

Thursday – June 22, 2023 - 11:00 a.m.

Agenda Briefing Worksession - For June 27 , 2023 Council 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

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:

- Strategic Priority Goal Work Session Follow-Up

At 12:30 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – June 27, 2023 - 5:00 p.m

Regular Meeting

Present: Vice-Mayor Sandra Kilgore, Presiding; 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

Absent: Mayor Esther E. Manheimer

**PLEDGE OF ALLEGIANCE**

Vice-Mayor Kilgore led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING JULY 2023 AS “PARKS AND RECREATION MONTH”**

Vice-Mayor Kilgore read the proclamation proclaiming July, 2023, as "Parks and Recreation Month " in the City of Asheville. She presented the proclamation to Parks & Recreation Director D. Tyrell McGirt, and others, who briefed City Council on the benefits of activities in the Parks and Recreation Department.

**II. CONSENT AGENDA:**

At the request of Councilwoman Roney, Consent Agenda Item “L” was removed from the Consent Agenda for discussion and/or an individual vote.

**A. APPROVAL OF THE COMBINED MINUTES OF THE AGENDA BRIEFING WORKSESSION HELD ON JUNE 8, 2023, AND THE FORMAL MEETING HELD ON JUNE 13, 2023**

**B. RESOLUTION NO. 23-143 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH W.K. DICKSON FOR ENGINEERING SERVICES ASSOCIATED WITH THE WATER DISTRIBUTION PROJECT NO. 3 - CENTRAL AVENUE 24" TRANSMISSION MAIN PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign a contract with WK Dickson & Co. for engineering services in the amount of \$814,900.00 for the Water Distribution Project 3 - Central Ave 24" Transmission Main..

**Background:**

- The Water Resources Department has prioritized this water system improvement project for the current fiscal year and is seeking engineering design and project management assistance for this project.
- The water system improvement project includes the installation of approximately 3,000' of new 24" Transmission Main and appurtenances from College St, along Woodfin St to Central Ave and along Central Ave to E. Chestnut St
- This project will provide a critical redundant water transmission main for the North Asheville water service area
- The existing transmission main, which serves as the primary feed to the North Asheville water service area, crosses under I-240 and is buried deep, meaning if repair of the line was required, it would be lengthy in duration and coordination would be difficult due to impacts to I-240.
- For those reasons, providing a redundant backup transmission main is critical to the resiliency of the water system.
- This project is part of the Water Resources Departments ongoing Capital Improvement Program.

**Vendor Outreach Efforts:**

- Through a qualifications based selection process beginning in February of 2020 the City of Asheville selected four consulting firms to provide on-call professional services for Water Distribution and Storage Projects.
- WK Dickson & Co. was one of the selected firms due to their expertise in areas of water distribution projects and project development.
- The City of Asheville entered into a master agreement with WK Dickson & Co. on September 22, 2020 for on-call professional services for Water Distribution and Storage Projects. valid for three years with the option to renew for two additional years.
- If approved, the proposed engineering services described here within will be developed into a subcontract under the conditions of the master agreement.
- City of Asheville Water Resources Staff determined that utilizing the on-call professional services for Water Distribution and Storage Projects was the best method to deliver this project and WK Dickson & Co. was specifically qualified to provide the required engineering services.
- No other vendor outreach was performed.

**Council Goal(s):**

- A Financially Resilient City

**Committee(s):**

- None.

**Pro(s):**

- This project is aligned with the City and the Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

- WK Dickson & Co. has successfully provided engineering services for other water system improvement projects. Their experience with the city's water system and expertise in water distribution projects will lead to a successful project with lesser negative impacts to customers and the city's water system.

**Con(s):**

- Failure to award an engineering services contract would prevent the Water Resources Department from completing the water system capital improvement project in a timely manner and delay the replacement of the aging existing water system.

**Fiscal Impact:**

- Funding for this contract was previously budgeted and is available in the Water Resources Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a professional services contract with WK Dickson & Co. to provide engineering design services for a water system improvement project known as the Water Distribution Project 3 - Central Ave 24" Transmission Main for an amount not to exceed \$814,900.00

**RESOLUTION BOOK NO. 44 - PAGE 140**

**C. RESOLUTION NO. 23-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TARHEEL PAVING AND ASPHALT, INC. FOR THE FISCAL YEAR 20220-23 ASPHALT RESURFACING PART 2 PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Tarheel Paving and Asphalt, Inc. in the amount of \$839,861.90, plus a 20% contingency of \$167,972.00 (\$1,007,833.90 total) for the FY 2022-23 Asphalt Resurfacing Part 2 contract.

**Background:**

- The main scope of the project is the resurfacing of 7 streets for a total of 1.16 miles.
- The contract was advertised on April 17, 2023 and bids were opened on May 11, 2023.
- The following bids were received:

Tarheel Paving and Asphalt, Inc. of Hendersonville, NC	\$839,861.90
French Broad Paving, Inc. of Marshall, NC	\$847,901.50
JLS Company, LLC of Skyland, NC	\$1,281,916.88
Rogers Group of Nashville, TN	\$1,441,396.15
Bryant's Land and Developments Industries, Inc. of Burnsville, NC	\$1,681,405.70

**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 NC Historically Underutilized Business and NCDOT MWBE databases for potential contractors.
- Only one company from an identified disparity group (Black American) was found in the ten-county area and staff directly contacted that company.

- The company did not submit a bid.
- Two women-owned businesses were also directly contacted and one submitted a bid.
- Two women-owned companies will be operating as subcontractors on the project. The two WBE companies are Appalachian Paving and Concrete of Swannanoa, NC, and New Dimensions of Fletcher, NC.
- Tarheel Paving anticipates expending 6.8 percent of the total dollar amount of the contract with these companies.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- None

**Pro(s):**

- The award of this contract will result in the resurfacing of 1.16 miles of City streets.

**Con(s):**

- This construction work, although performed via a contractor, will also use City staff administrative time to ensure the work is properly performed.

**Fiscal Impact:**

- Funding for this contract was previously budgeted and is available in the General Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract with Tarheel Paving and Asphalt, Inc. in the amount of \$839,861.90, plus a 20% contingency of \$167,972.00 (\$1,007,833.90 total) for the FY 2022-23 Asphalt Resurfacing Part 2 contract.

**RESOLUTION BOOK NO. 44 - PAGE 141**

**D. RESOLUTION NO. 23-145 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BENE VIVERE LLC D/B/A STERI CLEAN NORTH CAROLIAN FOR BIOHAZARD WASTE CLEANUP**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Bene Vivere LLC DBA Steri Clean North Carolina for biohazardous waste cleanup.

**Background:**

- In 2022, the Public Works Sanitation Division was awarded \$500,000 in American Rescue Plan Act (ARPA) funding to implement a litter and cleanliness program.
- The Public Works Sanitation Division proposed to fill a current service gap by providing services for roadside litter and hot spot litter collection, including cleanup of sites which may contain biohazardous materials.
- Two RFP's were issued in 2022 for 1) Biohazardous Material Cleanup and 2) Roadside Litter Collection, and two separate contracts were executed in March 2023.
- The originally approved contract for biohazardous waste clean up was terminated due to an inability to reach a consensus on cost with the selected vendor.

- A new bid was issued 4/27/2023 and bids were received on 5/24/2023. Bene Vivere LLC DBA Steri Clean North Carolina is the lowest responsive, responsible bidder.
- This new contract will replace the one approved by Council on February 28, 2023, and will be allocated no additional funding beyond that which was previously approved by City Council for this purpose.

**Vendor Outreach Efforts:**

- Funding for this project is from Federal American Rescue Plan Act grant funding and outreach and engagement efforts followed federal guidelines.
- Staff performed outreach to disadvantaged business enterprises and minority- and women-owned businesses through solicitation processes which include posting on the State's Interactive Purchasing System and the North Carolina Department of Administration Historically Underutilized Business (HUB) website.
- Staff also used the City of Asheville List of Certified Business spreadsheet, NCDOT Directory of Firms and the North Carolina HUB website to search for DBE and MWBE companies to whom to directly advertise the contract.
- The lowest, responsive, responsible bidder is a sole-proprietor, woman-owned firm and does not propose to subcontract any of the work.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- N/A

**Pro(s):**

- Supports Council's goal for a Clean and Healthy Environment
- Supports Council's FY23 priority to Improve and Expand Core Services
- Supports Citywide cleanliness efforts

**Con(s):**

- Currently there is no funding to continue these expanded core services beyond the grant funding.
- Additional project and contract management duties will be added to existing staff workload without additional staffing capacity.

**Fiscal Impact:**

- Funding for this contract (\$500,000) was previously budgeted through the ARPA allocation process.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Bene Vivere LLC DBA Steri Clean North Carolina for biohazardous waste cleanup for up to \$200,000, as part of the ARPA Litter and Cleanliness Program which has a total combined project amount of \$500,000; and further authorizing the City Manager to execute any change orders to adjust the total amount of each individual contract described herein, as well as change orders for individual contract renewals, within the total project not-to-exceed amount of \$500,000.

**RESOLUTION BOOK NO. 44 - PAGE 142**

**E. RESOLUTION NO. 23-146 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR CONTRACT RENEWAL WITH SMITH**

**AND LLOYD LANDSCAPES LLC FOR FISCAL YEAR (FY) 2023-24 AND  
FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE YEAR  
RENEWAL FOR THE SAME CONTRACT FOR FY 2025 IF FUNDING FOR THE  
CONTRACT IS INCLUDED IN THE FY 2024025 BUDGET**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a one year contract renewal for the Median Maintenance contract with Smith and Lloyd Landscapes, LLC for Fiscal Year (FY) 2023-24 and further authorizing the City Manager to execute a one year renewal for the same contract for Fiscal Year 2025 if funding for the contract is included in the FY 2024-25 budget.

**Background:**

- The contract has provisions for two one-year renewals with each renewal having a 3 percent price increase.
- The original contract was for \$61,000.00. The first renewal will be \$62,830.00 and the second renewal will be for \$67,715.00. The total contract value if both renewals are used will be \$191,545.00.
- The contract is for maintenance of City-owned planting beds and medians throughout the City.
- Bids for the original contract were opened on May 27, 2022 and only one bid was submitted:  
Smith and Lloyd Landscapes, LLC, Mills River, N.C., \$61,000.00.

**Vendor Outreach Efforts:**

- For the original contract, 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 NC Historically Underutilized Business and the N.C. Dept. of Transportation MWBE databases for potential contractors.
- Three companies in an unidentified disparity group were found and directly contacted. None of the companies submitted bids.
- Subcontractors are not used on this contract.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- N/A

**Pro(s):**

- Will help maintain City-owned planting beds and islands.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this contract is available in the Public Works Department operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a one year contract renewal for the Median Maintenance contract with Smith and Lloyd Landscapes, LLC for the Fiscal Year 2024 and further authorizing the City Manager to execute a one year

renewal for the same contract for Fiscal Year 2025 if funding for the contract is included in the Fiscal Year 2025 budget.

**RESOLUTION BOOK NO. 44 - PAGE 143**

**F. RESOLUTION NO. 23-147 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE FOR THE FISCAL 2023-24 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 \$355,036.00 plus a 19.5% contingency of \$69,232.00, for a project total of \$424,268.00, for the Fiscal Year (FY) 2023-24 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 (Metropolitan Sewerage District, Dominion Energy, City of Asheville Water Resources, and City of Asheville Stormwater Division), and individual permit fees from other, typically lower volume customers.
- 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 eleventh year that a private contractor has performed this service.
- The contract was advertised on April 24, 2023 and bids were opened on May 12, 2023.
- One bid was received: Appalachian Paving and Concrete, Inc. of Swannanoa, NC at \$355,036.00.
- The contract work is expected to begin in mid-August 2023 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

**Committees:**

- 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 partner agencies 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 will be available in the FY 2023-24 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 \$355,036.00 plus a 19.5% contingency of \$69,232.00 (\$424,268.00 total) for the Fiscal Year 2023-24 Utility Cut Concrete Repair contract.

**RESOLUTION BOOK NO. 44 - PAGE 144**

**G. RESOLUTION NO. 23-148 - RESOLUTION TO REVOKE RESOLUTION NO. 21-140 AND ADOPT A NEW RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE NON-HEALTH-BENEFIT-RELATED INSURANCE POLICIES UP TO \$1,000,000 AND ISSUE PROPERTY CLAIMS-RELATED PAYMENTS**

**Action Requested:** Adoption of a resolution to revoke Resolution No. 21-140, and adopt a new resolution authorizing the City Manager to purchase non-health-benefit-related insurance policies up to \$1,000,000 per policy; and issue property claim-related payments.

**Background:**

- In 2019, Asheville City Council adopted Resolution No. 19-185; authorizing the City Manager to purchase non-health benefit-related insurance policies and issue property claim-related payments up to \$500,000.
- In 2021, Asheville City Council revoked Resolution No. 19-185 and adopted Resolution No. 21-140; authorizing the City Manager to purchase non-health benefit-related insurance policies and issue property claim-related payments up to \$750,000 as insurance premiums increase.
- Annually, the City of Asheville (City) renews policies to provide coverage against risk exposures, including but not limited to: excess workers' compensation and liability (general liability, public officials, employee practices, and law enforcement), dam liability,

property (structures/vehicles/equipment), crime, cyber, flood, and builder's risk, when necessary.

- All policies are quoted via the City's Insurance Broker of Record to ensure appropriate coverages are obtained from the commercial insurance market.
- Annually, Asheville City Council approves policy premium costs budgeted within the City's Workers' Compensation and Property & Liability Funds.
- City property insurance premium increased from \$463,026 in Fiscal Year (FY) 2020-21 to \$649,660 in FY 2021-22 and \$741,453 in FY 2022-23, respectively.
- Staff believes premium rates will continue to rise, and it is, therefore, necessary to update this delegation of authority again by seeking City Council authorization to (1) purchase policies up to \$1,000,000 per policy; and (2) pay City property claim-related expenses, authorization.

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**Vendor Outreach Efforts:**

- All insurance policies obtained by the City Risk Management Division are done so via the City's Insurance Broker of Record; which seeks insurance quotes from insurance carriers capable of meeting the City's insurance needs

**Council Goal(s):**

- Smart City

**Committee(s):**

- N/A

**Pro(s):**

- Ensures no policy lapse that may financially expose City employees and assets.
- Timely insurance policy renewals and good standing with City insurance carriers.
- Ensures timely property claim-related payments to expedite City asset repair/replacement.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for City insurance policy premiums is available in the Property and Liability Fund.
- Property claim payments utilize funds received from City insurance carriers to repair/replace damaged City assets, less related deductibles.

**Motion:**

- Motion to adopt a resolution to revoke Asheville Resolution No. 21-140 authorizing the City Manager to issue payments for non-health-benefit-related insurance premiums up to \$500,000, and authorizing the City Manager to (1) issue payments for non-health-benefit-related insurance premiums up to \$1,000,000 per policy and; (2) make City property insurance claim-related payments.

**RESOLUTION BOOK NO. 44 - PAGE 145**

- H. RESOLUTION NO. 23-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RATIFY AND AMEND THE EXISTING TRANSIT OPERATIONS AND MAINTENANCE CONTRACT BETWEEN THE CITY OF ASHEVILLE AND RATPDEV USA FOR FISCAL YEAR 2023-24**

**Action Requested:** Adoption of a resolution authorizing the City Manager to ratify and amend the existing Transit Operations and Maintenance Contract between the City of Asheville and RATPDev USA for a total of \$10,645,929 for Fiscal Year (FY) 2023-24.

**Background:**

- The City of Asheville has a contract for the operations and maintenance of the Asheville Rides Transit (ART) fixed-route transit system.
- In 2017, the City of Asheville issued a request for proposals (RFP) for the operations and maintenance of ART and RATPDev USA was selected to be the contractor.
  - The initial contract was for 4 years and ended June 30, 2021.
  - The contract allowed for two 2-year optional contract extensions (for a total of another 4 years).
  - The City opted to exercise the first of the 2-year optional contract extensions, which began July 1, 2021 and will end June 30, 2023.
  - Therefore, this contract amendment will initiate the second/final 2-year optional contract extension.
  - The proposed amendment will be the fourth amendment to the contract and it will cover services provided between July 1, 2023 and June 30, 2024.
  - Amendment 1 was approved in August of 2019 and was done to reflect the increased services (and budget) that were implemented in January 2020.
  - Amendment 2 was approved in October 2021 (FY 2021-22) and included the annual increase to the base contract to reflect increases to the revenue-hour rate and monthly fixed fees.
  - Amendment 3 included an increase over the FY 2021-22 contract amount of \$953,835, for a total of \$1,073,222. This funding was included in the approved FY 2022-23 Transit Services operating budget and included the following:
    - \$402,835 - annual increase to the base contract that reflected increases to the revenue-hour rate and monthly fixed fees.
    - \$551,000 - provided to fund a wage increase of \$2.00 per hour for RATPDev ART staff.
  - Amendment 4 (proposed with this action) will include an increase over the FY 2022-23 contract amount of \$538,607, for a total of \$10,645,929.
  - There are no proposed changes to the language of the Contract with this amendment.
- *Note:* The overall contract for transit operations and maintenance that was awarded to RATPDev in 2017 will end in June 2025. A new RFP will need to be developed and released well in advance of the contract end. Therefore, staff expects to begin the process of developing an RFP in FY 2023-24.

**Vendor Outreach Efforts:**

- N/A. This is a current contract. An extensive outreach process was conducted in 2017 when the transit operations and maintenance contract was put out for bid.

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- None. This is an administrative action.

**Pro(s):**

- Supports the continuation of current/existing transit service levels.

**Con(s):**

- Will result in increased transit operational costs for the current/existing service levels.

**Fiscal Impact:**

- Amendment 4 includes an increase of \$538,607, for a total of \$10,645,929, to the annual contract for transit operations and maintenance over FY 2022-23.
- The increase in budget reflects the increase in cost of continuing the current/existing transit service.
- Funding for this contract is included in the FY 2023-24 Transit Services Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to ratify and amend the existing Transit Operations and Maintenance Contract between the City of Asheville and RATPDev USA for a total of \$10,645,929 for Fiscal Year 2023-24.

**RESOLUTION BOOK NO. 44 - PAGE 146**

**I. RESOLUTION NO. 23-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BUNCOMBE COUNTY FOR AMERICANS WITH DISABILITIES ACT PARATRANSIT SERVICES FOR FISCAL YEAR 2023-24**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Buncombe County for ADA Paratransit Services in the amount of \$1,000,000 for Fiscal Year 2023-24.

**Background:**

- The City contracts with Buncombe County's Mountain Mobility to provide the City's federally required ADA Paratransit Services.
- Paratransit services ensure that individuals with disabilities can access transportation services as equitably as possible.
- The ADA requires that complementary paratransit operates equivalent hours and service areas as the fixed-route buses.
- The contract cost for FY 2023-24 is estimated to be \$1,000,000 and is based on the per-mile rate of \$3.20 and anticipated number of service miles to be provided.
- Funding to pay for the Paratransit Services contract was budgeted in the Transit Operations Fund for FY 2023-24 when the City budget was approved on June 13, 2023.

**Vendor Outreach Efforts:**

- N/A. This is a current contract.

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- None.

**Pro(s):**

- Supports the continuation of current/existing paratransit services.
- Ensures sufficient funding to pay for services as required by the contractual agreement.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this contract is included in the FY 2023-24 Transit Services Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Buncombe County for ADA Paratransit Services in the amount of \$1,000,000 for Fiscal Year 2023-24.

**RESOLUTION BOOK NO. 44 - PAGE 147**

**J. RESOLUTION NO. 23-151 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH JACKSON ELECTRICAL CONTRACTORS INC. FOR GENERATOR REPLACEMENTS AT FIRE STATIONS 2, 8, 9 AND 12**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Jackson Electrical Contractors, Inc. in the amount of \$109,850 for generator replacements at Fire Stations 2, 8, 9, and 12.

**Background:**

- Fire Stations 2, 8, 9, and 12 have generators that are past their useful life and currently do not support major functions of the building in the case of a power outage.
- Replacement of generators that are nearing the end of their general life.
  - For example, the generator that is being replaced at Fire station 8 is 24 years old.
- The proposed contract would remove and replace the current generators with more efficient and reliable generators that will supply backup power to all of the critical functions of the fire stations.
- The base bid includes station 2 and 9 with bid alternates for Fire Station 8 and 12.
- On May 25, 2023 bids were due and only one bid was received that was outside of the proposed budget.
- The rebids were due and opened June 14, 2023.
  - Carrick Contract Corp, Charlotte, NC                      Base Bid \$104,987 Add alternates \$105,554
  - Jackson Electrical Contractors, Inc., Arden, NC      Base Bid \$55,500 Add alternates \$54,350
  - Emory Electric, Inc., Asheville NC                      Base Bid \$145,965 Add alternates \$104,650
  - Smathers Contracting, LLC, Candler NC              Base Bid \$123,300 Add alternates \$102,900

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through direct outreach to City certified vendors and through the 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.
- These processes at a minimum require staff to outreach businesses that have a documented contracting disparity directly and/or through prime contractors.
- There was specific outreach to MWBE electrical contractors during the bidding process.
- No MWBE firms submitted bids with this prime contractor.

**Council Goal(s):**

- Improve/Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- The resulting generators will provide additional protection from power outages and will be more efficient and reliable.

**Con(s):**

- Small power interruptions may occur to the buildings during installation. These will be planned and coordinated with the Fire Department

**Fiscal Impact:**

- Funding for this contract is available in the Capital Projects Department operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Jackson Electrical Contractors, Inc. in the amount of \$109,850 for generator replacements at Fire Stations 2, 8, 9, and 12.

**RESOLUTION BOOK NO. 44 - PAGE 148**

**K. RESOLUTION NO. 23-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE STATE AND LOCAL CYBERSECURITY GRANT PROGRAM TO IMPROVE CYBERSECURITY MONITORING AND NETWORK SECURITY FOR CITY WATER PRODUCTION NETWORKS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to apply for the State and Local Cybersecurity Grant Program funding of \$100,000 to improve cybersecurity monitoring and network security for city water production networks.

**Background:**

- The federal government authorized the Infrastructure Investment and Jobs Act (IIJA) grant program, of which \$1 billion was allocated to cybersecurity enhancements nationally over a four-year period starting in the fall of 2022.
- North Carolina was awarded \$5.6 million as the state's portion of the cybersecurity funding under the IIJA and distributed through the Federal Emergency Management Administration (FEMA) State and Local Cybersecurity Grant Program (SLGCP).
- State and local government agencies must apply for the grant within a specified time period dictated by FEMA and, subsequently, the state of North Carolina.
- The next application deadline (unannounced) is anticipated to be June 30, 2023 for funding the 12-month period covering July 1, 2023 through June 30, 2024.
- Vendor outreach has been performed for both components of this project and will utilize existing city franchise agreement contractors and existing third-party contracts for the managed Security Information Event Management (SIEM) solution.

**Vendor Outreach Efforts:**

- The City currently contracts with the Center for Information Security for SIEM for automated detection of external and internal cybersecurity threats, and the grant would fund an amendment to the existing contract to include the three water plants.

- For the proposed point-to-point campus radio network replacement, MC Communications, the City's current fiber optics vendor associated with the ERC franchise agreement, will be responsible for project implementation.

**Council Goal(s):**

- Improve and expand core services

**Committee(s):**

- N/A

**Pro(s):**

- Enhance existing cybersecurity monitoring and improve network security for critical city infrastructure

**Con(s):**

- None

**Fiscal Impact:**

- If awarded, this grant will provide \$100,000 of funding to support the cybersecurity monitoring and network security project for City of Asheville water production networks.
- The total project cost is \$159,001.31 and the Water Resources fund will cover the \$59,001.31 balance.
- In subsequent years, the Water Resources fund will pay for the annual subscription cost for the SIEM contract (\$43,793.85).
- Without this grant, this project would be funded with City resources over a longer implementation timeline.
- Matching funds are not required for this grant.

**Motion:**

- Motion to adopt a resolution to authorize the City Manager to apply for the State and Local Cybersecurity Grant Program funding of \$100,000 to improve cybersecurity monitoring and network security for city water production networks.

**RESOLUTION BOOK NO. 44 - PAGE 149**

**L. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 12-53 OF THE CODE OF ORDINANCES TO PROHIBIT THE STORING OF BICYCLES, CARTS, STROLLERS, OR OTHER MEANS OF PERSONAL TRANSPORTATION ON CITY PROPERTY FOR LONGER THAN 168 HOURS (7 DAYS)**

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Vice-Mayor Kilgore 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 "L". This motion was seconded by Councilwoman Ullman and carried unanimously.

**ITEM REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION AND/OR AN INDIVIDUAL VOTE**

**L. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 12-53 OF THE CODE OF ORDINANCES TO PROHIBIT THE STORING OF BICYCLES, CARTS, STROLLERS, OR OTHER MEANS OF PERSONAL TRANSPORTATION ON CITY PROPERTY FOR LONGER THAN 168 HOURS (7 DAYS)**

**Action Requested:** Adoption of an ordinance amending City Code Sec. 12-53 to prohibit the storage of bicycles, carts, strollers, or other means of personal transportation on City property for longer than 168 hours (7 days).

**Background:**

- City Code, Sec. 12-53, currently prohibits leaving or allowing to remain unattended any equipment, packages, bags, or other personal belongings on City property, and any such property is subject to removal.
- The ordinance contains an exception that allows persons to leave or allow to remain unattended any bicycles, carts, strollers, or other means of personal transportation, so long as they are secured in such a way as to not obstruct streets or sidewalks, and do not interfere with the use of City property.
- This exception was likely intended to allow persons to temporarily store bicycles or other means of transportation, however, it has led to situations where bikes have been abandoned and/or left affixed to bike racks for extended periods of time.
- The current ordinance limits the City's ability to address these situations in order to ensure that others are able to utilize public bike racks, and minimize the nuisance of abandoned property at these locations.
- This amendment would still allow for the temporary use envisioned by the ordinance, but would prohibit leaving any bike or other means of personal transportation on City property for longer than 168 hours (7 days).
- Notice will be provided via signage affixed to heavily used City bicycle racks. Those signs will include contact information to learn where removed property may be reacquired.
- Staff has determined that 65 bicycle racks and 4 bicycle corrals are in place in downtown Asheville. Initially, signs would be installed at the bicycle corrals and added to other locations as the need arises.
- Per state law, no ordinance containing a criminal penalty may be passed during the same meeting it is introduced.
- For that reason, this ordinance will be introduced on June 27 and then considered with a formal vote on July 25.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- A well-planned and livable community
- Transportation and accessibility
- A clean and healthy environment

**Committee:**

- Multimodal Transportation Commission - May 24, 2023 - Approved unanimously provided the time frame is extended to 168 hours (7 days), which is the same time frame for abandoned motor vehicles.

**Pro(s):**

- Remove loophole regarding no established time period.
- Ensure greater access to public bicycle racks.

**Con(s):**

- Difficulty in identifying the owner and issuing a parking citation without a license tag.
- Difficulty in removing certain bicycle locks in order to remove a bicycle or other means of personal transportation.
- The City will need to identify storage for any removed bicycles or other means of personal transportation.

**Fiscal Impact:**

- It is anticipated that there will be a minimal fiscal impact to administer and enforce the amended ordinance.

Jonathan Wainscott supported this ordinance amendment and suggested we charge a fee for the expense of taking care of abandoned items until they are retrieved.

Councilwoman Roney said that new rules were presented to the Transit Committee this week, and she was concerned about overlap of multimodal transportation equipment. While she appreciated the recommendation from the Multimodal Transportation Commission (MMTC), she is fundamentally concerned we're using the wrong tool for an issue that hasn't been clearly identified. She heard questions at MMTC remain unanswered around inconsistent signage, storage of removed items, policy on how to acquire property after removal, as well as unidentified fiscal impact. Also, it comes to her understanding that we're creating a new category of misdemeanors that seems unenforceable. Instead of a civil fine. A criminal misdemeanor seems overkill for this issue. If the issue is full bike racks, she'd like to know where the biggest issues are, because when she bikes downtown like she did this weekend, her biggest issue is finding a rack to park her bike in the first place.

City Manager Campbell said that staff will continue to look at the questions raised by Councilwoman Roney.

Councilwoman Turner moved to introduce an ordinance amending City Code Sec. 12-53 to prohibit the storing of bicycles, carts, strollers, or other means of personal transportation on City property for longer than 168 hours (7 days). This motion was seconded by Councilwoman Smith and carried on a 5-1 vote, with Councilwoman Roney voting "no."

**III. PRESENTATIONS & REPORTS:**

**A. MANAGER'S REPORT - EMPLOYEE RECOGNITION**

City Manager Campbell said that City of Asheville employees are heroes in many ways. We want to acknowledge their exemplary work all of the time, but especially when employees accomplish something extraordinary. Tonight, we recognize Kelly Klope, Public Information Officer, for being unanimously voted for the award of Public Information Officer (PIO) designation. She said Kelley has been a vital member of the Asheville Fire Department since 1996; (2) has earned the professional designation as witnessed by a team of peers and members of the Commission on Professional Credentialing; and (3) has demonstrated through education, leadership and management skills that she possess the requisite knowledge, skills, and abilities

required for the fire and emergency services profession. We commend your efforts and dedication in achieving this personal and professional milestone. Kelley is responsible for the public relations work for the Asheville Fire Department. Her coordination of all media relations, in addition to preparation and dissemination of public information regarding the department continues to be of the highest caliber; and she is 1 of only 29 Public Information Officers with this designation internationally!

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

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

Councilwoman Mosley moved to continue this public hearing until July 25, 2023. This motion was seconded by Councilwoman Turner and carried unanimously.

##### **B. PUBLIC HEARING TO AMEND A CONDITIONAL USE PERMIT FOR 509 BILTMORE AVENUE FOR THE PURPOSE OF INCREASING THE AMOUNT OF ALLOWED SIGNAGE**

This public hearing has been withdrawn.

##### **C. PUBLIC HEARING TO CLOSE AN UNOPENED RIGHT-OF-WAY ADJACENT TO 26, 30, 34 AND 38 SUNRISE DRIVE**

##### **RESOLUTION NO. 23-153 - 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 13, 2023**

Assistant Transportation Director Jessica Morriss said that this is the consideration of a resolution to permanently close an unopened right-of-way adjacent to 26, 30, 34 and 38 Sunrise Drive. This public hearing was advertised on May 26, June 2, 9 and 16, 2023.

#### **Background:**

- City Council passed a resolution on May 23, 2023 to set a public hearing for the proposed right-of-way closure on June 27, 2023.
- 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 unopened right-of-way currently serves as the primary driveway access to 26, 30, 34, and 38 Sunrise Drive.
- The unopened right-of-way was originally platted as "Westview Place" in 1924 and 2005 but was never accepted by the City.
- All homes fronting this right-of-way have Sunrise Drive addresses for mailing and E911 purposes.
- The right-of-way will be divided among the 4 properties and a new plat with appropriate water and Metropolitan Sewerage District easements will be filed.
- Signs were placed at two locations along the right-of-way announcing the public hearing and potential closure.

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

- A Well-Planned and Livable Community

**Committee(s):**

- Technical Review Committee - March 20, 2023 - Recommended approval
- Multimodal Transportation Commission - April 26, 2023 - Unanimous 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.

Ms. Morriss said that (1) 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; (2) The unopened right-of-way currently serves as the primary driveway access to 26, 30, 34, and 38 Sunrise Drive; (3) The unopened right-of-way was originally platted as “Westview Place” in 1924 and 2005 but was never accepted by the City; (4) All homes fronting this right-of-way have Sunrise Drive addresses for mailing and E911 purposes; and (5) The right-of-way will be divided among the 4 properties and a new plat with appropriate water and Metropolitan Sewerage District easements will be filed by the Applicant. She showed a map of the proposed closure. Regarding Committee/Commission recommendations: (1) Technical Review Committee (TRC) - March 20, 2023, recommendation was to approve the closure; and (2) Multimodal Transportation Commission - April 26, 2023, recommendation was to approve the closure.

Vice-Mayor Kilgore opened the public hearing at 5:31 p.m.

Emily Muscarella and Sasha Bannister each spoke in support of the right-of-way closure and the benefits of the closure.

Vice-Mayor Kilgore closed the public hearing at 5:36 p.m.

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

Councilwoman Roney moved to adopt a resolution to permanently close an unopened right-of-way adjacent to 26, 30, 34, and 38 Sunrise Drive. This motion was seconded by Councilwoman Ullman and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 150**

**D. PUBLIC HEARING TO CONDITIONALLY ZONE 319 BILTMORE AVENUE FROM REGIONAL BUSINESS DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE**

**ORDINANCE NO. 5024 - ORDINANCE TO CONDITIONALLY ZONE 319 BILTMORE AVENUE FROM REGIONAL BUSINESS DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE**

Urban Planner Clay Mitchell said that this is the consideration of an ordinance to conditionally zone 319 Biltmore Avenue from Regional Business District to Residential Expansion/Conditional Zone. This public hearing was advertised on June 16 and 23, 2023.

**Project Location and Contacts:**

- The project site totals two parcels with a total area of 4.59 acres located at 319 and 311 Biltmore Avenue (PINs: [9648-46-1623](#) (north) and [9648-46-0425](#) (south)).
- New address for buildings will be on John Walker Avenue.
- Owner: City of Asheville.

**Summary of Petition:**

Project Site

- The project site consists of two parcels separated by the road parcel for John Walker Avenue totalling 4.59 acres located between Biltmore Avenue and Lee Walker Lane.
- The site is currently zoned Regional Business (RB).
- Given the size of the project (over 50 residential dwelling units) a conditional zoning to the Residential Expansion - Conditional Zone (RES EXP-CZ) district is required.
- The project site is currently an open vacant lot with minimal tree growth in the southern area of the south parcel.
- The open area of the lot is disturbed and flat and was the site of an automotive dealership that has been removed.
- The Future Land Use map designates the property as “Downtown” that abuts “Traditional Neighborhood” and “Employment/Anchor Institution Center”.
- A change in the FLU designation will not be required.

Overall Project Proposal

- New building construction includes two buildings with a total of 221 residential units.
- Other site improvements include amenity space, a courtyard, separate leasable space, expanded off-street parking, new sidewalks, and retaining walls along the southern parcel’s surface parking.
- A total of 30% of the units (67 units) will be affordable with a target of 20% (45 units) at 60% AMI and below and a target of 10% (22 units) at 80% AMI and below, all for a minimum of 30 years.

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 58 feet, as measured to the ceiling of the highest occupiable floor.
- Maximum density in the RES EXP district is 50 units/acre for this project, since more than 20% of the dwelling units are affordable at 80% AMI or below. The proposed project’s density is 45 units/acre.
- The RES EXP district requires 15’ front yard, rear yard, and side yard setbacks. The project is proposing a front yard setback of 0’, rear yard setback of 12’, and is compliant with the 15’ side yard and 7.5’ side yard setbacks for the corner lots along Lee Garden Ln and Biltmore Ave.
- Maximum impervious surface in the RES EXP district for multifamily uses is 80%. The proposed project would result in a total impervious area of 59% (a reduction from the existing 90% impervious).

Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, building impact, and property line buffers. All are compliant.
- The project complies with tree canopy protection with the planting of tree canopy for a total of 21,840 square feet (10.1%).

- The project complies with minimum open space at a rate of 20% of the site.

#### Access, Sidewalks and Parking

- Three transit routes serve Biltmore Avenue (S1, S2, and S5) at two stops - the outbound stop is located on the parcel, the inbound stops are about 0.2 miles to the north and south of the site.
- Access to the site will be provided for the southern parcel by a new proposed driveway on Lee Walker Lane and an under-building entrance along John Walker Avenue for both buildings.
- The project will include a total of approximately 256 parking spaces with 12 accessible spaces.
- The project proposes 24 bicycle parking spaces (13 are required) including internal bike storage.
- 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 keeping existing sidewalks and proposing new sidewalks varying in width from 5-10' internal to the site and connecting to the existing sidewalk along the common building frontage.
  - The project is seeking technical modifications related to the existing sidewalk and internal sidewalk requirements. (See below).

#### Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
  - Sidewalk construction on Biltmore Avenues is dependent on the final resolution of a transportation project affecting Biltmore Avenue and John Walker Avenue.
  - Five foot-wide sidewalks 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 providing infill development in targeted growth areas.
  - **Increase and Diversify the Housing Supply** - by increasing the supply of housing, including affordable housing in proximity to schools, transit and parks.
  - **Promote the Development and Availability of Affordable and Workforce Housing** - by leveraging city resources for the development and maintenance of subsidized housing, including housing for low- and moderate-income families and individuals, senior housing, and workforce housing.
- The proposed development is compatible with the Future Land Use designation of "Downtown" and abuts "Traditional Neighborhood". The project is compatible as "Downtown is also an important residential area and it benefits from having year-round full time residents... through new development is important for the future including market rate and affordable residential housing." "Traditional Neighborhood": the project enhances a transition to neighborhoods that offer opportunities for infill housing in order to improve the supply and mix of housing options."

#### **Compatibility Analysis:**

- The proposed multi-family residential project is compatible and provides affordable and

multi-family housing in the southern part of downtown and a transitional element with the surrounding land uses, including:

- Already redeveloped Maple Crest multi-family affordable housing to the west of the site.
- Transitioning to institutional and commercial uses located generally to the north, south and east of the project site along Biltmore Avenue.

**Council Goal(s):**

- This project is most closely aligned with the council strategic priorities of *A Well-Planned and Livable Community & Equitable & Affordable Housing & Stability*.

**Committee(s):**

- Technical Review Committee (TRC) - March 6, 2023 - Approved with Conditions.
- Planning & Zoning Commission (PZC) - May 3, 2023 Continued, June 7, 2023 - Approved (Vote 4:1) with the following conditions:
  - 1) *The applicant will work with the City to install sidewalks consistent with the following limitations based on available information:*
    - *Provided the City of Asheville and the NCDOT can produce engineered plans sufficient to design and install sidewalk infrastructure linked to final plans, whether the project includes a signal and/or turn lane construction, prior to the issuance of a building permit, the applicant shall install 10' sidewalks consistent with the final roadAve location which may include additional sidewalk and plaza space to the edge of the building.*
    - *In the alternative, if no plans are available, the applicant shall only be responsible for eliminating three existing curb cuts on the 8 foot sidewalks adjacent to Biltmore Avenues.*
    - *If no later than the end of calendar year 2023, the City and/or NCDOT determine that no turn lane will be built, the applicant shall install a 10-foot sidewalk along Biltmore Avenue frontage.*
  - 2) *that the applicant will work with City departments to determine and install an appropriate high-visibility crosswalk, which will include a speed table, across John Walker Ave at the access point to both buildings.*

**Staff Recommendation:**

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

Mr. Mitchell reviewed the existing and proposed zoning, the aerial imagery and the future land use map. Regarding the site plan, (1) Two parcels shown (~4.95 acres); (2) 221 units proposed; (3) 30% Total Affordable, 20% at 60% AMI and 10% at 80% AMI for 30 years; (4) 102 units north bldg / 119 units south bldg; (5) Access from John Walker Avenue (roadway built) and Lee Garden Lane; (6) Sidewalks existing or to be built along all road frontage of Biltmore, John Walker and Lee Garden; (7) Approx 256 spaces under building and surface lot; (8) Activation on Biltmore - Amenity space (north) Retail space (south); and (9) Retaining walls shown. He then reviewed the landscape and open space plan, noting that it accommodates new pedestrian features with framed plantings. Building details include an internal bike storage; amenity space; two leasable spaces; and a courtyard. He then reviewed the building elevations. He then showed a rendering of John Walker Avenue. Regarding conditions, (1) Affordable housing is included in the Project - A total of 30% of the units (66 units) will be affordable at a minimum of 80% below with a target of 20% (44 units) at 60% AMI and a target of 10% (22 units) at 80% AMI all for a minimum of 30 years; (2) Technical Modifications: (a) The project proposes a minimum of five foot-wide sidewalks internal to the site instead of the required 10 foot-wide standard; (b) The

project proposes a new 6 foot-wide sidewalk along a portion of Lee Garden Lane where no sidewalk is currently installed, consistent with existing sidewalks along Lee Walker Lane where a 10 foot-wide sidewalk is required; (c) The Project proposes a front setback of 0 feet, and side setbacks of 15 feet and rear setbacks of 12 feet. Corner portions of the lots, along Lee Garden Way and Biltmore Avenue, shall have setbacks of 7.5 feet; and (d) No bike lanes will be provided into the development due to the low speed limits and recommendations from City of Asheville Transportation Dept. The applicant will work with the City to install sidewalks consistent with the following limitations based on available information: (1) Provided the City of Asheville and the NCDOT can produce engineered plans sufficient to design and install sidewalk infrastructure linked to final plans, whether the project includes a signal and/or turn lane construction, prior to the issuance of a building permit, the applicant shall install 10' sidewalks consistent with the final road location which may include additional sidewalk and plaza space to the edge of the building; (2) In the alternative, if no plans are available, the applicant shall only be responsible for restoring three existing curb cuts on the 8 foot sidewalks adjacent to Biltmore Avenues; and (3) If no later than the end of calendar year 2023, the City and/or NCDOT determine that no turn lane will be built and the curblines along Biltmore Avenue will not be changed, the applicant shall install a 10-foot sidewalk along Biltmore Avenue frontage. The applicant will work with City departments to install a high-visibility crosswalk, which will include a speed table, across John Walker Ave at the access point to both buildings. Signage will be reviewed separately as a multi-tenant residential development in a residential district. He then reviewed the different committee review process and explained how the project complies with the Living Asheville Comprehensive Plan and the Future Land Use map designation of "downtown." He then said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed conditional zoning.

Dionne Nelson, President and CEO of Laurel Street Residential (LSR), said that LSR is a North Carolina firm that develops high quality, mixed income communities for working families and seniors that are affordable to households of a variety of incomes. She then explained the timeline of (1) February 2022 with the City of Asheville and Laurel Street executing an LOI for the development of 319 Biltmore - minimum units: 200 and affordability: 20% @ 60% AMI; (2) August 2022 City Council approved the purchase and sale agreement with Laurel Street for 319 Biltmore - minimum units: 215 and affordability of 20% @ 60% AMI + 10% 80% AMI; (3) November 2022, the City of Asheville and Laurel Street commenced the rezoning process; and (4) in June 2023 they received Planning & Zoning Commission approval. The project description is mixed-income; 221 unit count - 11 studio, 108 one-bedroom, 72 two-bedroom, and 30 three-bedroom; the income mix of 20% @ 60% AMI, 10% @ 80% AMI, and 70% @ Market Rate. LSR is working with the Asheville Housing Authority to set aside 22 units for Project Based Vouchers. The commercial space will be 2,600 square feet, and it will have 250 parking spaces.

Tisha Germany, Development Director of LSR, then showed a rendering of John Walker Avenue. Active amenity areas in building 1 will be leasing offices, multipurpose room, fitness center, cyber cafe, mail/package room, resident gathering spaces, bike storage, structured parking and active outdoor terrace. Active amenity areas in building 2 will be commercial/retail space, conference room, fitness center, game room, mail/package room, resident gathering spaces, bike storage, and structured parking. She then showed a rendering of the active outdoor terrace. The project schedule is in Quarter 3, 2023 - Submit for site plan approval; Quarter 4 in 2023 is close financing and commence construction; Quarter 4 2025 is complete construction and commence lease-up; and Quarter 4 2026 is complete lease-up.

Vice-Mayor Kilgore opened the public hearing at 6:01 p.m.

Three individuals supported the project and offered some suggestions, some being, but are not limited to: commercial space should be reserved for a community resource center, specifically for a child care center; need to use additional recreation space for children, i.e.,

basketball court; suggestion for a dog park; need for an extended playground for the children; if more units were available at 60% AMI, we could transition away from housing vouchers and make it easier; and suggest 10% @ 80% AMI be set aside for Housing Choice Voucher holders.

Vice-Mayor Kilgore closed the public hearing at 6:09 p.m.

In response to Councilwoman Roney to make sure that we are getting the best use of our space, Warren Suggs, with Civil Design Concepts, said that they will work with City staff to move the water meter from the entranceway to the north side of the building as part of the final design.

When Councilwoman Roney asked what the developer plans to do around renewable energy to make that neighborhood resilient (possibility solar panels), Mr. Mitchell said that the developer is preparing the site for not only EV charging stations, but also for renewable energy on the roof. The developer is also committed to constructing the building to the National Green Building standards.

In response to Councilwoman Roney, Ms. Nelson explained why they could not make the 10% @ 80% AMI set aside for Housing Choice Voucher holders. She also noted that they will make efforts to provide goods and services beneficial to the community in the retail space area.

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

Councilwoman Mosley moved to approve the conditional zoning request for the property located at 319 and 311 Biltmore Avenue from Residential Business (RB) 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) provides infill development in targeted growth areas; 2) increases the supply of affordable housing in proximity to schools, transit and parks; and, 3) promotes the development and availability of affordable and workforce housing. This motion was seconded by Councilwoman Turner and carried unanimously.

## **ORDINANCE BOOK NO. 35 - PAGE 1**

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

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

#### **A. RESOLUTION NO. 23-154 - RESOLUTION TO TEMPORARILY SUSPEND CONSIDERATION OF MICRO-APARTMENT APPLICATIONS AND AWARDS FOR THE LAND USE INCENTIVE GRANT PROGRAM UNTIL THE POLICY IS REVISED AND INCLUDES STANDARDS FOR MICRO-APARTMENT PROJECTS**

Affording Housing Officer Sasha Vrtunski said that this is the consideration of a resolution to temporarily suspend consideration of micro-apartment applications and awards for the Land Use Incentive Grant (LUIG) program until the policy is revised and includes standards for micro-apartment projects.

#### **Background:**

- On February 8, 2023, the Housing & Community Development Committee (HCD) considered a LUIG application for micro-apartments at 46 Aston Street, a project with a total of 231 units, 47 affordable.

- The current LUIG Policy does not contemplate micro-apartments which are substantially smaller than a typical studio unit.
- Following their initial review, the HCD requested that the Affordable Housing Advisory Committee (AHAC) make a recommendation on how micro-apartments should be considered under the LUIG Policy.
- AHAC spent the majority of their meetings in April and May discussing policy implications of micro-apartments and also general issues with the current LUIG Policy.
- After review of AHAC's motion from their May 4, 2023 meeting, staff is recommending a temporary suspension of the consideration of micro-apartment applications and awards for the LUIG program.
- Below are a few of the policy considerations that need to be further considered as the LUIG Policy is reviewed in the next fiscal year, these consideration are the primary reason for staff's recommendation to temporarily suspend consideration of LUIG application for micro-apartments:
  - Typically, a micro-housing unit is 250 to 400 sq. ft.; studio units are 400 to 650 sq. ft., and a one bedroom unit is 650 to 750 sq. ft.
  - Micro-apartments typically have limited kitchenettes, with access to a communal kitchen.
  - Given that this is a new type of housing product in the Asheville market, it is currently unclear how micro-units will appeal to those seeking affordable housing.
  - Due to the small size of each unit, it is unclear whether the subsidies are needed to ensure affordability or if the rents will be in reach of voucher holders at the market rate.
  - The City does not have confirmation about how HUD would classify these units, if they are eligible for vouchers and if there's a HUD rent standard for them.
  - [Appendix 1](#), which is used to determine allowable rents for projects receiving funding from the Housing Trust Fund and the Land Use Incentive Grant, has studio/efficiency rents, but does not have rents outlined for micro-apartments.
- The LUIG Policy will be reviewed with other affordable housing policies and existing affordable housing incentives as part of the Affordable Housing Plan update which will occur during Fiscal Year 2023-24.

### **AHAC Discussion**

At their May 4 meeting, AHAC outlined specific concerns and issues with subsidizing micro-housing through the LUIG program, including:

- Should LUIG incentives be adjusted to account for the smaller unit size?
- Does the smaller unit size and shared common kitchen concept meet the needs of those seeking affordable housing?
- Micro-housing rents in other cities appear to be substantially below market rents, so do micro-housing projects need subsidies in order to be built?
- Do the micro-apartments meet qualifications for vouchers of the issuing agency (HUD, VA, etc.) and the applicable rent payment standards?

### **AHAC Recommendation**

- On May 4, 2023, AHAC voted 12-0 on the following motion:
  - AHAC recommends developing micro-housing policy recommendations as part of our overall review of LUIG Policy.
  - In the meantime, we suggest the City may want to defer LUIG decisions for micro-housing or alternatively have developers fully address all of the committee's concerns, and commit to setting aside 50% of the affordable units for voucher holders.

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

- Quality Affordable Housing

- An Equitable and Diverse Community

**Committees:**

- HCD considered this recommendation at their May 20, 2023 meeting and voted 2-0 to support a temporary pause in considering LUIG applications for micro-apartment projects.

**Pro(s):**

- The Affordable Housing Plan, which is scheduled to begin in August 2023, will put the LUIG Policy into the broader context of the City's investments in affordable housing.
  - Consultants for the plan can advise the City on the LUIG Policy before final revisions are made.
- Temporarily pausing the review and approval of micro-unit Land Use Incentive Grant applications will allow the opportunity to review the policy objectively without the deadline for a specific project awaiting Council decision.
- A pause on LUIG applications and awards for micro-apartment projects will also allow a careful consideration of how scarce City resources are being spent on affordable housing subsidies.
- The Land Use Incentive Grant Program is a voluntary incentive program. Participation in the program is voluntary on both the part of the City and the developer.
- Unlike a zoning application, an application for a LUIG grant does not create an entitlement for the applicant, nor a "right" for the grant request to be heard.
- In all cases, it is up to the City Council to determine if it wishes for an application to move forward, receive a hearing, and a final decision.

**Con(s):**

- It is unclear whether a temporary pause on considering micro-apartment projects will have a negative impact on the proposed development at 46 Aston.
- The LUIG is intended to offset the loss in rents due to keeping units affordable rather than support the development of the project.

**Fiscal Impact:**

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

**Staff Recommendation:**

- Staff recommends temporary suspension of applications and awards for Land Use Incentive Grants for micro-apartment projects until the policy is revised and includes standards for micro-apartment projects.

Affordable Housing Officer Sasha Vrtunski said the key takeaways from this presentation are (1) As requested by the Housing & Community Development Committee (HCD), the Affordable Housing Advisory Committee (AHAC) reviewed the Land Use Incentive Policy (LUIG) Policy as it relates to micro-apartments; (2) AHAC recommended delaying consideration of LUIG applications with micro-apartments until the LUIG Policy is reconsidered and revised in its entirety; (3) In alignment with AHAC, staff is recommending that City Council temporarily suspend consideration of micro-apartment applications for the Land Use Incentive Grant (LUIG) program until the policy is revised to include specific standards for micro-apartment projects; and (4) HCD voted 2-0 on May 15 in support of this recommendation. The background is (1) The current LUIG Policy is silent on micro-apartments which are substantially smaller than a typical studio unit - Typically, a micro-housing unit is 250 to 400 sq. ft.; studio units are 400 to 650 sq. ft., and a one bedroom unit is 650 to 750 sq. ft.; (2) Appendix 1, which is used to determine allowable rents for affordable projects includes rents for studio/efficiency apartments, but does not have rents outlined for micro-apartments; (3) In February 2023, HCD considered an application for micro-apartments at 46 Aston Street, a project with a total of 231 units, 47 affordable units; (4)

HCD requested that AHAC make a recommendation on how micro-apartments should be treated under the LUIG Policy; (5) AHAC spent the majority of their meetings in April and May discussing the issues involved, and also general issues with the LUIG Policy; (6) After review of AHAC's motion from their May 4, 2023 meeting, staff is recommending a temporary suspension of the consideration of micro-apartment applications and awards for the LUIG program; and (7) The LUIG Policy will be reviewed with other affordable housing policies and existing affordable housing incentives as part of the Affordable Housing Plan update which will occur during Fiscal Year 2023-24. At their May 4 meeting, AHAC outlined specific concerns and issues with subsidizing micro-housing through the LUIG program, including: (1) Should LUIG incentives be adjusted to account for the smaller unit size?; (2) Does the smaller unit size and shared common kitchen concept meet the needs of those seeking affordable housing?; (3) Micro-housing rents in other cities appear to be substantially below market rents, so do micro-housing projects need subsidies in order to be built?; and (4) Do the micro-apartments meet qualifications for vouchers of the issuing agency (HUD, VA, etc.) and the applicable rent payment standards? The AHAC recommends developing micro-housing policy recommendations as part of our overall review of LUIG Policy, which is scheduled to be completed in November. In the meantime, AHAC suggests the City may want to defer LUIG decisions for micro-housing or alternatively have developers fully address all of the committee's concerns, and commit to setting aside 50% of the affordable units for voucher holders. This motion was approved 12-0 at the May 4, 2023, AHAC meeting. The HCD considered this recommendation at their May 20, 2023 meeting and voted 3-0 to support a temporary pause in considering LUIG applications for micro-apartment projects. At the same meeting, HCD indicated that they would consider the application for 46 Aston micro-apartments at their next meeting on June 20, 2023. Pros of approving the recommendation include (1) Temporarily pausing the review and approvals of applications will allow the opportunity to look at the policy objectively without the deadline for a specific project waiting on a Council decision; (2) A pause will also allow a more comprehensive review of how City resources are being spent on affordable housing subsidies; and (3) Consultants for the Affordable Housing Plan, which will begin in August, will advise the City on the LUIG Policy before final revisions are made. Staff recommends City Council temporarily suspend consideration of Land Use Incentive Grant applications for micro-apartment projects until the policy is revised and includes standards for micro-apartment projects.

Councilwoman Roney pointed out that developers can still build micro-units, the City is just pausing on using taxpayer dollars to subsidize the construction.

Councilwoman Mosley responded to Councilwoman Ullman noting that we have several unanswered questions on the LUIG policy and micro-apartment projects. This temporary suspension will allow us to revise the LUIG policy and include standards for micro-apartment projects. Councilwoman Turner also noted that the AHAC agreed that this needs more study and investigation.

Councilwoman Ullman was excited to see micro-apartments being considered; and she felt that it's important for the government nurture certain experiments to help us solve the affordable housing crisis.

Nina Tovish suggested that as the City looks to revise the LUIG policy that it expand its portfolio of affordable housing options and consider other ways that people live together other than single-family homes and apartment buildings.

David Moritz outlined the benefits of micro-housing projects.

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

Councilwoman Ullman moved to temporarily suspend consideration of applications and awards of Land Use Incentive Grants for micro-apartment projects until the policy is revised and includes standards for micro-apartment projects. This motion was seconded by Councilwoman Mosley and carried unanimously.

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: invitation to October 21, 2023, event of the unveiling of the State of North Carolina Historical Highway Marker for the Allen School; need to open a tent area on a bus line for the homeless with restrooms being monitored by staff; disappointment with the Juneteenth event as there was nothing for the children to do; men in crisis; thank you for the support of the pickleball players and shared the mission of the Asheville Pickleball Association; and concern of safety issues on the buses.

In response to Councilwoman Turner, City Attorney Branham said that there are limitations in North Carolina restricting municipalities from negotiating directly with unions; however, there are minimal limitations on getting information regarding resources and services being provided. Therefore, he felt there are avenues where that can happen. Councilwoman Roney also suggested that we share information about the American Rescue Plan Act fund applications that are meant to address safety at the transit center. City Manager Campbell said that she will work with City staff to provide additional information.

**Closed Session**

At 7:07 p.m., Councilwoman Ullman moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(1). The statutory authorization is contained in N.C.G.S. 143-318.10 (e); and (2) To discuss matters relating to the location or expansion of industries or other businesses in the City of Asheville, including on a list of potential economic development incentives. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilwoman Roney and carried unanimously.

At 7:29 p.m., Councilwoman Turner moved to come out of closed session. This motion was seconded by Councilwoman Roney and carried unanimously.

**VIII. ADJOURNMENT:**

Vice-Mayor Kilgore adjourned the meeting at 7:29 p.m.

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CITY CLERK

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MAYOR