CUT CONCRETE REPAIR PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment in the amount of \$29,000 for the FY23 concrete repair contract with Appalachian Paving and Concrete, Inc., and the associated budget amendment in the Street Cut Utility Fund.

**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 (Metropolitan Sewerage District, 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.
- The quantity and location of the concrete repairs performed under this contract is dictated

- by development and repair work performed by the partner utilities.
- The pace of development has expended the funds allocated to the concrete repair contract for FY23.
- This addition of funding will help the contract last through the end of FY23.

**Vendor Outreach Efforts:**

- N/A - Amdt to existing contract

**Council Goal(s):**

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

**Committee(s):**

- N/A

**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.
- With the approval of the requested budget amendment, funding for this contract will be available in the Street Cut Utility Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract amendment in the amount of \$29,000.00 for the FY23 concrete repair contract with Appalachian Paving and Concrete, Inc., and the associated budget amendment in the Street Cut Utility Fund.

**RESOLUTION BOOK NO. 44 - PAGE 79  
ORDINANCE BOOK NO. 34 - PAGE 425**

**D. RESOLUTION NO. 23-106 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SOLE SOURCE APPROVAL FOR THE AQUATIC INFORMATICS WATER INFORMATION MANAGEMENT SYSTEM/RIO SOFTWARE WHICH INCLUDES ANNUAL SUBSCRIPTIONS AND TECHNICAL SUPPORT COSTS**

**Action Requested:** Adoption of a resolution for a sole source approval for the Aquatic Informatics Water Information Management System (WIMS) /RIO software which includes annual subscriptions and technical support costs.

**Background:**

- WIMS is a database that compiles all data collected from plant operations and water quality testing. RIO is a build off of WIMS that allows staff to collect the data using mobile devices while in the field.

- The original contract with Hach Corporation for the WIMS/RIO software was completed in May of 2019 at the cost of \$70,730 (this contract was also approved by the IT department).
- The Water Production division of the Water Resources Department continues to use the software to collect data for monthly reports for State regulators and compile necessary data to monitor water treatment plant processes.
- Hach transferred ownership and responsibility of the WIMS/RIO software to Aquatic Informatics in July 2022.
- As staff extend the contract to renew annual subscriptions and technical support fees, Water Resources is reaching the \$90,000 mark that requires Council approval.
- Aquatic Informatics is the sole developer and sole distributor of the WIMS/RIO software solutions. Aquatic Informatics is also the sole provider of Support and Maintenance Agreements (SMA) and Software as a Service (SaaS) subscriptions for WIMS/RIO, which includes access to their 360° Support Portal, software updates/upgrades and technical support.
- As this is a sole source product, Council approval is required to continue extending the contract of a sole source provider.

**Vendor Outreach Efforts:**

- The original contract for the WIMS/RIO software was completed in May of 2019.
- The outreach and engagement followed the City's business inclusion processes.
- Staff followed the required Minority & Women-Business Enterprise outreach plan at that time.

**Council Goal(s):**

- Improve/Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- Software provides the Water Production Division with a program to store all three water treatment plants data in one place where reports can easily be created.
- Dashboards with reports and graphics will help determine better treatment options and provide better monitoring of treatment processes.

**Con(s):**

- If not approved, software will no longer be available to use.
- Other options are available but start-up of a new program would create higher costs and more work on staff to build a new software platform that is currently working.

**Fiscal Impact:**

- Funding for this contract (\$9,938 annually) is available in the Water Resources operating budget.

**Motion:**

- Motion to authorize the City Manager to execute sole source approval for the Aquatic Informatics Water Information Management System /RIO software which includes annual subscriptions and technical support costs

**E. RESOLUTION NO. 23-107 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE HOLA ON JUNE 10, 2023**

**RESOLUTION NO. 23-108 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INDEPENDENCE DAY 5k ON JULY 4, 2023**

**RESOLUTION NO. 23-109 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INGLE'S INDEPENDENCE DAY CELEBRATION ON JULY 4, 2023**

**RESOLUTION NO. 23-110 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE AIA SUMMER BBQ ON JULY 13, 2023**

**RESOLUTION NO. 23-111 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE SANCTUARY SERIES ON JULY 13, 2023**

**Action Requested:** Adoption of resolutions to permit the possession and consumption of malt beverages and/or unfortified wine at Hola Asheville, Independence Day 5K, the Ingle's Independence Day Celebration, the AIA Summer BBQ, and at the Sanctuary Series.

**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:
  - Hola Carolina for Hola Asheville, to occur at Pack Square Park on Saturday, June 10, 2023, from 11:00 a.m. - 7:00 p.m.
  - Food Connection for the Independence Day 5K to occur at Carrier Park on Tuesday, July 4, 2023, from 7:00 a.m. - 11:00 a.m.
  - Asheville Downtown Association for the Ingle's Independence Day Celebration to occur at Pack Square Park on Tuesday, July 4, 2023 from 12:00 p.m. - 10:00 p.m.
  - AIA Asheville for the AIA Summer BBQ to occur at Carrier Park on Thursday, July 13, 2023 from 5:30 p.m. - 7:30 p.m.
  - Central United Methodist Church for the Sanctuary Series to occur on Church Street on July 13, 2023 from 5:00 p.m - 8:30 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:**

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

**Motion:**

- Motion to adopt a resolution to permit the possession and consumption of malt beverages and/or unfortified wine at Hola Asheville, Independence Day 5K, the Ingle's Independence Day Celebration, the AIA Summer BBQ, and at the Sanctuary Series.

**RESOLUTION NO. 23-107 - RESOLUTION BOOK NO. 44 - PAGE 81  
RESOLUTION NO. 23-108 - RESOLUTION BOOK NO. 44 - PAGE 84  
RESOLUTION NO. 23-109 - RESOLUTION BOOK NO. 44 - PAGE 87  
RESOLUTION NO. 23-110 - RESOLUTION BOOK NO. 44 - PAGE 90  
RESOLUTION NO. 23-111 - RESOLUTION BOOK NO. 44 - PAGE 93**

**F. HARRAH'S CHEROKEE CENTER - ASHEVILLE - CONSISTENCY IN OPERATION & FUNCTIONALITY**

**RESOLUTION NO. 23-112 - RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF STAGE RIGHT EQUIPMENT IN THE CURRENT AND FUTURE FISCAL YEARS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY AT THE HARRAH'S CHEROKEE CENTER - ASHEVILLE**

**ORDINANCE NO. 5015 - BUDGET AMENDMENT FOR THE STANDARDIZED PURCHASE OF STAGE RIGHT EQUIPMENT AT HARRAH'S CHEROKEE CENTER - ASHEVILLE**

**Action Requested:** Adoption of a resolution and associated budget amendment authorizing the standardization purchase of Stage Right equipment in the current and future fiscal years for consistency in operation and functionality at the Harrah's Cherokee Center - Asheville.

**Background:**

- The Harrah's Cherokee Center - Asheville (HCCA) utilizes Stage Right staging and crowd management equipment.
- It was originally purchased in 2005 following all purchasing policies and procedures at the time.
- Over time the facility has purchased additional equipment to expand rental offerings to clients through Stage Right.
- Additionally over time, some staging equipment has worn out or been damaged.
- Proposed purchase is to replace staging equipment in order to get to desired par levels of equipment inventory.

- Additionally security standards throughout the industry are ever changing necessitating the purchase of additional crowd management barricade equipment to be utilized in general admission setups for concerts.
- All additional equipment needs to interlock with current equipment, thus the request for purchase under the standardization process.
- Specific equipment to be purchased in the current fiscal year includes; Inverted “T” Blow Through Barricade, Equipment Carts (storage), Staging Legs and ADA compliant stage railings.

**Council Goal(s):**

- A fiscally Sound City
- Smart City

**Committee(s):**

- Civic Center Commission - May 2, 2023 - Discussed, no formal vote

**Pro(s):**

- Standardization procurement of Stage Right equipment will allow staff to purchase replacement & expansion equipment that is compatible with the staging and crowd management equipment currently owned by the Harrah’s Cherokee Center Asheville.

**Con(s):**

- If standardization is not authorized, when needed HCCA will rent this equipment from outside vendors in order to ensure equipment used is compatible with the staging and crowd management equipment currently owned.

**Fiscal Impact:**

- Funding for this purchase (estimated at \$28,000) is available in the HCCA Operating Fund.
- Staff recommend making this purchase out of the HCCA Capital Fund, requiring a budget amendment.

**Motion:**

- Motion to adopt a resolution and associated budget amendment authorizing the standardization purchase of Stage Right equipment in the current and future fiscal years for consistency in operation and functionality at the Harrah’s Cherokee Center - Asheville.

**RESOLUTION BOOK NO. 44 - PAGE 96  
ORDINANCE BOOK NO. 34 - PAGE 426**

**RESOLUTION NO. 23-113 - RESOLUTION AUTHORIZING THE  
STANDARDIZATION PURCHASE OF BYPASS MOBILE/CLOVER SPORTS  
EQUIPMENT IN THE CURRENT AND FUTURE FISCAL YEARS FOR  
CONSISTENCY IN OPERATION AND FUNCTIONALITY AT THE HARRAH’S  
CHEROKEE CENTER - ASHEVILLE**

**Action Requested:** Adoption of a resolution authorizing the amendment to the contract with Bypass Mobile/Clover for the purchase of additional equipment at the Harrah’s Cherokee Center - Asheville to an amount not to exceed \$209,537.57.

**Background:**

- Hardware and seven year software agreement was purchased in 2019 after a full RFP process following all City procurement and MWBE policies at the time.
- Software agreement has three years remaining.

- Hardware units have become outdated and lack functionality.
- Credit Card transaction processing time is too long, creating a negative effect on patron wait time and overall gross sales during events.
- Current portable hardware units are wifi capable only, with no hard wired options. Wifi during large scale events is overwhelmed easily. The facility has hard wired networking infrastructure throughout.
- Proposed new units are all hard wire capable, allowing for faster transaction times, direct connectivity to inventory control, more secure transactions and a more user friendly interface.
- All new units include chip reader functionality for credit card purchases, the safest option currently available for credit card processing.
- All new units utilize the cloud based inventory control and point of sale software system currently supported by Clover Sports, under the contract between the City of Asheville and Clover Sports.

**Council Goal(s):**

- A fiscally Sound City
- Smart City

**Committee(s):**

- Civic Center Commission - May 2, 2023 - Discussed, no formal vote

**Pro(s):**

- Replacement of Clover Sports hardware equipment will ensure consistency and compatibility of public facing and back of house systems throughout the facility
- Upgrades equipment for more secure credit card transactions.

**Con(s):**

- If new equipment is not purchased Clover Sports will no longer be liable for any potential data breaches of credit card information leaving the sole responsibility of liability on the City.
- If new equipment is not purchased Clover Sports will no longer support the software installed on the older point of sale units.

**Fiscal Impact:**

- Funding for this purchase (estimated at \$70,000) is available in the HCCA Operating Fund.

**Motion:**

- Motion to adopt a resolution authorizing the amendment to the contract with Bypass Mobile/ Clover for the purchase of additional equipment at the Harrah's Cherokee Center - Asheville for a new total contract amount not to exceed \$209,537.57.

**RESOLUTION BOOK NO. 44 - PAGE 97**

**RESOLUTION NO. 23-114 - RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT OF IRWIN SEATING COMPANY PARTS AND ANY FUTURE PARTS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY AT THE HARRAH'S CHEROKEE CENTER - ASHEVILLE**

**Action Requested:** Adoption of a resolution supporting the sole source procurement of Irwin Seating Company Inc. parts and any future parts for consistency in operation and functionality at

the Harrah's Cherokee Center; and a three year service agreement with Irwin Seating Company Inc.

**Background:**

- The Telescopic seating system at the Harrah's Cherokee Center - Asheville (HCCA) was bid for and installed in 2011 as part of the first phase of renovations completed at the facility.
- The initial purchase and installation of the seating system provided annual maintenance by the seating company for three years as well as additional spare parts and equipment for HCCA staff use when necessary for repairs.
- Spare parts inventory is low, and due to the age of the system, an annual service agreement with the manufacturer for inspections and necessary repairs is best practice for operations of the equipment and safety of the HCCA's guests.
- The telescopic seating system is proprietary to the manufacturer as well as official inspection practices.

**Council Goal(s):**

- A Well-Planned and Livable Community
- A Clean and Healthy Environment

**Committee(s):**

- Civic Center Commission - May 2, 2023 - Discussed, no formal vote

**Pro(s):**

- This resolution will allow the Harrah's Cherokee Center to efficiently purchase the needed parts required to repair and maintain the Telescopic seating system installed in 2011.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for these expenses (estimated at \$5,400 in the current year) is available in the HCCA Fund.
- An additional \$4,001 will be spent annually for each of the next three fiscal years for the service agreement.

**Motion:**

- Motion to adopt a resolution supporting the sole source procurement of Irwin Seating Company Inc. parts and any future parts for consistency in operation and functionality at the Harrah's Cherokee Center; and a three year service agreement with Irwin Seating Company Inc.

**RESOLUTION BOOK NO. 44 - PAGE 98**

**G. RESOLUTION NO. 23-115 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH ASHEVILLE GREENWORKS FOR A TREE NURSERY ON HARDESTY LANE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign a lease agreement with Asheville Greenworks to operate a tree nursery on Hardesty Lane.

**Background:**

- The City owns property at 80 Hardesty Lane (9668-31-9966) that consists of approximately 33.48 total acres.
- This parcel of land is located to the rear of Azalea Park and is used for City purposes.
- A portion of the property has been leased in the past for an organic farm, but it is currently unoccupied.
- Asheville Greenworks has proposed a growing area comprising approximately 1.30 +/- acres, where they will plant native trees that will be provided free of charge for public spaces.
- Asheville Greenworks will also be allowed to temporarily park vehicles in a designated area while tending to their plantings.
- Approximately 20% of the available trees will be designated for City of Asheville public installations.
- The exact number and species of trees will be determined by the City Arborist and the Asheville Greenworks Director of Operations on an annual basis.
- Other available trees that are not needed or requested by the City will be made available for planting on public land owned by Buncombe County, other municipalities in Buncombe County and non-profit organizations.
- Asheville Greenworks will work with the City Arborist to determine the exact number and type of trees to be planted.
- Asheville Greenworks will be allowed to construct a shed measuring 8 feet by 8 feet and will be allowed to pump water from an onsite surficial well.
- The proposed lease area is located near to the Swannanoa River and has flooded in the past. Asheville Greenworks has submitted a protocol that they will follow should the area flood.
- In exchange for the free native trees, Asheville Greenworks will pay \$1.00 per year as a rental fee.
- The proposed term of the lease is five (5) years with one (1), five (5) year renewal.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Native trees will be available to the City free of charge for use in public spaces.

**Con(s):**

- The City will not be receiving rental income from this use.

**Fiscal Impact:**

- This lease agreement will not significantly impact future use of this property, including any opportunity to generate additional lease revenue.
- Trees will be available for public installation at no cost to the City.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to sign a lease agreement with Asheville Greenworks to operate a tree nursery on City of Asheville property located at 80 Hardesty Lane.

Eric Bradford, Director of Operations at Asheville Greenworks, expressed his appreciation for working with Asheville Greenworks on this lease which will result in having a tree bank for the City and Buncombe County.

**RESOLUTION BOOK NO. 44 - PAGE 99**

**H. RESOLUTION NO. 23-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND APPROVE THE UPDATE TO THE CITY OF ASHEVILLE PUBLIC TRANSPORTATION AGENCY SAFETY PLAN TO BE CONSISTENT WITH THE REQUIREMENTS OF THE BIPARTISAN INFRASTRUCTURE LAW**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign and approve the update to the City of Asheville Public Transportation Agency Safety Plan to be consistent with the requirements of the Bipartisan Infrastructure Law.

**Background:**

- On July 19, 2019, the Federal Transit Administration (FTA) adopted a regulation requiring all public transit agencies that receive 5307 Urban Transit Funds to develop Public Transportation Agency Safety Plans (PTASP) by December 31, 2020.
- The City of Asheville's PTASP was adopted by the City Council in June 2020 and includes performance measures related to passenger and transit-worker safety, crashes, and maintenance of the transit system.
- Data on these performance measures is reported in the Monthly Accountability Reports provided by the transit contractor, RATPDev.
- In November 2021, Congress adopted the Bipartisan Infrastructure Law (BIL) and the Infrastructure Investment and Jobs Act (IIJA), which included additional requirements for PTASPs.
- The primary new requirement from the BIL was that each public transit agency establish a Safety Committee and that the committee include representatives from management staff and front-line employees.
- The Safety Committee is intended to work cooperatively and collaboratively to identify potential areas for safety improvements and work to implement those improvements.
- To comply with the new BIL requirements, the City's transit contractor, RATPDev, has established the ART Safety Committee, which is meeting regularly, and the City has updated the PTASP to reflect this.
- The updated PTASP has been reviewed and approved by the ART Safety Committee, as required by the BIL.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- The proposed changes to the PTASP include:
  - The establishment of the ART Safety Committee. The safety committee includes representation from front-line employees.
  - De-escalation training included in front-line employee training.
- The PTASP document and monitoring of performance measures will be managed by the Transit Planning Division and coordinated with the City's transit contractor, RATPDev Inc.
- The PTASP includes the establishment of the ART Safety Committee and includes representatives from management staff and front-line employees.

- The ART Safety Committee is intended to work cooperatively and collaboratively to identify potential areas for safety improvements and work to implement improvements.

**Con(s):**

- None

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to sign and approve the update to the City of Asheville Public Transportation Agency Safety Plan to be consistent with the requirements of the Bipartisan Infrastructure Law.

**RESOLUTION BOOK NO. 44 - PAGE 100**

**I RESOLUTION NO. 23-117 - RESOLUTION OF INTENT TO CLOSE AN UNOPENED RIGHT-OF-WAY ADJACENT TO 26, 30, 34 AND 38 SUNRISE DRIVE AND SET THE PUBLIC HEARING ON JUNE 27, 2023**

**Action Requested:** Adoption of a resolution to set a public hearing for June 27, 2023, to permanently close an unopened right-of-way adjacent to 26, 30, 34, and 38 Sunrise Drive.

**Background:**

- North Carolina General Statute § 160A-299 grants cities the authority to permanently close streets and alleys.
- The statute requires City Council to consider whether the closure of the right-of-way has a negative impact to the public interest and whether the closure would impede access to parcels, utilities, and other public infrastructure.
- Mike and Emily Sule (26 Sunrise Dr.; PIN 9638-77-3009) have petitioned for this closure on behalf of themselves and neighbors at 30, 34, and 38 Sunrise Drive.
- The owners wish to permanently close an unopened right-of-way adjacent to 26, 30, 34, and 38 Sunrise Drive; originally platted as “Westview Place” in 1924 and 2005 but was never accepted by the City.
- The right-of-way will be divided among the four properties and a new plat with appropriate water and Metropolitan Sewerage District easements will be filed.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Technical Review Committee, March 20, 2023, unanimously recommended approval.
- Multimodal Transportation Commission, April 26, 2023, unanimously recommended approval.

**Pro(s):**

- There are no utility conflicts, nor any transportation connectivity opportunities associated with this unopened right-of-way.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution to set a public hearing for June 27, 2023, to permanently close an unopened right-of-way adjacent to 26, 30, 34, and 38 Sunrise Drive.

**RESOLUTION BOOK NO. 44 - PAGE 101**

**J. RESOLUTION NO. 23-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND AND DISBURSE FEDERAL TRANSIT ADMINISTRATION GRANTS APPORTIONED TO THE ASHEVILLE URBANIZED AREA FOR FISCAL YEAR 2021 AND 2022 FROM THE SECTION 5307 URBAN TRANSIT FUNDING, SECTION 5307 JOB ACCESS REVERSE COMMUTE, AND SECTION 5310 ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS; AND TO EXECUTE ALL NECESSARY AGREEMENTS BETWEEN THE CITY OF ASHEVILLE AND APPLICABLE TRANSIT SUBRECIPIENTS FOR THE DISBURSEMENT OF APPROVED FUNDS**

**ORDINANCE NO. 5016 - BUDGET AMENDMENT FOR PREVIOUSLY UNBUDGETED PASS THROUGH FUNDING FROM FEDERAL TRANSIT ADMINISTRATION GRANTS**

**Action Requested:** Adoption of a (1) resolution authorizing the City Manager to expend and disburse Federal Transit Administration Grants apportioned to the Asheville Urbanized Area for FY 2020-21 and 2021-22 from the Section 5307 Urban Transit Funding, Section 5307 Job Access Reverse Commute, and Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Programs; and to execute all necessary agreements between the City of Asheville and applicable transit Subrecipients for the disbursement of approved funds; and (2) an associated budget amendment, in the amount of \$4,705,799 for previously unbudgeted pass through funding.

**Background:**

- Federal Transit Administration (FTA) grant funds are apportioned to the Asheville Urbanized Area (AUZA) annually by the Federal Transit Administration and are disbursed by the City of Asheville, as the Designated Recipient, to the regional transit agencies (Subrecipients), including Buncombe County, Henderson County, Haywood County, etc.
- This action would authorize the expenditure and disbursement of City and Subrecipient transit grant funds for FY 2020-21 and 2021-22 from three annual programs that support existing transit services.
  - *Section 5307 Urban Transit Funds* - these funds are allocated annually to the Asheville Urbanized Area (AUZA) and are split between the City and Subrecipients based on a formula determined by the French Broad River MPO (FBRMPO).
  - *Section 5307 Job Access Reverse Commute (JARC)* - the total amount of funds for this program originates from a 10% set-aside of Section 5307 Urban Transit funds. Each year, agencies must apply to the FBRMPO for JARC Funds. The City typically receives JARC funds to offset some of the cost of the Route 170, and more recently the S3.
  - *Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities* - these funds are allocated annually to the AUZA. Each year, agencies must apply

to the FBRMPO for 5310 funds. The City typically applies and receives funds to offset some of the cost of the City's paratransit contract.

- The City Attorney's Office and Purchasing Division have determined that a City Council resolution specifically authorizing the disbursement of funds to each Subrecipient, the amount being disbursed to each, and the execution of agreements, is necessary in order to provide reimbursements to Subrecipients.

**The following tables outline the amounts being disbursed to each entity by program for FY 2020-21 and FY 2021-22.**

**Section 5307 Urban Transit Funds**

<b>FY21 Section 5307 Urban Transit Funding</b>	
<b>Subrecipient</b>	<b>Allocation Amount</b>
JARC Set-Aside	\$343,962 *includes \$32,681 from FY20 rolled over to FY21.
City of Asheville	\$1,194,293
Buncombe County	\$801,798
Haywood County	\$233,648
Henderson County	\$571,792
<b>Total</b>	<b>\$3,145,493</b>

<b>FY22 Section 5307 Urban Transit Funding</b>	
<b>Subrecipient</b>	<b>Allocation Amount</b>
JARC Set-Aside	\$408,394
City of Asheville	\$1,566,884
Buncombe County	\$1,051,941
Haywood County	\$306,540
Henderson County	\$750,179
<b>Total</b>	<b>\$4,083,938</b>

**Section 5307 Job Access Reverse Commute Funds**

<b>FY21 Section 5307 JARC Funds</b>			
<b>Subrecipient</b>	<b>Project</b>	<b>Amount Funded (50%)</b>	<b>Local Match (50%)</b>
City of Asheville	Black Mountain Transit Route 170	\$303,962	\$303,962
Friends of Land of Sky	Recovery to Career Vanpool Program	\$40,000	\$40,000

<b>FY21 Section 5307 JARC Funds</b>		
<b>Total</b>	<b>\$343,962</b>	<b>\$343,962</b>

<b>FY22 Section 5307 JARC Funds</b>			
<b>Subrecipient</b>	<b>Project</b>	<b>Amount Funded (50%)</b>	<b>Local Match (50%)</b>
City of Asheville	Black Mountain Transit Route 170	\$254,720	\$254,720
City of Asheville	Additional JARC services (S3 - fixed route)	\$153,674	\$153,674
<b>Total</b>		<b>\$408,394</b>	<b>\$408,394</b>

**Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities**

<b>FY21 Section 5310 Funds</b>			
<b>Subrecipient</b>	<b>Project</b>	<b>Amount Funded</b>	<b>Local Match (varies)</b>
City of Asheville	ADA Paratransit	\$190,306	\$47,577
Buncombe County	SEDTAP	\$128,544	\$32,136
Council on Aging ARPA 5310	Call-A-Ride and SWS	\$30,432	N/A
Madison County ARPA 5310	Expanded transportation to Mars Hill	\$23,707	N/A
City of Asheville	Program Administration	\$41,443	N/A
<b>Total</b>		<b>\$414,432</b>	<b>\$79,713</b>

<b>FY22 Section 5310 Funds</b>			
<b>Subrecipient</b>	<b>Project</b>	<b>Amount Funded</b>	<b>Local Match (varies)</b>
City of Asheville	ADA Paratransit	\$223,741	\$55,935
Buncombe County	SEDTAP	\$57,720	\$14,430
Land of Sky Regional Council	Senior Companion Program	\$136,620	\$136,620
Buncombe County	RIDE Vouchers Program	\$42,482	\$42,482
Madison County	Senior Center/Meal Sites Transportation	\$33,414	\$33,414
City of Asheville	Program Administration	\$17,550	N/A
<b>Total</b>		<b>\$511,527</b>	<b>\$282,881</b>

**Vendor Outreach Efforts:**

- N/A. These funds are apportioned to the Asheville Urbanized Area (AUZA) annually by the Federal Transit Administration and are disbursed by the City of Asheville, as the Designated Recipient, to the regional transit agencies (Subrecipients), including Buncombe County, Henderson County, Haywood County, etc.

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- This action would authorize the expenditure and disbursement of City and Subrecipient transit grant funds for FY 2020-21 and 2021-22 from three annual programs that support *existing* transit services.
- The authorization will allow the City to process reimbursement requests for the City's Transit Subrecipients.

**Con(s):**

- None

**Fiscal Impact:**

- The City's required matching funds are included annually in the Transit Fund operating budget.
- The City's local match for FY 2020-21 and FY 2021-22 Section 5307 Urban Transit funding was previously budgeted; the City's local match for FY 2021-22 JARC and 5310 funds is included in the FY 2023-24 Proposed Budget.
- The City "passes through" funding to each subrecipient and is not responsible for their local match. Some pass through funding was previously budgeted.

**Motion:**

- Motion to adopt (1) a resolution authorizing the City Manager to expend and disburse Federal Transit Administration Grants apportioned to the Asheville Urbanized Area for FY 2020-21 and 2021-22 from the Section 5307 Urban Transit Funding, Section 5307 Job Access Reverse Commute, and Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Programs; and to execute all necessary agreements between the City of Asheville and applicable transit Subrecipients for the disbursement of approved funds; and (2) an associated budget amendment, in the amount of \$4,705,799 for previously unbudgeted pass through funding.

**RESOLUTION BOOK NO. 44 - PAGE 103  
ORDINANCE BOOK NO. 34 - PAGE 427**

- K. ORDINANCE NO. 5017 - ORDINANCE ENACTING (1) A 15 MILES PER HOUR SPEED LIMIT ON WELLS AVENUE FROM BREVARD ROAD TO FAIRFAX AVENUE; (2) A 20 MILES PER HOUR ON EAST STREET FROM FAIRVIEW ROAD TO THOMPSON STREET; (3) A 25 MILES PER HOUR SPEED LIMIT ON HAMPDEN ROAD FROM KENSINGTON DRIVE TO WAVERLY COURT AND CLINGMAN AVENUE/HAYWOOD ROAD FROM PATTON AVENUE TO RIVERVIEW DRIVE; (4) A 30 MILES PER HOUR SPEED LIMIT ON SAND HILL ROAD FROM HAYWOOD ROAD TO WENDOVER ROAD; AND (5) A 35 MILES PER HOUR SPEED LIMIT ON MEADOW ROAD**

## FROM AMBOY ROAD TO VICTORIA ROAD

**Action Requested:** Adoption of an ordinance enacting (1) a 15 mile per hour (mph) speed limit on Wells Avenue from Brevard Road to Fairfax Avenue, (2) a 20 mph speed limit on East Street from Fairview Road to Thompson Street, (3) a 25 mph speed limit on Hampden Road from Kensington Drive to Waverly Court and SR-3548 (Clingman Avenue/Haywood Road) from Patton Avenue to Riverview Drive, (4) a 30 mph speed limit on SR-3412 (Sand Hill Road) from Haywood Road to Wendover Road, and (5) a 35 mph speed limit on SR-3556 (Meadow Road) from Amboy Road to Victoria Road.

### **Background:**

- N.C. Gen. Stat. § 20-141 gives the City the authority to regulate speed limits within its corporate limits.
- City staff received requests from residents to consider changes to speed limits.
- SR-3548 (Clingman Avenue/Haywood Road), SR-3412 (Sand Hill Road), and SR-3556 (Meadow Road) are state maintained streets within the city limits.
- The North Carolina Department of Transportation (NCDOT) conducted a traffic-engineering study for SR-3548 (Clingman Avenue/Haywood Road) and determined that 25 mph would be a more appropriate speed limit.
- The NCDOT conducted a traffic-engineering study for SR-3412 (Sand Hill Road) from Haywood Road to Wendover Road and determined that 30 mph would be a more appropriate speed limit.
- SR-3556 (Meadow Road) from Amboy Road to Victoria Road posted speed limit is 35 mph. NCDOT found the 35 mph speed limit to be appropriate and requests municipal concurrence to repeal the recorded 45 mph ordinance.
- City staff performed traffic-engineering studies along three streets: Wells Avenue, East Street, and Hampden Road.
  - The speed limit on Wells Avenue will be set at 15 miles per hour.
  - The speed limit on East Street will be set at 20 miles per hour.
  - The speed limit on Hampden Road will be set at 25 miles per hour.
- The Asheville Police Department has reviewed the subject actions and they concur with the speed limit changes.
- Once the subject action is approved and prior to the installation of appropriate signs on the City-maintained streets, Transportation Department staff will coordinate outreach and public education with the Communication & Public Engagement Department (CAPE) and the Asheville Police Department.
- The NCDOT will install the appropriate signs on SR-3548 (Clingman Avenue/Haywood Road) and SR-3412 (Sand Hill Road).

### **Council Goal(s):**

- Transportation and Accessibility.

### **Committee(s):**

- MMTC - April 26, 2023 - Presented for information.

### **Pro(s):**

- City staff have been able to respond favorably to the public's requests.
- Provides a more appropriate posted speed limit in residential areas.
- Provides more appropriate posted speed limits for pedestrians, transit, and bicycle riders.

### **Con(s):**

- None

### **Fiscal Impact:**

- The cost of installing and maintaining speed limit signs is included in the Transportation Department's operating budget.

**Motion:**

- Motion to approve an ordinance enacting (1) a 15 mph speed limit on Wells Avenue from Brevard Road to Fairfax Avenue, (2) a 20 mph speed limit on East Street from Fairview Road to Thompson Street, (3) a 25 mph speed limit on Hampden Road from Kensington Drive to Waverly Court and SR-3548 (Clingman Avenue/Haywood Road) from Patton Avenue to Riverview Drive, (4) a 30 mph speed limit on SR-3412 (Sand Hill Road) from Haywood Road to Wendover Road, and (5) a 35 mph speed limit on SR-3556 (Meadow Road) from Amboy Road to Victoria Road

**ORDINANCE BOOK NO. 34 - PAGE 428**

**L. RESOLUTION NO. 23-119 - RESOLUTION SUPPORTING THE N.C. DEPT. OF TRANSPORTATION IN FUNDING, DESIGNING, AND CONSTRUCTING A RIGHT-TURN LANE AND PEDESTRIAN IMPROVEMENTS AT THE INTERSECTION OF SARIS ROAD AND SAND HILL ROAD**

**Action Requested:** Adoption of a resolution supporting the North Carolina Department of Transportation (NCDOT) in funding, designing, and constructing a right-turn lane and pedestrian improvements at the intersection of NC 112 (Sardis Road) and SR 3412 (Sand Hill Road).

**Background:**

- GS § 136-189.22 dictates that NCDOT have a High Impact Low Cost Program for intersection improvement projects, minor widening projects, and operational improvement projects and that 48% of the funds appropriated to the Mobility/Modernization Fund shall be used for these projects.
- The funds are allocated equally among the 14 highway divisions.
- The intersection of NC 112 (Sardis Road) and SR 3412 (Sand Hill Road) has a history of rear-end crashes and congestion.
- NCDOT has identified a High Impact Low Cost project to make improvements at the intersection of NC 112 (Sardis Road) and SR 3412 (Sand Hill Road).
- The scope of work includes pedestrian signals and a crosswalk along the Sand Hill Road approach, a right-turn lane along the westbound Sardis Road approach, relocating a traffic signal pole, sidewalk, and curb and gutter.
- The total project cost is \$485,000 and the work will be completed within the existing right-of-way.
- Any project that uses High Impact Low Cost program funds and exceeds a total project cost of \$250,000 requires a resolution of support from the appropriate local government entity.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- Multi Modal Transportation Committee - April 26, 2023 - Approved unanimously

**Pro(s):**

- The subject project will minimize the existing rear-end crash history.
- The subject project will improve the pedestrian experience as they cross Sand Hill Road.
- The NCDOT is fully funding the project.

**Con(s):**

- None

**Fiscal Impact:**

- This action requires no City resources and has no direct fiscal impact.
- The Public Works Department will be responsible for future maintenance of the new sidewalk.

**Motion:**

- Motion that City Council adopt a resolution supporting the North Carolina Department of Transportation (NCDOT) in funding, designing, and constructing a right-turn lane and pedestrian improvements at the intersection of NC 112 (Sardis Road) and SR 3412 (Sand Hill Road).

**RESOLUTION BOOK NO. 44 - PAGE 106**

**M. RESOLUTION NO. 23-120 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TENNOCA CONSTRUCTION COMPANY FOR THE ONTEORA BOULEVARD SIDEWALK CONSTRUCTION PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a construction contract with Tennoca Construction Company in the amount not to exceed \$829,889.00 plus an approximately 10% construction contingency of \$83,000.00 for a total not to exceed contract amount of \$912,889.00, for the Onteora Boulevard Sidewalk Construction Project.

**Background:**

- The 2016 Transportation General Obligation (GO) Bond Referendum included funding for a new sidewalk along Onteora Boulevard.
- The Onteora Boulevard sidewalk will extend the existing sidewalk near the Lincoln Avenue intersection to Raleigh Rd. an additional .39 miles.
- Council Resolution 17-264 Authorized the execution of a design contract for a bundle of GO bond funded sidewalk projects, including Onteora Boulevard.
- Council Resolution 18-60 Authorized the City Manager to apply for and if awarded, accept funding from the French Broad River Metropolitan Planning Organization for sidewalk improvement projects, including Onteora Boulevard.
- Council Resolution 39-468 authorized changes to the proposed capital budget noting transportation grant funding for Onteora Blvd Sidewalk from the French Broad River Metropolitan Planning Organization.
- Voluntary easements were acquired from 28 separate parcels of land for the construction of a sidewalk along Onteora Boulevard.
- Council Resolution 20-2014 authorized the City attorney's office to condemn a sidewalk easement over real property located at 117 Onteora Boulevard.
- In February 2023, construction bids were advertised for 45 days, and no bids were received.
- Because a minimum of three bids are required, the bid was returned unopened.
- The project was readvertised for bids on March 30, 2023, and received three bids on April 27, 2023.
- The three bids received were from Swannanoa, NC based AP Development, Inc for \$1,358,625; Asheville based NHM Constructors, LLC for \$1,130,883.50; and Candler, NC based Tennoca Construction Company for \$829,889.

**Vendor Outreach Efforts:**

- Due to the federal funding involved in this project, the Federal Disadvantaged Business

- Enterprises program is being applied.
- The federally established goal for this project is 4% participation.
- 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.
- Tennoca Construction Company, through their outreach efforts is committing to utilizing 9.18% participation utilizing Concrete Specialty Contractors, a DBE/WBE subcontractor.

**Council Goal(s):**

- A well planned and liveable community

**Committee(s):**

- n/a

**Pro(s):**

- Provides for sidewalk construction in an area with a demonstrated need for safe pedestrian access.
- Utilizes federal funded grant dollars to maximize the local funding.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this contract was previously budgeted and is available in the General Capital Projects Fund.
- NCDOT grant funding will cover 80% of the construction costs for this project.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a construction contract with Tennoca Construction Company in the amount not to exceed \$829,889.00 plus an approximately 10% construction contingency of \$83,000.00 for a total not to exceed contract of \$912,889.00.

**RESOLUTION BOOK NO. 44 - PAGE 107**

**N. RESOLUTION NO. 23-121 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH WALKER CONSULTANTS FOR THE ENGINEERING OF VARIOUS IMMEDIATE-PRIORITY REPAIRS AT THE WALL STREET, RANKIN AVENUE, HARRAH'S CHEROKEE CENTER AND BILTMORE AVENUE PARKING GARAGES**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment with Walker Consultants for the engineering of various immediate-priority repairs at the Wall Street, Rankin Avenue and Harrah's Cherokee Center parking garages in an amount not to exceed \$90,850.

**Background:**

- The City advertised a Request for Qualifications on October 11, 2022, for facility assessment and engineering professional services for the Parking Garage Capital Improvements Project.

- An evaluation committee selected Walker Consultants as the most qualified respondent, and the City awarded a contract to Walker Consultants on January 24, 2023.
- In March 2023, the consultant performed an onsite investigation and assessment of the City's four parking garages: Harrah's Cherokee Center, Rankin Avenue, Wall Street and Biltmore Avenue garages.
- Following an initial analysis of the information collected during the assessment, the consultant submitted a list of immediate-priority repairs.
- These repairs include reinforcement of structural concrete corbels and repair of steel framing and supports.
- The services authorized in this amendment will provide the engineered drawings for these repairs.
- The engineering will take approximately six weeks to complete, after which the advertisement for the construction bid can be issued.

**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 encouraging consultants to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- Walker Consultants has subcontracted with John J. Clark & Associates, Inc. of Charlotte, NC which is a Minority-Owned Enterprise.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- This work is for the safe and beneficial use of City parking facilities by City residents and visitors.

**Con(s):**

- The project will temporarily impact parking operations, as phased shut-downs of areas of the garages are coordinated during construction, anticipated to start this fall.

**Fiscal Impact:**

- Funding for this amendment was previously budgeted and is available in the Parking Services Capital Projects Fund.

**Motion:**

- Motion authorizing the City Manager to execute a contract amendment with Walker Consultants for the engineering of various immediate-priority repairs at the Wall Street, Rankin Avenue and Harrah's Cherokee Center parking garages.

Rachael Bliss spoke about the necessary renovations needed to the City of Asheville parking garages, especially as they relate to the handicapped accessibility and elevators.

**RESOLUTION BOOK NO. 44 - PAGE 108**

- O. RESOLUTION NO. 23-122 - RESOLUTION AMENDING THE 2023 CITY COUNCIL MEETING SCHEDULE TO ADD A COUNCIL RETREAT FOLLOW-UP WORKSESSION AT 2:00 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL**

**RESOLUTION BOOK NO. 44 - PAGE 109**

**P. RESOLUTION REAFFIRMING SUPPORT OF ASHEVILLE'S LGBTQIA+ COMMUNITY**

This item was removed from consideration at this meeting.

Councilwoman Roney was thankful for the feedback to include live performance in our supportive resolution for LGBTQIA+ community members. She felt it was unfortunate we don't have consensus to bring it forward today. The draft has been re-drafted several times since February to remove any language that might be controversial. It is, in fact, the most watered down resolution in North Carolina. She hoped that it will come back soon and that we will stand with our neighbors who use drag as expression and artistic form but also recognize the economic impact in our community.

**Q. RESOLUTION NO. 23-123 - RESOLUTION AFFIRMING THE RIGHT OF ALL NORTH CAROLINIANS TO SAFE AND COMPREHENSIVE REPRODUCTIVE HEALTH CARE**

Contents of Resolution: "WHEREAS, health care is a fundamental human right, and access to gender-affirming, full-spectrum, and comprehensive reproductive health care, including abortion, contraception, prenatal care, labor and delivery services, and postpartum care, are necessary for overall health and well-being; and WHEREAS, after the United States Supreme Court overturned *Roe v Wade* in its decision in *Dobbs v Jackson Women's Health Organization*, the North Carolina General Assembly passed Senate Bill 20 on a party-line vote which shall limit the rights of women and pregnant people, specifically their bodily autonomy, by prohibiting most abortions after 12 weeks of pregnancy and restricting access to medication abortion after 10 weeks of pregnancy; and WHEREAS, Senate Bill 20 erects new barriers to the provision of health care that are medically unnecessary, such as additional in-person appointments and new clinic requirements; and WHEREAS, the impact of abortion restrictions is predominantly realized by those who already experience disparities in health care, including: people working to make ends meet; Black, Indigenous, and People of Global Majority; people with disabilities; immigrants of all statuses; members of the LGBTQIA+ community; and people who live in rural areas, which medical professionals say will lead to preventable deaths; and WHEREAS, the threat of prosecution against providers, as well as disparities in our criminal legal system, can result in negative outcomes by intimidating people from seeking or providing care, and health care providers have an ethical obligation to provide essential care to their patients. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: (1) The Asheville City Council hereby affirms its support for the right of all North Carolinians to safe and comprehensive reproductive health care, condemning the criminalization of providing essential health care, including full-spectrum reproductive and gender-affirming health care, and proclaiming that people deserve access to high-quality health care without fear of judgment, harassment, coercion, reprisal, or punishment; and (2) The Asheville City Council commends members of our local delegation for their opposition to this legislation; and for support of Governor Roy Cooper's decision to veto it, which was overridden allowing the ratified bill to become law on July 1st, 2023."

**RESOLUTION BOOK NO. 44 - PAGE 110**

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, with the deletion of Consent Agenda Item "P". This motion was seconded by Vice-Mayor Kilgore and carried unanimously.

### **III. PRESENTATIONS & REPORTS:**

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO CONSIDER APPROVING A LAND USE INCENTIVE GRANT FOR 46 ASTON STREET**

Councilwoman Ullman moved to continue this public hearing until June 27, 2023. This motion was seconded by Councilwoman Turner and carried unanimously.

##### **B. PUBLIC HEARING TO CONSIDER APPROVING A LAND USE INCENTIVE GRANT TO COMMONWEALTH DEVELOPMENT CORPORATION FOR 77 AFFORDABLE HOUSING UNITS AT 3124/3130 SWEETEN CREEK ROAD**

##### **RESOLUTION NO. 23-125 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT TO COMMONWEALTH DEVELOPMENT CORPORATION FOR 77 AFFORDABLE HOUSING UNITS AT 3124/3130 SWEETEN CREEK ROAD**

Affordable Housing Officer Sasha Vrtunski said that this is the consideration of approving a land use incentive grant (LUIG) to Commonwealth Development Corporation for 77 affordable housing units at 3124/3130 Sweeten Creek Road/Fairhaven Summit Apartments. This public hearing was advertised on May 12, 2023.

#### **Review:**

- Commonwealth Development Corporation has applied for a Land Use Incentive Grant (LUIG) for their development at Fairhaven Summit per the LUIG Policy adopted by City Council on June 22, 2021.
- The development consists of 77 rental apartments and community space.
- Housing represents 100% of all rentable square footage.
- Of the +/- 77 residential units, 29 rental apartments (20%) will be affordable, serving individuals and families earning at or below 80% of the Area Median Income (AMI) for a minimum of 30 years.
- The project encompasses 7.43 acres of land on Sweeten Creek in South Asheville, currently divided into two parcels known as 3124 and 3130 Sweeten Creek Road and PIN's 9655-33-0929 and 9655-33-2749.
- Estimated Tax Value of the property is \$12,425,000 million post-completion.
- The project, as presented to staff, meets the Eligibility Requirements for the LUIG program.
- As a part of the LUIG program, 50% of the affordable units will accept vouchers, which generally benefit households at 50% AMI or below.
- When vouchers are utilized, this also opens up units in Public Housing where there are waiting lists.
- The planned unit mix for affordable units is 15 one bedroom units and 14 two bedroom units.
- This project was also approved for a \$500,000 Housing Trust Fund loan at the April 25, City Council meeting

#### **Proposal & Scoring:**

- Affordable Rental Housing - 120 points

- The proposed project will provide seventy-seven (77) affordable units (100% of the total units) to individuals and families earning an average of at or below 60% AMI
- The affordability period will be a minimum of 31 years (10 points)
- 50% of the units will be for low-income families (20 points).
- Rental Assistance - 50 points
  - The proposed project will have 50% of the units accepting vouchers of different kinds.
  - The developer is working with the Housing Authority to provide 20 units for project based vouchers.
  - An additional 12% of units will prioritize households participating in the state of North Carolina's KEY program, which serves very low- income households with disabilities who are in need of supportive services.
- Energy Efficiency - 5 points
  - The developer has committed to using Energy Efficiency (EE) / Energy Star Certification.
- Universal Design - 10 points
  - The project has committed to using Universal Design for 20% of the units.
- Building in a Non-Qualified Census Tract (NON QCT) - 10 points
  - The developer is building in a NON QCT, where at least 50% of the households have incomes over 60% of the Area Median Gross Income (AMGI) or a poverty rate under 25%. The poverty rate in this Census Tract is 3.5%.
- Staff has scored the project with 195 points, which qualifies the project for twenty-one (21) years of Land Use Incentive Grant.

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**

- The Housing and Community Development Committee reviewed this item on April 18, 2023 and voted 3-0 in support of the request.
- The Policy, HR and Finance Committee reviewed this item on May 9, 2023 and voted 3-0 in support of the request.

**Pro(s):**

- The proposed project will provide 77 affordable rental housing units to households earning an average of 60% or less of area median income;
- The proposed project will have an affordability period of thirty (30) years;
- The proposed project should have a significant economic impact;
- Construction wages and material purchases will positively affect the local and regional economy;
- The 77 affordable units are located in South Asheville (walkability score of 36 - car dependent, bike score of 10 - somewhat bikeable, minimal bike infrastructure) and provide employment & shopping options for individuals and families who fall within the 0 - 80% AMI incomes.
- Commonwealth Development Corporation is working with the Asheville Housing Authority to have 26% of the units be Project based vouchers, which will give priority to current Housing Authority residents with Tenant Mobility Choice vouchers for these units, and after that, other voucher applicants on the waiting list for project based vouchers.
- 50% of the units are required to participate in NC's Targeting program, with required notification and lease-up procedures. This program targets individuals enrolled with an

approved supportive housing provider who are at risk of (or experiencing) homelessness and who have a disability requiring supportive services.

**Con(s):**

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

**Fiscal Impact:**

- The two parcels included in the project have a current tax value of \$394,600 and pays city property taxes of approximately \$1,590 annually.
- Under the estimated tax value of \$12.43 Million post-completion, the annual city property tax will be approximately \$50,072.
- The difference is \$48,482 which would be granted to the property owner annually after payment for 21 years.
- For 21 years and 77 affordable units at or below and average 60% AMI, the city will grant back a total of \$1,018,132 over the 21 years of the LUIG which equals \$13,222 per unit of subsidy which is lower than the estimate of up to \$80,000 in subsidy for 80% AMI homes as noted in the LUIG Policy.
- After year 21, the City will receive the approximate \$50,072 annually in city tax revenue (depending on future property tax increases, etc.). Please note the City will still receive property taxes of approximately \$1,590 per year in years 1 -21.
- The City sets aside a budget annually for Land Use Incentive Grants.
- Fairhaven Summit has also been approved for a \$500,000 Housing Trust Fund loan.

**Staff Recommendation:**

- Staff recommends approval of the request.

Ms. Vrtunski said the following are the key takeaways from this presentation: (1) LUIG application for Fairhaven Summit, 3124 Sweeten Creek; (2) Low Income Housing Tax Credit Project, 100% affordable, with incomes averaging 58% to 60% AMI; (3) 26% of units (20 apartments) will be set aside for Project Based Vouchers; (4) The project is also bringing other benefits including rental assistance, affordability period of 30 years, energy efficiency, Universal Design and building in a non-QCT; and (5) Project qualifies for 21 years of taxes paid. The project background is (1) The development consists of 77 apartments and community space and amenities for residents; (2) Housing represents 100% of all rentable square footage; (3) The project encompasses 7.43 acres of land on Sweeten Creek Road; (4) The developer estimates a taxable value after construction at \$12,425,000; (5) This project was also approved for a \$500,000 Housing Trust Fund loan at the April 25, City Council meeting; (6) 26% of units (20 apts) are planned to receive Project-Based Vouchers serving families at or below the 30% AMI level who are currently receiving Housing Choice Vouchers or are on HACA's voucher applicant waiting list; (7) An additional 12% of units will prioritize households participating in the state of North Carolina's KEY program, which serves very low- income households with disabilities who are in need of supportive services; and (8) Additional rental assistance programs that will be accepted include, but are not limited to, VASH homeless veteran vouchers, traditional HCV tenant-based vouchers, and tenant support through the local COC programming to enable households experiencing (or at risk of) homelessness to access safe and affordable housing. She then showed a matrix of the unit mix with projected 2023-24 rents and AMI levels. She showed the project location, along with the exterior elevations. The point summary is as follows: 100% of units affordable at or below 80% AMI (90 points); 30 years of affordability (10 points); 50% Low Income (20 points); 50% Rental Assistance (50 points); Energy Efficiency / Energy Star (5 points); Universal Design- 20% of units (10 points); and Building in a non-QCT Census Tract (10 points). Total Points: 195 points = 39 years of taxes granted to owner. The LUIG policy has a maximum of 21 years of payments (105 points). LUIG specifics include (1) The two parcels included in the project have a current tax value of \$394,600 and pays city property taxes of

approximately \$1,590 annually; (2) Under the estimated tax value of \$12.43 million post-completion, the annual city property tax will be approximately \$50,072; (3) The difference is \$48,482 annually which would be granted to the property owner annually after payment for 21 years; (4) For 21 years and 77 affordable units averaging below 60% AMI, the city will grant back a total of \$1,018,132 which equals \$13,222 per unit of subsidy which is lower than the estimate of up to \$80,000 in subsidy as noted in the LUIG Policy; (5) After year 21, the City will receive the approximate \$50,072 annually in city tax revenue (depending on future property tax increases, etc.). Please note the City will still receive property taxes of approximately \$1,590 per year in years 1 -21; (6) With the Housing Trust Fund request, the total subsidy for this project will be \$1,518,132 million or \$19,716 per unit; and (7) The County's Affordable Housing Committee recommended approval of \$540,000 (in addition to a previous \$1 million award) for Fairhaven. The City and County's investment in this project will be close to equal (\$1.5 M each). The Housing & Community Development Committee reviewed and recommended approval of this LUIG on April 25, 2023 with a 3-0 vote. The Policy, Finance & HR Committee reviewed and recommended approval of the LUIG on May 9, 2023 with a 3-0 vote. Staff recommends approval of the Land Use Incentive Grant application for Commonwealth Development Corporation/ Fairhaven Summit at 3124/3130 Sweeten Creek Road.

In response to Councilwoman Roney regarding the possible inclusion of solar panels or other renewable energy for the future, Justin Mitchell said that they will be looking at reallocating any remaining contingency funds toward the implementation of solar.

Councilwoman Roney also noted that we need to improve transit in south Asheville.

Mayor Manheimer opened the public hearing at 5:36 p.m., and when no one spoke, she closed the public hearing at 5:36 p.m.

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

Councilwoman Turner moved to approve the Land Use Incentive Grant application for Commonwealth Development Corporation / Fairhaven Summit Apartments. This motion was seconded by Councilwoman Mosley and carried unanimously.

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### **C. PUBLIC HEARING ON THE FISCAL YEAR 2024 ANNUAL OPERATING BUDGET**

Budget Manager Taylor Floyd said that this is the consideration of a public hearing on the Fiscal Year (FY) 2024 Annual Operating Budget and inclusion of public input in City Council's consideration of the budget. This public hearing was advertised on May 12, 2023.

#### **Background:**

- The FY 2023-24 Proposed Annual Budget was presented to City Council on May 9, 2023, and totals \$239.7 million.
- In summary the Proposed Budget includes the following:
  - Recommends no change to the current property tax rate of 40.3 cents per \$100 of assessed valuation,
  - Employee compensation adjustments that reflect inflation in the labor market and local cost of living increases including 5% salary increase for existing employees

and a 6% salary increase for sworn police officers. Additional investments in community safety and emergency response include:

- Additional pay for achieving Intermediate Law Enforcement Certification.
- Participation and certification in a wellness program for sworn police officers to help improve the health and well being of current and future sworn officers.
- Upgrading APD uniforms, to a more technical fabric for durability and comfort.
- Upgrading cameras for vehicles to enhance operational reliability.
- Replacing furniture in Fire Stations to improve working conditions.
- Continues funding core community services in a time of rising costs and provides additional investments in key core service areas in alignment with Council priorities;
- Strategically utilizes fund balance funding to advance Council's priorities and balance the budget.
- A detailed copy of the Proposed Budget is available for public review in the City Clerk's office, as well as on the City's website ([www.ashevillenc.gov](http://www.ashevillenc.gov)).
- In accordance with the North Carolina Local Government Budget and Fiscal Control Act (G.S. 159-12), a summary of the Proposed Budget along with a notice of the public hearing was published on May 12, 2023.
- As noted above, adoption of the FY 2022-23 Budget Ordinance is scheduled for June 13, 2023, at the regularly scheduled City Council meeting.
- The Proposed Budget may be adjusted by City Council before adoption.
- It may also be changed by budget amendment after adoption, with the only exception being the property tax rate, which cannot be changed once the budget is adopted.

**Council Goal(s):**

- A Financially Resilient City

**Pro(s):**

- Provides the opportunity for the public to comment on the Proposed Annual Operating Budget for FY 2023-24.

**Con(s)**

- None

**Fiscal Impact:**

- No impact to conducting the public hearing.

Mr. Taylor reviewed the key takeaways from this presentation: (1) While revenue growth continues (especially sales taxes), identified needs and departmental budget requests exceed available funding capacity; (2) Without a property tax increase, balancing the FY24 Proposed Budget requires unconventional use of fund balance; (3) Strategic one-time investments are prioritized; and (4) Other new investments principally respond to increasing operating costs, infrastructure essential to service delivery, staff retention and recruitment, Council Priorities and community safety needs. He then reviewed the budget development process, along with the budget process summary. The public input summary is as follows: (1) Increase investment in Community Safety & Emergency Response (a) Emphasis on police recruitment, retention, and presence; and (b) Emphasis on downtown; (2) Increase investment in Water Production & Distribution - Emphasis on maintenance and avoiding major failures; and (3) Prioritize core infrastructure for the next five years of capital investment - Emphasis on Roads, Sidewalks, and Housing. He reviewed the guiding principles, along with the Council priorities. He showed a chart of the General Fund (total of \$172 Million). The compensation and benefits overview are (1) (4) Recommending a variety of adjustments to recruit and retain employees, especially for APD

and other hard to fill positions; and (2) Recommendations will exceed Just Economics “Pledged” Living Wage. Compensation recommendations include (1) salary increase of 5% (6% for sworn Asheville Police Department (APD) positions); (2) increase night shift differential (\$0.75 to \$2.00 per hour); (3) increase on-call pay (\$20 to \$30 per day); (4) intermediate law enforcement certification (APD); and (5) critical staffing supplement. Benefits recommendations include (1) additional 1% 401 (k) match; (2) APD wellness incentive; and (3) actuarial study for post-employment medical benefits. He gave an example of the starting police officer pay, along with additional examples of current officers pay. He then said that after the budget public hearing at this meeting, the next step will be the adoption of the budget on June 13, 2023.

Councilwoman Roney raised several questions/comments in which City Manager Campbell and Mr. Floyd responded. Some questions being, but are not limited to: are firefighters receiving a 2.5% raise or a 5% raise; why doesn't the City compensate firefighters for sleep time during their shifts; confirmation that firefighters are in compliance with the Just Economics “Pledged” Living Wage on an annual basis; reasoning why firefighters are on a different pay plan than other City employees and are not paid on an hourly rate, but an annual rate; with employees who work a lot of overtime, they are not spending time with their families, they get burnt out, and they start looking for jobs in other cities; and request that we look at perhaps a different policy about how we increase employees pay.

Councilwoman Turner was concerned that the only way our police officers and other employees can afford to live in the City is by working two jobs and/or overtime. She said that as we look at housing incentives, we need to look at benchmarks for income.

Mayor Manheimer noted that Council can discuss policy goals at their June 13 retreat follow-up as it would be a good time to get consensus and give direction for the next budget cycle.

Mayor Manheimer opened the public hearing at 6:02 p.m.

Vicki Meath, Executive Director of Just Economics, was pleased that the City will be working with Buncombe County to improve transit. She hoped that the City will restore funding for evening service hours and transit frequency in south Asheville. She also said that this is the first year since 2007 that the City will not include Just Economics Living Wage in the budget. She understood about balancing a budget; however, the rate is based on the cost of housing. She said that she would provide Council with information on other opportunities within which to give raises to employees.

Mayor Manheimer closed the public hearing at 6:05 p.m.

Mayor Manheimer said that City Council will consider adoption of the Fiscal Year 2024 annual operating budget at their meeting on June 13, 2023.

#### **V. UNFINISHED BUSINESS:**

#### **VI. NEW BUSINESS:**

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: disavow white supremacist policies that are still alive today; presentation of a petition to improve handicapped parking in Asheville's public garages, including (1) handicapped parking spots must be located at the entrances and exists on the floors near the street as well as near elevators; (2) all handicapped parking spots need to include wider stalls required for wheelchairs,

walkers and scooters to be adequately removed from and loaded into vehicles; (3) another elevator needs to be added to the Civic Center Garage as a back-up when the current elevator is out of order, which happens often; (4) signage with phone numbers for assistance needs to be installed in elevator(s) and at all entrances and exits; and (5) surveillance must be installed for the safety of all drivers who use the garage; and Asheville should be proud of what Asheville has to offer to its residents and tourists.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 6:16 p.m.

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CITY CLERK

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MAYOR