

Thursday – July 20, 2023 - 11:00 a.m.

Agenda Briefing Worksession - For July 25, 2023 Council Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sandra Kilgore; Councilwoman S. Antanette Mosley (left meeting at 12:30 p.m.); Councilwoman Kim Roney; Councilwoman Sage Turner; Councilwoman Maggie Ullman; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: Councilwoman Sheneika Smith

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:

- [National Community Survey](#)
- [Strategic Planning Next Steps](#)
- Department Director Recruitment (Planning and Fire)

At 12:51 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – July 25, 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:**

**II. CONSENT AGENDA:**

At the request of Councilwoman Roney, Consent Agenda Item “S” 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 22, 2023, AND THE FORMAL MEETING HELD ON JUNE 27, 2023**
- B. RESOLUTION NO. 23-155 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH T&T CLEANING FOR CUSTODIAL SERVICES IN RECREATION FACILITIES**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with T&T Cleaning, with three (3) renewals for a contract amount not to exceed \$395,062.58.

**Background:**

- The City has a commitment to ensuring a clean and healthy environment.
- It has become increasingly difficult to recruit and hire qualified Facility Attendants.
- There are 7 recreation facilities that require cleaning services.
- A Request for Proposal process was conducted in June 2022 and included outreach to Minority & Women Business Enterprises (MWBE's).
- T&T Cleaning was selected based on the qualifications, understanding of the scope of services, cost, and availability.
- The first year of the contract has been successful.
- The intention is to renew the contract for up to three (3) additional years.

**Vendor Outreach Efforts:**

- In June 2022, MWBE outreach was conducted through the Request for Proposal (RFP) process to solicit proposals from vendors.
- Six vendors responded to the Request for Proposals, with four respondents being MWBE's.
- The vendor selected is a MWBE.
- Funding for this service is provided through the Parks and Recreation operating budget.

**Council Goal(s):**

- A clean and healthy environment

**Committee(s):**

- None

**Pro(s):**

- Recreation facilities are clean and safe.
- The stability of hiring a contractor to perform this work.

**Con(s):**

- Long-term cost of a required service.

**Fiscal Impact:**

- Funding for the first year of this contract was \$51,146 for a 10-month contract and (estimated at \$89,000) is available in the Parks and Recreation Department operating budget.
- Future years will be planned for during the annual budget development process, for a total of not to exceed \$395,062.58 over four (4) years.

**Motion:**

- Motion to authorize the City Manager to execute a contract with T&T Cleaning for custodial services in recreation facilities, and a total contract amount not to exceed \$395,062.58 and the authorization for three (3) renewals.

**RESOLUTION BOOK NO. 44 - PAGE 153**

- C. RESOLUTION NO. 23-156 - 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 \$25,000 for the Sulphur Springs Road Resurfacing Contract.

**Background:**

- The previous contract amendment to add funding to cover the additional patching and pavement failed to include the mobilization and traffic control line items. The contractor had not previously requested payment for the mobilization and traffic control line items, which resulted in these items not being accounted for in the previous contract amendment.
- 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. 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 bad shape 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 layer 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.
- The area was annexed in 1917 and the original construction of the road predates the city's records.

**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 lot 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 \$25,000 for the Sulphur Springs Road Resurfacing Contract.

**RESOLUTION BOOK NO. 44 - PAGE 154**

**D. RESOLUTION NO. 23-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE YEAR CONTRACT RENEWAL WITH SMITH AND LLOYD LANDSCAPES LLC FOR THE FISCAL YEAR 2024 MEDIAN MOWING PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a one year contract renewal for the Median Mowing contract with Smith and Lloyd Landscapes, LLC for Fiscal Year (FY) 2023-24.

**Background:**

- The current contract with Smith and Lloyd Landscapes, LLC has provisions for two one-year renewals with each renewal having a 3 percent price increase.
- The original contract was for \$30,000.00. The first renewal was \$30,900.00 and the second renewal will be for \$31,827.00. The total contract value if both renewals are used will be \$92,727.00.
- The contract is for mowing of City-owned planting medians and parcels scattered throughout the City.
- Bids for the original contract were opened on May 27, 2021 and four bids were submitted:

Smith and Lloyd Landscapes, LLC of Mills River, NC	\$30,000.00
Rivertop Contracting of Swannanoa, NC	\$32,368.00
Classic Cleaning, LLC of Raleigh, NC	\$38,377.00
BuckTom Services of Asheville, NC	\$49,980.00

**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 NC Dept. of Transportation MWBE databases for potential contractors.
- Two companies in an identified disparity group were found and directly contacted. Neither of the companies submitted bids. One company in an identified disparity group outside of the ten-county search area submitted a bid.
- 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 medians and parcels.

**Con(s):** None

**Fiscal Impact:** Funding for this contract is available in the FY 2023-24 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 Mowing contract with Smith and Lloyd Landscapes, LLC for the Fiscal Year 2024.

**RESOLUTION BOOK NO. 44 - PAGE 155**

**E. RESOLUTION NO. 23-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICE AGREEMENT WITH BIONOMIC SERVICES INC. FOR WATER RESOURCES SLUDGE REMOVAL FOR THE NORTH FORK, WILLIAM DEBRUHL, AND MILLS RIVER WATER TREATMENT PLANTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a general services agreement with BioNomic Services, Inc., for the removal of treatment residuals (sludge), from the North Fork, William DeBruhl, and Mills River Water Treatment Plants.

**Background:**

- Water Resources - Water Production Division operates three water treatment plants (WTPs) that produce clean, safe drinking water for the citizens of the City of Asheville, Buncombe and Henderson Counties.
- During the treatment process, each of the plants remove impurities which result in the creation of residuals.
- The residuals (sludge) are stored in lagoons at each facility and are removed on a yearly basis.
- This is essential and maintains operational flexibility, meets the standards of the Water Resources Department's ISO 14001 certification, and maintains a healthy environment for our local communities.
- This agreement is for an initial period of 3 years with (2) possible one year renewals, and an amount not exceeding \$500,000 per year or \$2,500,000 over the term of the contract.

**Vendor Outreach Efforts:**

- The City of Asheville Water Resources Department issued RFP - 298-WTPSludgeRemovalFY23 on May 19, 2023, requesting proposals for the removal of water treatment residuals (sludge), from the North Fork, William DeBruhl, and Mills River Water Treatment Plants.
- Due to the specialized nature of the sludge removal process and equipment, staff were unable to locate any contractors within the MWBE hubs that could complete the project.
- Staff did however provide a list of (5) MWBE contractors that have the ability to haul sludge.
- Staff worked in coordination with the City of Asheville's MWBE/ABI to verify that all proposals were responsive and provided documentation of outreach efforts and showed MWBE vendor participation where possible.
- Three bids were submitted and BioNomic Services, Inc. was the lowest, responsive bid.
- BioNomic Services, Inc., submitted affidavits to verify they would self perform all work and will not require the use of subcontractors.

**Council Goal(s):**

- A financially Resilient City
- Clean and Healthy Environment.

**Committee(s):**

- None

**Pro(s):**

- The adoption of a resolution to authorize a general services agreement between the City of Asheville Water Resources Department and BioNomic Services, Inc., will allow the Water Resources Department's Water Production Division to continue to operate as designed to provide safe clean drinking water to our customers in the City of Asheville, Buncombe and Henderson Counties.
- Each of these systems are permitted and regulated through the National Pollution Discharge Elimination System (NPDES), and are subject to those requirements.
- Reduce the risk of compliance violations.
- Maintain a clean and healthy environment.

**Con(s):**

- Failure to remove sludge will impact the amount of water produced at each water treatment plant
- Decanted water may impact environmental regulations.

**Fiscal Impact:**

- Funding for this contract is available in the Water Resources Department operating budget.

**Motion:**

- Motion to authorize the City Manager to execute a general services agreement with BioNomic Services, Inc., for the removal of treatment residuals (sludge), from the North Fork, William DeBruhl, and Mills River Water Treatment Plants.

**RESOLUTION BOOK NO. 44 - PAGE 156**

**F. RESOLUTION NO. 23-159 - RESOLUTION AUTHORIZING THE CITY MANAGER TO DONATE USED POLICE RELATED GEAR AND EQUIPMENT TO THE UNIVERSITY OF NORTH CAROLINA ASHEVILLE CAMPUS POLICE DEPARTMENT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to donate used police related gear and equipment to the University of North Carolina Asheville (UNCA) campus police department..

**Background:**

- Due to staffing shortages, the Asheville Police Department has a surplus of police related gear and equipment.
- The Asheville Police Department (APD) purchased ballistic rifle plates in 2016.
- The vests have a 10 year warranty and are set to expire in 2026.
- All officers currently have rifle plates issued to them and we do not anticipate filling all vacancies before the surplus vests are expired.
- The UNCA campus police do not currently have something comparable to the rifle plates.
- The equipment is well used but still functioning.
- Other equipment includes,used handcuffs, flashlights, winter coats, and rifle slings, all of which are no longer the style or brand that the APD issues.
- The radios are no longer compatible with the APDs Radio Management Program.
- UNCA has expressed a need for these items.

**Council Goal(s):**

- Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- Build partnership with a local agency who has expressed a need for the items.
- Get possibly life saving equipment into the hands of an agency that could use it.

**Con(s):**

- None

**Fiscal Impact:**

- Some equipment might have nominal resale value as surplus property, however, enhancing the capacity of a local law enforcement agency to perform its duties, and the goodwill the City would gain by donating this equipment, far outstrips its monetary value.
- Donated items are not what is currently issued, will expire before being able to be issued, or are not compatible with other equipment.

**Motion:**

- Motion to authorize the City of Asheville to donate used police related equipment to UNCA campus police.

In response to Councilwoman Roney, Assistant Police Chief James Baumstark said that when new officers are hired, we must have a new vest cut to their specific body. Since the Asheville Police Department has a 40% vacancy, they have an excess of ballistic vests. UNC-Asheville can't afford ballistic vests for their police so they asked for the City to donate their excess vests to them and we will be passing the liability onto UNC-A.

**RESOLUTION BOOK NO. 44 - PAGE 157**

**G. RESOLUTION NO. 23-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH H&E EQUIPMENT FOR EQUIPMENT RENTALS UTILIZED BY MULTIPLE CITY DEPARTMENTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to amend a contract with H&E Equipment for rental equipment utilized by various departments.

**Background:**

- A request for proposals was advertised in January 2021 for Rental Equipment Services.
- 6 Contracts were executed in July 2021 with 6 different vendors offering different types of equipment.
- H&E Equipment was one of the contracts executed, with a not-to-exceed amount of \$85,000.
- This contract has been renewed twice.
- This contract is utilized by multiple departments to rent equipment needed for various tasks and projects.
- The \$85,000 not-to-exceed limit is projected to be reached soon; and therefore needs to be increased.
- The City's Procurement, Purchasing and Contracting Policy requires Council approval for General Service Contracts valued at \$90,000 or greater.

**Vendor Outreach Efforts:**

- At the time this contract was initially advertised, 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.
- No MWBE firms submitted bids with this prime contractor and all work will be self performed by the prime contractor.

**Council Goal(s):**

- A Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- Departments will continue to be able to access equipment needed to complete tasks via rental on an as-needed basis.
- The City will not need to purchase various equipment that may only be needed for short or intermittent periods.

**Con(s):**

- None

**Fiscal Impact:**

- The fiscal impact will vary depending upon utilization, but will not exceed the contract limit of \$170,000.
- Each rental will be paid for by the user department from their operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a Contract Amendment with H&E Equipment for rental equipment to be utilized by multiple departments.

**RESOLUTION BOOK NO. 44 - PAGE 158**

**H. RESOLUTION NO. 23-161 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EWING COLE INC. FOR THE MCCORMICK FIELD ENGINEERING AND DESIGN SERVICES**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Ewing Cole, Inc. in the amount of \$3,700,000, for the McCormick Field engineering and design services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 10% (\$370,000).

**Background:**

- The City of Asheville has owned the property located at 30 Buchanan Place, known as Lewis McCormick Field, since 1984 and leases the property for operation as a minor league baseball stadium.
- The Asheville Tourists are a Minor League Baseball team in the South Atlantic League and are an affiliate team of the Houston Astros.
- Major League Baseball (MLB) released updated facility standards for Minor League Baseball stadiums in 2020.



- In January 2022, the City Council authorized a two-year lease agreement with DeWine Seeds-Silver Dollar LL for the Tourists to continue operation out of McCormick Field.
- The lease was for a shorter duration in order to allow for planning to align with new MLB facility standards.
- In February 2023 City Council held a work session to review the MLB mandates, opportunities and constraints related to proposed improvements at Lewis McCormick Field.
- In March 2023 during two different budget work sessions, funding options for improvements at McCormick Field were discussed.
- On March 14, 2023, the City Council authorized the City Manager to sign a funding letter of commitment to MLB regarding the City's intent to bring McCormick Field into compliance with new facility standards.
- Buncombe County Tourism Development Authority (BCTDA) is slated to vote on the final portion of the financial commitment funding model on July 26, 2023.
- In April 2023 a Request for Qualifications was publicly advertised seeking professional services qualifications for the design of improvements at Lewis McCormick Field.
- Nine professional design firm submittals were received and evaluated based on their qualifications, experience and technical approach.
- The evaluation of those submittals, ranked by a six member evaluation committee, resulted in Ewing Cole, Inc. being the highest ranked firm.
- The evaluation committee consisted of members from the City of Asheville, Buncombe County Government, BCTDA, the Asheville Tourists Baseball Club and a neighborhood/community non-profit leader.
- Negotiations with Ewing Cole, Inc. resulted in an agreed fee of \$3,700,000.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses, through solicitation processes using the State's Interactive Purchasing System and requesting prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.

**Council Goal(s):**

- A well planned and liveable community

**Committee(s):**

- None

**Pro(s):**

- Provides for sidewalk construction in an area with a demonstrated need for safe pedestrian access.
- Utilizes grant and lease funding to maximize the local funding on a City owned asset.

**Con(s):**

- None

**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 enter into a contract with Ewing Cole, Inc. in the amount of \$3,700,000, for the McCormick Field engineering and

design services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 10% (\$370,000).

**RESOLUTION BOOK NO. 44 - PAGE 159**

**I. RESOLUTION NO. 23-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH MILLER 3 CONSULTING INC. FOR THE FISCAL YEAR 2023 DISPARITY STUDY**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment in the amount of \$34,473 for Disparity Study data analysis services with Miller 3 Consulting, Inc.

**Background:**

- A disparity study determines whether a governmental entity is awarding public contracts in a manner that disproportionately excludes or limits participation by minority, women-owned, and disadvantaged business enterprises (M/WBEs).
- Such a study compares the utilization of M/WBEs with the availability of M/WBEs in the relevant market area.
- A disparity study is legally required for the City to continue its race and gender conscious Business Inclusion Program.
- On September 27, 2022, the City Manager entered into a contract with Miller 3 Consulting, Inc. for consulting services to complete the City's Fiscal Year 2023 Disparity Study.
- The data analysis portion of the Disparity Study has required additional analysis from the vendor that was not contemplated with the initial project scope.
- A contingency to increase the contract by \$34,473 is needed to satisfy the additional work required by the vendor.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Diverse Community
- Thriving Economy

**Committee(s):**

- N/A

**Pro(s):**

- Contracting with this company provides outside expertise that enables the completion of a new Disparity Study, required by law, to be conducted at least every (5) five years in order to continue any race- and gender-conscious contracting program.
- A contingency to increase the contract allows the consultant to conduct the additional data analysis necessary to complete the study.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract amendment in the amount of \$34,473 with Miller 3 Consulting, Inc.

**RESOLUTION BOOK NO. 44 - PAGE 160**

**J. RESOLUTION NO. 23-163 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DOGWOOD HEALTH TRUST TO ACCEPT FUNDING TO SUPPORT THE AFFORDABLE HOUSING PLAN PROJECT**

**ORDINANCE NO. 5025 - BUDGET AMENDMENT FROM DOGWOOD HEALTH TRUST FOR THE AFFORDABLE HOUSING PLAN CONSULTANT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a grant agreement with Dogwood Health Trust to accept \$50,000 for the Affordable Housing Plan, and approval of a budget amendment in the Special Revenue Fund to budget the \$146,517 to contract with the Affordable Housing Plan consultant.

**Background:**

- Dogwood Health Trust opened Applications for Affordable Housing proposals in Winter 2023.
- The City submitted a grant application for \$50,000 to supplement \$97,000 in budgeted City funding for the development of an Affordable Housing Plan.
- Dogwood Health Trust has awarded the City the full requested amount of \$50,000.
- The Affordable Housing Plan will assess current needs and set affordable housing policy direction for the next 5-10 years.
- The plan will review the effectiveness of existing City policies and programs and identify gaps in the City's current affordable housing toolbox. Specific policies assessed will include:
  - Land Use Incentive Grant
  - Housing Trust Fund
  - Policies for Implementing Affordable Housing on City-Owned Land
- A new comprehensive Affordable Housing Plan will also provide a foundation and guidance on how best to allocate funds from a potential future affordable housing bond referendum.
- The Affordable Housing Plan will be informed by the work of the Housing and Community Development Committee, Affordable Housing Advisory Committee, Thrive Asheville, the Community Reparations Commission, and the Missing Middle Housing Study.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community
- A Well-Planned and Livable Community

**Committee(s):**

- None

**Pro(s):**

- Provides additional funding for the Affordable Housing Plan contract which will allow for additional community engagement and technical assistance through the planning process and will result in a more robust plan document.

**Con(s):**

- None

**Fiscal Impact:**

- Requested action will accept grant funding from Dogwood Health Trust to be applied in Fiscal Year 2024.
- The grant is supplementing \$96,517 from the City's operating budget allocated to the plan.

**Motions:**

- Motion to approve a resolution authorizing the City Manager to enter into an agreement with Dogwood Health Trust to accept funding to support the Affordable Housing Plan; and the associated budget amendment in the Special Revenue Fund in the amount of \$146,517 to budget a grant from Dogwood Health Trust in support of developing an Affordable Housing Plan.

**RESOLUTION BOOK NO. 44 - PAGE 161  
ORDINANCE BOOK NO. 35 - PAGE 13**

**K. RESOLUTION NO. 23-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ENTERPRISE COMMUNITY PARTNERS INC. FOR CONSULTING SERVICES TO CREATE AN AFFORDABLE HOUSING PLAN FOR THE CITY OF ASHEVILLE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Enterprise Community Partners, Inc. for consulting services to create an Affordable Housing Plan for the City of Asheville.

**Background:**

- The City's most recent Affordable Housing Plan was created in 2008.
- The contract amount for the plan will be \$146,517.
  - The City budgeted \$97,000 for this effort, and will fund the contract at \$96,517.
  - Dogwood Health Trust has granted the City an additional \$50,000 to make the planning effort more robust.
- The Affordable Housing Plan will be informed by the work of the Housing and Community Development Committee, Affordable Housing Advisory Committee, Thrive Asheville, the Community Reparations Commission, and the Missing Middle Housing Study.
- City staff have been working with Thrive Asheville to assess affordable housing program outcomes. Thrive is examining data from the Housing Trust Fund, Land Use Incentive Grant projects and housing permit data citywide. This data will help inform recommendations in the Affordable Housing Plan because it highlights the efficacy of the City's existing affordable housing tools including an assessment of the number of units produced and populations served.
- The Affordable Housing Plan will assess current needs and set a direction for the next 5-10 years.
- The planning process will involve the residents affected by the housing crisis and address community priorities.
- The plan will review the effectiveness of existing City policies and programs and identify gaps in the City's current affordable housing toolbox. Specific policies assessed will include:
  - Land Use Incentive Grant
  - Housing Trust Fund

- Policies for Implementing Affordable Housing on City-Owned Land
- A new comprehensive Affordable Housing Plan will also provide a foundation and guidance on how best to allocate funds from a potential future affordable housing bond referendum.
- The Request for Proposals (RFP) review team consisted of representatives from the following departments: Community & Economic Development, Planning & Urban Design, Equity & Inclusion, Community & Public Engagement (CAPE) and a representative of the Affordable Housing Advisory Committee (AHAC).
- The selection criteria included: Experience and qualifications of the team, relevant past projects, project understanding and approach, community engagement plan, cost proposal and completeness and responsiveness of proposal.
- After a thorough review of the submitted proposals, Enterprise Community Partners, Inc. was the top ranked firm of the selection team.

**Vendor Outreach Efforts:**

- The City utilized standard outreach methods, including posting on the State's Interactive Purchasing System.
- Staff reached out to local MWBEs that are registered for this type of consulting work to inform them about the solicitation.
- The City received six proposals, five were deemed responsive and moved forward in the selection process.
- The selected firm is a national, non-profit organization.

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community
- A Well-Planned and Livable Community

**Committee(s):**

- Housing and Community Development Committee - May 22, 2023, information only, no vote was taken.

**Pro(s):**

- An updated Affordable Housing Plan will give the staff, community and Council guidance for housing investments for the future and can help with bond planning if the City Council elects to float an affordable housing bond.
- The plan will assist the City in leveraging its affordable housing tools to achieve the maximum benefit for our community.
- With the current affordable housing crisis, it is important for the City to have clear priorities for affordable housing programs and funding.
- The planning process will provide an opportunity to engage the community in a comprehensive and coordinated way to help determine the future of Asheville's affordable housing programming.

**Con(s):**

- None identified

**Fiscal Impact:**

- The total cost of the plan is \$146,517.
- The Community and Economic Development Department has allocated \$97,000 of its contracted services budget for the plan.
- The City has received a grant from Dogwood Health Trust in the amount of \$50,000 to supplement the \$96,517 in the Community & Economic Development Department budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Enterprise Community Partners, Inc. for consulting services to complete the City of Asheville's Affordable Housing Plan in the amount of \$146,517.

**RESOLUTION BOOK NO. 44 - PAGE 162**

**L. RESOLUTION NO. 23-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH UTILITY PARTNERS OF AMERICA LLC FOR THE FLEET ELECTRIC VEHICLE CHARGING STATION MAKE-READY PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Utility Partners of America, LLC in the amount of \$336,744 for the Fleet EV Charging Station Make-Ready project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$33,674 (10%).

**Background:**

- The City's Fleet Division plans to increase the number of electric vehicle purchases in accordance with the decarbonization goals outlined in the City's Municipal Climate Action Plan.
- To accommodate the electric vehicles, the City needs vehicle charging equipment.
- The work from this contract will provide the electrical infrastructure and site preparation for electric vehicle chargers, dedicated to City of Asheville Fleet vehicles, at the following locations:
  - Public Works Building A parking lot – 161 S. Charlotte Street
  - Fleet Management parking lot - 173 S. Charlotte Street
  - City of Asheville Motor Pool Lot - 99999 Eagle Street
  - Facilities Maintenance parking lot - 75 Shelburne Road
- Bids were advertised on May 12, 2023. Two bids were received by the bid opening deadline on June 8, 2023:
  - Utility Partners of America, LLC (Greensboro, NC)  
\$336,744.00
  - Haynes Industrial, a division of M.B. Haynes Corp (Asheville, NC)  
\$339,460.00
- The Utility Partners of America, LLC was the lowest responsive, responsible bidder.

**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.
- No MWBE firms submitted bids with this prime contractor.

**Council Goal(s):**

- A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- This infrastructure is a necessary step in the transition of the City's vehicle fleet away from fossil fuels—reducing Fleet's carbon footprint in accordance with the City's sustainability goals.
- The electrical design is engineered to support the installation of additional chargers in the future.

**Con(s):**

- Due to an uncompetitive market and the risks involved in underground work, the bids came in higher than estimated and above the budget planned for this project.

**Fiscal Impact:**

- Funding for this contract was previously budgeted and is available in the General Capital Projects Fund.
- Additional resources from the Green Savings Program have been identified to fully fund this project, allowing for charging infrastructure to be installed at all four sites listed above.

**Motion:**

- Motion to authorize the City Manager to execute a contract with Utility Partners of America, LLC in the amount of \$336,744 for the Fleet EV Charging Station Make-Ready project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$33,674 (10%).

**RESOLUTION BOOK NO. 44 - PAGE 163**

**M. RESOLUTION NO. 23-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH KIMLEY-HORN INC. FOR STREETSCAPE DESIGN SERVICES ON COXE AVENUE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a professional services contract with Kimley-Horn, Inc. in the amount of \$472,526.94 for design and engineering of the Coxe Avenue Streetscape; further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$47,000.

**Background:**

- The City of Asheville received a federal grant through the North Carolina Department of Transportation (NCDOT) for design and environmental documentation of pedestrian and bicycle improvements on Coxe Avenue in the total amount of \$420,000 grant plus the local match of \$105,000 for a grand total of \$525,000.
- City Council Resolution No. 20-61 authorized the City Manager to apply for, and if awarded, accept funding from the French Broad River Metropolitan Planning Organization for transportation projects including Coxe Avenue Complete Street that included a federal ask of \$9,040,000; a City match of \$2,260,000; for a total project budget of \$11,300,000.
- In October 2021, the City of Asheville advertised a request for qualifications for engineering and design services for the Coxe Avenue Streetscape Project.
- The selection of a design and engineering firm for this project took longer than it would for a typical project because of the multi-step NCDOT review process required for the NCDOT grant funding. NCDOT's vetting process included lengthy reviews for advertisement, consultant ranking, and a scope/fee review prior to the negotiation of the final scope and fee for design services.
- A seven member selection committee evaluated qualification packages from sixteen different design teams based on the team qualifications and relevant project types.

- The highest ranked team is led by Kimley-Horn and includes Brooks Engineering (Asheville based), Vaughn & Melton (Asheville office), Ellum Engineering (WBE).
- The negotiated fee is \$472,526.94 and includes surveying services, below grade utility explorations, conceptual design, public outreach, design development services, utility coordination, stormwater design, cost estimating and final construction bidding documentation services.

**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, direct contact of firms on City, HUB, and NCDOT Minority & Women-Owned Business Enterprise (MWBE) lists
- The highest ranked team does have a woman owned business on the team, Ellum Engineering, which will be performing approximately \$27,000 worth of subcontracted services.

**Council Goal(s):**

- A Thriving Local Economy
- A Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Provides for the design of pedestrian and bicycle improvements on Coxe Avenue, as well as additional infrastructure upgrades.
- Allows municipal funding to leverage significant grant funding opportunities with Department of Transportation and Tourism Product Development funding.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this contract was previously budgeted and is available in the General Capital Projects Fund.
- Funding for the construction of this project is planned in the City's Capital Improvement Program for Fiscal Year 2024-25.
- Current funding sources include 80% NCDOT grant funding and a 20% City match. A future TDA funding request is anticipated to replace allocated TDA funding that was redirected to McCormick Field.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a professional services contract with Kimley-Horn, Inc. for \$466,981.06 to design the Coxe Avenue Streetscape Project; and further authorized to execute any contract amendments that may arise during the project up to the contingency amount of \$47,000 (~10%).

**RESOLUTION BOOK NO. 44 - PAGE 164**

**N. RESOLUTION NO. 23-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TRANSYSTEMS CORPORATION FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR THE NEW LEICESTER HIGHWAY SIDEWALK PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract



with TranSystems Corporation in the amount of \$417,432.72, for New Leicester Highway construction engineering and inspection services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of ~10% (\$41,000).

**Background:**

- In 2018, the City of Asheville received a grant from the North Carolina Department of Transportation for reimbursement of 80% of construction funds for the New Leicester Highway sidewalk project up to \$2,904,000.
- City Council Resolution No. 23-91 authorized the City Manager to execute a construction contract with NHM constructors, LLC for the New Leicester Highway Sidewalk project.
- City of Asheville staff publicly advertised for Construction Engineering and Inspection services, as required for a professional service selection process.
- Nine professional engineering submittals were received and evaluated based on their qualifications, experience and technical approach.
- The evaluation of those submittals, ranked by a five member evaluation committee, resulted in TranSystems Corporation (formerly SEPI Engineering) being the highest ranked firm.
- Negotiations with TranSystems Corporation resulted in an agreed fee of \$417,432.72
- The North Carolina Department of Transportation has reviewed and approved the negotiated fee as well as the draft agreement with TranSystems Corporation.

**Vendor Outreach Efforts:**

- With all federally funded projects, the Disadvantaged Business Enterprise (DBE) program is required for construction services, but not professional engineering services such as this agreement.
- The federally established DBE goal for this project is 5% participation for construction services, which will be exceeded for the construction portion of the project.
- Because this agreement with TranSystems is for professional services, the DBE participation is not considered.

**Council Goal(s):**

- A well planned and liveable community

**Committee(s):**

- None

**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.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with TranSystems Corporation in the amount of \$417,432.72, for New Leicester Highway construction engineering and inspection services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the

contingency amount of ~10% (\$41,000).

**RESOLUTION BOOK NO. 44 - PAGE 165**

**O. RESOLUTION NO. 23-168 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CINDERELLA PARTNERS INC. FOR THE SHILOH COMMUNITY SIDEWALK PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Cinderella Partners, Inc. in the amount of \$241,375.10, for the Shiloh Community Sidewalks Project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$24,000 (10%).

**Background:**

- This is a 2016 Bond sidewalk project that connects the front of the Shiloh Recreation Center and nearby transit stop to the community garden.
- Bids were initially advertised on May 16, 2023. Informal bidding concluded on June 13th, and 3 bids were received:
  - Cinderella Partners Inc, Indian Trail, NC. \$241,375.10
  - Appalachian Paving and Concrete, Swannanoa, NC \$263,350
  - Smart Builders Construction, Asheville, NC \$329,910
- Cinderella Partners Inc. was the lowest responsive, responsible bidder.
- Construction will begin this summer and be completed by fall 2023.

**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.
- Additional outreach was performed by staff to small business owners.
- Cinderella Partners is a women owned business out of Indian Trail, NC.

**Council Goal(s):**

- A well-planned and livable community
- Transportation and accessibility
- Neighborhood and Climate Resilience

**Committee(s):**

- None.

**Pro(s):**

- Project works towards fulfillment of the General Obligation Bond.
- Will provide a sidewalk connecting community amenities that adds to pedestrian safety.

**Con(s):**

- Possible reduced levels of service for automobiles during the day while being constructed.
- Staff time will be used to administer the project until its completion.

**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 enter into a contract with Cinderella Partners, Inc. in the amount of \$241,375.10, for the Shiloh Community Sidewalks Project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$24,000 (10%).

**RESOLUTION BOOK NO. 44 - PAGE 166**

**P. RESOLUTION NO. 23-169 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH SMART BUILDERS CONSTRUCTION FOR THE MURPHY-OAKLEY PLAYGROUND AND SIDEWALK PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a construction contract with Smart Builders Construction in the amount of \$441,516 for the Murphy Oakley Playground and Sidewalk Project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$44,150 (10%).

**Background:**

- Inclusive playgrounds include people with physical disabilities, multi generations and people with cognitive disabilities such as autism spectrum disorder and ADHD.
- The playground replacement will occur during the fall through spring, and will be replaced before the start of the summer camp season.
- Bids were initially advertised on May 10, 2023. Only two bids were received at the bid opening deadline on June 22, 2023. The City could not open due to city policy and general statues.
- The project was readvertised on June 23, 2023, and the City received and opened bids on July 6, 2023. Two bids were received, as listed below:
  - J. Bartholomew Construction, Inc., Hendersonville, NC \$ 586,000.00
  - Smart Builders Construction, Asheville, NC \$ 441,516.00
- Smart Builders Construction is the lowest responsive, responsible bidder.

**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.
- One MWBE firm submitted bids with this prime contractor. North End Stump grading subcontractor will comprise approximately 7% of the construction contract.

**Council Goal(s):**

- A well-planned and livable community

**Committee(s):**

- None

**Pro(s):**

- The construction will occur during the off season for the therapeutic recreation program summer camps.
- Provide the first inclusive playground in the City of Asheville.

**Con(s):**

- The playground will be closed during construction.

**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 enter into a construction contract with Smart Builders Construction in the amount of \$441,516, for the Murphy Oakley Playground and Sidewalk project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$44,150 (10%).

**RESOLUTION BOOK NO. 44 - PAGE 167**

**Q. RESOLUTION NO. 23-170 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CINDERELLA PARTNERS, INC. FOR THE VERMONT AVENUE SIDEWALK CONSTRUCTION PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a construction contract with Cinderella Partners, Inc. in the amount not to exceed \$396,253.21 plus a ~10% construction contingency of \$40,000. for a total not-to-exceed contract of \$436,253.21, for the Vermont Avenue Sidewalk Construction Project.

**Background:**

- The 2016 Transportation General Obligation (GO) Bond Referendum included funding for sidewalk replacement along Vermont Avenue.
- The Vermont Avenue Sidewalk Project will replace the existing, substandard sidewalk between Olney Rd. and Haywood Rd.
- In June 2021, the City Manager executed a small design contract for the engineering associated with the Vermont Ave sidewalk project.
- Between 2020 and 2022, eight different public and neighborhood meetings were held regarding the Vermont Avenue Sidewalk Project.
- In February and April of 2022, Council received an update on the design progress of the Vermont Avenue sidewalk project.
- In February 2023, tree removal took place to prepare for the construction portion of the project.
- In June 2023, construction bids were advertised for 30 days, and only two bids were received. Because a minimum of three bids are required, the bids were returned unopened.
- The project was readvertised for bids and received three bids on July 6, 2023.
- The following three bids were received:
  - Asheville, NC based Smart Builders Construction, Inc for \$442,236
  - Indian Trail based Cinderella Partners, Inc. for \$396,253.21
  - Fairview, NC based T.P. Howard Plumbing Co. Inc. for \$476,000.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through a solicitation process which included 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.
- Cinderella Partners Inc. is the general contractor for this project and is a Woman Owned business.

**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.

**Con(s):**

- None

**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 a construction contract with Cinderella Partners, Inc. in the amount not to exceed \$396,253.21 plus a ~10% construction contingency of \$40,000. for a total not to exceed contract of \$436,253.21, for the Vermont Ave. Sidewalk Construction Project.

**RESOLUTION BOOK NO. 44 - PAGE 168**

**R. RESOLUTION NO. 23-171 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO SHARE THE COSTS OF THE “STOP THE HARM” AUDIT AS RECOMMENDED BY THE COMMUNITY REPARATIONS COMMISSION**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to conduct and share the costs of the “Stop the Harm” audit as recommended by the Community Reparations Commission, up to a total amount of \$174,375.

**Background:**

- The Community Reparations Commission has recommended that the City and County undertake a comprehensive audit targeted to cease the harms impacting the African American Community of Asheville and Buncombe County.
- The City Council adopted a resolution committing to conduct the recommended audit on January 24, 2023, followed by a vote from the Buncombe County Board of Commissioners on February 7, 2023.
- With assistance and support of City staff, Buncombe County issued an RFP for qualified firms to conduct this audit.
- Staff from both local governmental agencies, as well as representatives from the CRC, have participated in the review and selection process for the firm selection.
- Buncombe County will contract directly with the winning firm to conduct the audit, and have requested support and cost sharing from the City of Asheville.
- This interlocal agreement will bind the parties to share equally in the costs of the audit, up to a total amount of \$174,375 (the City’s total cost share for the audit would represent up to \$87,187.50). The interlocal agreement would also permit either party to request additional scope of work to be performed at the sole cost of the requesting entity.

- The jointly selected firm is minority owned.

**Vendor Outreach Efforts:**

- Targeted outreach was made to firms noted for their research and compliance expertise.
- All bidders were minority owned.

**Council Goal(s):**

- Reparations

**Committee(s):**

- Equity and Engagement

**Pro(s):**

- Fulfills the recommendation of the Community Reparations Commission
- Assists the City and County with determining policies, practices, or other areas of ongoing harm to the African American Community.

**Con(s):**

- None

**Fiscal Impact:**

- That portion of the audit costs to be paid by the City has already been allocated to reparations, and no additional funding is needed.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to conduct and share the costs of the “Stop the Harm” audit as recommended by the Community Reparations Commission.

Jonathan Wainscott and Dewayne McAfee felt that the resolution authorizing additional staff work to develop a scope of work for an official audit to ensure compliance with applicable regulations, statutes, and local requirements to cease harm impacting the African American community specifically states reasonable action to address harm that produces disparities for gender-based discriminate outcomes should not be in the study. Councilwoman Mosley explained that the wording of the resolution, which was adopted by Buncombe County and the City of Asheville, was approved by the Chair and Vice-Chair of the Reparations Commission and she believes the reason that language is included is for harms specific to black women. City Manager Campbell agreed with Councilwoman Mosley and said that staff will make sure that when we will work with the consultant on the scope of work , this will be specifically pointed out.

**RESOLUTION BOOK NO. 44 - PAGE 169**

**S. 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.

**T. RESOLUTION NO. 23-172 - RESOLUTION AMENDING THE 2023 CITY COUNCIL MEETING SCHEDULE TO ADD A WORKSESSION ON AUGUST 22, 2023, AT 3:00 P.M. IN THE COUNCIL CHAMBER. LOCATED ON THE 2ND FLOOR OF CITY HALL, TO DISCUSS THE INDEPENDENT REVIEW**

## COMMITTEE WATER OUTAGE REPORT RECOMMENDATIONS

### RESOLUTION BOOK NO. 44 - PAGE 170

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 Ullman moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda "S". This motion was seconded by Councilwoman Turner and carried unanimously.

#### **ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

- S. ORDINANCE NO. 5026 - 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:** Introduction of 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).

#### **Background:**

- The City Code, Sec. 12-53, 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.
- This places significant limits on 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 City bicycle racks. Those signs will include contact information to learn where removed property may be reacquired.
- 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 voted 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

**Committees:**

- 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 in order to empower City staff to address nuisance situations, ensure greater access to public bike racks, and prevent undue abuse of ordinance provision intended to encourage clean transportation options.

**Con(s):**

- None

**Fiscal Impact:**

- None.

**Motion:**

- Motion to adopt 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).

Councilwoman Roney was still concerned about enforcement; however, she moved to adopt the ordinance with an amendment to add subsection (c) as follows: “Violation of this section attributable to the improper storage of bicycles, carts, strollers, or other means of personal transportation shall subject the offender to a civil penalty in the amount of \$50.00 for each violation. Payment of all fines issued pursuant to this section shall be required to reclaim any property removed by the City.” This motion was seconded by Councilwoman Ullman and carried unanimously.

**ORDINANCE BOOK NO. 35 - PAGE 14**

**III. PRESENTATIONS & REPORTS:**

**A. MANAGER’S REPORT**

**Employee Recognitions**

City Manager Campbell said that City of Asheville employees are heroes in so many unique and incredible ways. We want to acknowledge their exemplary work all the time but especially when employees do something extraordinary. Tonight, we recognize 5 members of the Asheville Fire Department (AFD), for volunteering to help the residents of Vermont during disastrous and deadly flooding, as well as Lauren Brune for achieving the NC Local Government Budget Officer Certification!

Asheville Fire Department employees being recognized are Isaac McCurry, Scott Hare, JM Keupp, James Kodaras, and Charles Heard. Partners in the Vermont flooding emergency response efforts were Buncombe County Fire Department, Charlotte Task Force, Greensboro Task Force, National Weather Service, and Federal Emergency Management Agency. On Sunday, July 9th, 5 AFD members were deployed as part of the Task Force 2 Type I swiftwater



team. A total of 17 county members were part of this Task Force. Action overview is as follows: July 11, 9am- AFD TF2 participated in recovery after a Dam Break in Berlin, VT; July 11, 5pm- AFD TF2 participated in a hotel evacuation in Cambridge, VT; Over 30 people were trapped and rescued that evening; July 11, after the hotel evacuation, AFD TF2 immediately went to an apartment complex to rescue more residents; July 12, AFD TF2 staged: awaiting a dam failure at the State's capital, it thankfully didn't break, relocated to Cambridge to evacuate a motel; 26 residents were gathered in one house, recon needed to get to this location, the high water vehicle failed due to the 6-8ft water levels. Paddle crafts were deployed to rescue residents. All 26 were evacuated; AFD TF2 proceeded to rescue 34 more residents bringing them to a local school shelter, TF2 hit bed down well after midnight; July 13, AFD TF2 met with FEMA, assigned to Cambridge/Jefferson VT, awaited further instruction as another storm system is hitting; July 14, AFD TF2 Met with FEMA, storm was short lived, recon missions to make sure there were no unmet needs; July 15, TF2 assisted local authorities for a missing person at Huntington Gorge (1) TF2 is the only team handling the north section of the state, all other teams have been moved to the southern part of the state for the anticipated storm arriving; and (2) Vermont extended the NCEM team's assistance from 10 days to 14 days, unless released sooner; July 16. TF2 packed and ready to move south for Flash Flood warnings; and July 17, 12:30pm TF2 received their release of assignment and headed back home. The AFD was told by the Vermont Commissioner of Public Safety and Fire and Life Safety that we were one of the best teams in the country! The City of Asheville couldn't agree more. Thank you for all your hard work and dedication!

City Manager Campbell then recognized Lauren Brune, Financial Business Manager, Public Works, as receiving the North Carolina Local Government Budget Officer Certification. Certification is achieved through a combination of professional experience and/or education, continuing professional education (CPE) requirements, and successful completion (score of at least 80%) of three examinations in the public budgeting field: Local Government Budgeting; Capital Financing; and Performance Measurement & Management. Lauren is the *first* City of Asheville employee to have this distinction and exemplifies the professionalism we are striving for in Public Works and our organization. Lauren has been an incredible asset to the City of Asheville since July 2016. We commend your efforts and dedication in achieving this personal and professional milestone. Thanks for all you do for Public Works and the City of Asheville!

### **I-26 Connector Project Update**

Transportation Director Ken Putnam said the following are the key takeaways from this presentation: (1) The Design-Build selection process for sections B & D of the I-26 Connector Project is ongoing with a planned contract award in February 2024; (2) The Burton Street Community is the only neighborhood in Asheville to have received an environmental justice population designation from the N.C. Dept. of Transportation (NCDOT) for the I-26 Connector Project (a) This designation resulted in the NCDOT and the City making specific commitments outlined in the 2018 Burton Street Neighborhood Plan; and (b) The 2018 Burton Street Neighborhood Plan was sponsored by NCDOT due to the community's environmental justice designation; (3) The Burton Street Community has requested additional improvements since the 2018 Burton Street Neighborhood Plan was adopted - If the 2018 Burton Street Neighborhood Plan is amended, NCDOT has determined that Burton Street would no longer be eligible for the environmental justice designation and associated improvements based on current demographics; (4) In February 2023, the City Council adopted a resolution supporting the Council-established I-26 Aesthetics Committee's recommendation to invest \$5,889,024 in aesthetic enhancements for the I-26 Connector Project, which requires local funding because these enhancements exceed NCDOT's standard level of treatment; and (5) As part of the action that City Council took to approve the Aesthetic Committee's recommendations, the City Council included a motion in support of neighborhood improvements for the Burton Street, Hillcrest, and Montford communities - NCDOT was notified about the City Council's approval of the Aesthetic Committee's recommendation and support for neighborhood improvements in a letter dated

February 15, 2023. He said this presentation will (1) Provide scope overview of the North Carolina Department of Transportation's upcoming I-26 Connector Project; (2) Provide an update on mitigation strategies associated with Burton Street's Environmental Justice designation; and (3) Provide an update regarding the Aesthetics Committee recommendations specific to the Hillcrest and Montford communities. Using a map of the I-26 connector Project Sections B & D, he gave the background as follows: (1) Section B begins south of the Haywood Road bridge and ends at US 19-23 (Future I-26) near Broadway Street; (2) Section D (Riverside Drive) begins south of Hill Street and ends at Broadway Street; (3) Both sections will be delivered using the Design-Build method; (4) The Design-Build selection process is ongoing and three teams have been shortlisted to compete; (5) The Design-Build award date has moved from October 2023 to February 2024 in order to give the competing teams more time to prepare their proposals; and (6) It is anticipated that Sections B & D will take 6 to 7 years to complete.

Mr. Putnam said that regarding the Burton Street neighborhood, (1) NCDOT identified the Burton Street Community as an environmental justice population that could receive mitigation improvements to lessen the burden of the I-26 Connector Project - No other impacted communities in Asheville received an environmental justice designation; (2) NCDOT partnered with the City of Asheville and the Burton Street Community Association to identify specific environmental justice mitigation strategies through the 2018 Burton Street Neighborhood Plan - The 2018 Burton Street Neighborhood Plan was adopted by City Council on October 23, 2018; (3) NCDOT and City staff have been meeting monthly with Burton Street Community Association leadership to discuss I-26 mitigation strategies since August 2019; and (4) The Burton Street Community Association submitted an additional improvement request to NCDOT (a) If the 2018 Burton Street Neighborhood Plan is amended, NCDOT has determined that the Burton Street neighborhood would no longer be eligible for the environmental justice designation and associated improvements based on current demographics; (b) Any additional enhancements in Burton Street would need to follow the City's typical budget development and review process; and (c) The Burton Street Community Association also inquired about the federal Justice40 disadvantaged community designation, NCDOT has confirmed that Burton Street does not meet the Justice40 eligibility criteria. Burton Street mitigation strategies include (1) The Aesthetics Committee did not make specific recommendations for Burton Street because mitigation strategies were addressed in the 2018 Burton Street Neighborhood Plan - The recommended aesthetics improvements to the Haywood Road bridge will benefit the Burton Street neighborhood as well as West Asheville; and (2) 27 mitigation strategies were identified in the 2018 Burton Street Neighborhood Plan that included commitments for both NCDOT and the City - (a) The status of key commitments is identified on subsequent slides; and (b) The majority of mitigation strategies will be implemented during the overall construction phase of Sections B & D. NCDOT responsibilities for the Burton Street mitigation strategies include (1) Improve existing sidewalks to meet ADA design standards (a) The ADA improvements have been identified and cost estimates have been prepared; and (b) This work will be accomplished with a separate contract in order to provide opportunities for smaller companies to participate; (2) Improve sidewalk connections between commercial corridors and include a pedestrian path from Buffalo Street to Patton Avenue that would connect to a future greenway (a) A preliminary alignment and cost estimate has been prepared for the pedestrian path; and (b) This work will be accomplished with a separate contract in order to provide opportunities for smaller companies to participate; (3) Install a sidewalk along Patton Avenue to connect a new pedestrian path to an existing transit stop - A multi-use path along the south side of Patton Avenue is included in the preliminary project design for Section B; and (4) Incorporate a Burton Street history mural on proposed I-26 connector sound wall if one is constructed (a) Once a final determination is made as part of the design process that Burton Street would benefit from a sound wall, it will only be constructed following a vote from impacted residents; and (b) If a wall is constructed, the mural will be painted on a section of the sound wall as part of the landscaping contract after the construction phase. The City's responsibilities in the Burton Street mitigation strategies include (1) Expand Burton Street Community Center programming to enhance the community garden programming through

produce processing and preservation, nutrition education, and a community farmers market/stand (a) There is ongoing discussion at the monthly meetings including staff from the Parks & Recreation Department regarding community garden programming and (b) Community garden enhancements will be considered for City funding during project construction; (2) Conduct a feasibility study to consider a future Smith Mill Creek Greenway through the Burton Street neighborhood - Funding for the feasibility study will be requested by the Transportation Department for a future year in the 5-year Capital Improvement Program; and (3) Implement traffic calming measures on Burton Street and Florida Avenue including improved speed humps and consistent speed limits throughout the neighborhood - A traffic calming project to remove the existing speed humps and install new speed humps on Burton Street and Florida Avenue was completed in December 2021. Hillcrest Neighborhood mitigation strategies include the Aesthetics Committee and NCDOT agreed upon the following items impacting Hillcrest, which will be incorporated into the final design of the I-26 Connector Project (1) Pedestrian connectivity and access will be improved with a new sidewalk from the entrance of the Hillcrest neighborhood to Patton Avenue including pedestrian signals and crosswalks at the intersection of Patton Avenue and the Hillcrest Connector street; and (2) A new pedestrian bridge adjacent to the entrance to the Hillcrest neighborhood will provide access to Hill Street (a) Aesthetic treatments and lighting will be included on the new pedestrian bridge. And, Montford (Riverside Cemetery) mitigation strategies include that the Aesthetics Committee and NCDOT agreed upon the following items impacting Montford, which will be incorporated into the final design of the I-26 Connector Project (1) The travel lanes adjacent to the cemetery have been lowered eliminating the need for a retaining wall; (2) Pre-construction surveys will be completed and continual monitoring on key monuments will occur throughout the construction phase; (3) New fencing will be installed that matches the existing fencing at the cemetery; (4) Possible tree planting in the right-of-way will be considered depending on the final design; and (5) Construction noise will be limited during funerals.

Mr. Putnam responded to various questions/comments from Council, some being, but are not limited to: the timeline of the projects; what was the engagement with the hillcrest neighborhood and association; and was the 2018 Burton Street Neighborhood Plan and the 2010 Burton Street Neighborhood Plan used to develop mitigation strategies, and if not, why.

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

##### **A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE SOUTH SLOPE: A SOUTHSIDE NEIGHBORHOOD VISION PLAN**

Vice-Mayor Kilgore moved to continue this public hearing until October 24, 2023. This motion was seconded by Councilwoman Ullman and carried unanimously.

##### **B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF 509 BILTMORE AVENUE FOR THE PURPOSE OF INCREASING THE AMOUNT OF ALLOWED SIGNAGE**

##### **ORDINANCE NO. 5027 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF 509 BILTMORE AVENUE FOR THE PURPOSE OF INCREASING THE AMOUNT OF ALLOWED SIGNAGE**

Principal Planner Will Palmquist said that this is the consideration of an ordinance to amend the conditional zoning of 509 Biltmore Avenue for the purpose of increasing the amount of allowed signage. This public hearing was advertised on July 14 and 21, 2023.

#### **Project Location and Contacts:**

- The project site totals 32.6 acres located at 509 Biltmore Ave (PINs 9648-43-7691,

- 9648-44-5476, 9648-43-3912, and 9648-53-0061).
- Owner: MH Mission Hospital LLLP

**Summary of Petition:**

Project Site

- The project site consists of four properties totalling 32.6 acres located at 509 Biltmore Ave and are identified in the Buncombe County land records as PINs 9648-43-7691, 9648-44-5476, 9648-43-3912, and 9648-53-0061.
- The project site is the location of Mission Hospital.
- The site is currently zoned Institutional - Conditional Zone (INST-CZ) and the existing signage is approved under Ord. No. 3944 adopted on January 25, 2011.
- The applicant is seeking an amendment to the conditional zoning in order to increase the number and square footage of signage that was approved under the original conditional use permit.
- The Living Asheville Comprehensive Plan designates the Future Land Use of the project site as “Employment / Anchor Institution”.
- A change in the FLU designation will not be required.

Overall Project Proposal

- The project is seeking approval for the installation of a total of 41 signs throughout the Mission Hospital campus.
- Of these 41 signs, 32 are existing and 9 are new proposed signs.
- The signs are a variety of types, including monument, wall, and directional signage.
- The total square footage of the signage is 1,380 s.f., with 973 s.f. of existing signage and 407 s.f. of new, proposed signage.
- The existing and proposed signage is summarized as follows:

<b>Type</b>	<b>Message</b>	<b>Quantity</b>	<b>Status</b>	<b>Location</b>	<b>Total s.f.</b>
Face Lit Logo / Letters	"Mission Hospital"	1	existing	CH-1	69
Illuminated Letters	"Emergency"	2	existing	CL-20, CL-21	166
Destination ID	Entrance Number	9	8 existing, 1 proposed	DID-24, 32, 34, 36, 42, 49, 50, 55,	140
Primary Directional	Directional Arrows	5	3 existing, 2 proposed	DIR-P-11, 17, 19, 42 58	152
Secondary Directional	Directional Arrows	7	5 existing, 2 proposed	DIR-S-26, 27, 28, 29, 30, 31, 31.1	154
Entrance Wall ID	Entrance Number	8	existing	EN-4, 5.1, 5.2, 6.1, 6.2, 6.3, 7.1, 7.2	152
Illuminated Icon	Various	5	1 existing, 4 proposed	ICON- 47, 75, 76, 77, 78	372
Monument Illument	"Emergency"	1	existing	MON-E-15	28
Monument Illument	"Mission Hospital"	1	existing	MON-F-16	66
Wall Sign	Directional Arrows	2	existing	WS-NI-37, 39	84

**Consistency with the Comprehensive Plan and Other Plans:**

Living Asheville Comprehensive Plan (2018)

- The proposed amendment to the conditional zoning supports a number of goals in the Living Asheville Comprehensive Plan, including:
  - **Make Streets More Walkable, Comfortable and Connected** - by improving wayfinding signage for pedestrians and bicyclists.
  - **Provide Resources to Connect Businesses and Workforce** - by working with colleges, institutions and local hospitals to deliver contextually-sensitive design and development decisions as those institutions expand
- The proposed amendment is compatible with the Future Land Use designation of “Employment / Anchor Institution” which is proposed, in part, as “a type of campus district named for the often large land parcel areas with more or less a single cluster of uses and activities. These areas include the hospital/medical campus of Mission Health’..

**Council Goal(s):**

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

**Committee(s):**

- Planning & Zoning Commission (PZC) - June 7, 2023 - approved (Vote 5:0).

**Staff Recommendation:**

- Staff recommends approval of this conditional zoning amendment request based on the reasons stated above.

Mr. Palmquist reviewed the existing zoning, the aerial imagery and the future land use map. He then reviewed the master sign plan, outlining the type of sign, message, quantity, status, location and total square feet. . He then explained how the project was consistent with the Living Asheville Comprehensive Plan. The Planning & Zoning Commission voted unanimously to approve the project with conditions. Conditions include that the existing conditional use permit (Ordinance No. 3339) shall remain in effect with the following additional provisions: (1) total signage for the site shall not exceed 41 individual signs; (2) total signage area not to exceed 1,500 square feet; and (3) sign design and location to substantially conform to the Master Signage Plan. He said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed amendment to the conditional zoning.

In response to Councilwoman Roney, Mr. Palmquist said that there is some flexibility in the signs for future multimodal transportation options.

Mayor Manheimer opened the public hearing at 5:48 p.m., and when no one spoke, she closed the public hearing at 5:48 p.m.

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

Councilwoman Ullman moved to approve the amendment to the conditional zoning amendment request for the property located at 509 Biltmore Ave, zoned Institutional - Conditional Zone (INST-CZ), for the allowance of additional signage beyond the previous approved amount, 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) improves wayfinding signage for pedestrians and bicyclists; and, 2) connects businesses and the workforce by working with local hospitals to deliver contextually-sensitive design and

development decisions. This motion was seconded by Councilwoman Smith and carried unanimously.

**ORDINANCE BOOK NO. 35 – PAGE 16**

**C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE ALLOWED USES TABLE TO BRING ALL THE USES AND THE LAND USE IMPACT TABLE INTO ONE CENTRAL UNIFIED TABLE**

**ORDINANCE NO. 5028 - ORDINANCE TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE ALLOWED USES TABLE TO BRING ALL THE USES AND THE LAND USE IMPACT TABLE INTO ONE CENTRAL UNIFIED TABLE**

Urban Planner Clay Mitchell said that this is the consideration of an ordinance to amend the Unified Development Ordinance to establish a single unified table of permitted uses that merges several disparate tables in the Haywood Road Form Code, the River Arts District Form Code, as well as the Land Use Impact Table. This public hearing was advertised on July 14 and 21, 2023.

**Background:**

- The UDO currently has several disparate and separate locations where permitted uses, special conditions and expressly prohibited uses are located.
- Changes that occurred in these separate locations resulted in confusion over use definitions and terminology and increasing concerns regarding administration of the table of land use impacts - which govern changes in use and non-conforming rights.
- Creating a unified table of uses has been considered as part of several City staff amendment lists for years but has not been implemented to date.
- Following several internal meetings among Development Services and Planning and Urban Design, the project was initiated to complete the modification as a non-substantive formatting amendment to align all tables of uses into one central table.
- During the project, staff noted uses that were redundant or not defined.
- These uses were merged with existing defined uses to eliminate confusion.
- An additional minor change includes the addition of the use of Mobile Food Vending, to the Haywood Road Form Code.
- This change corrects an error in the original drafting of the table and has been consistently interpreted as applicable since the table's adoption pursuant to a formal zoning interpretation issued on October 1, 2014.

**Comprehensive Plan Consistency:**

- This proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* as a foundation for current and future UDO use and updating. Primarily, this update supports the theme "Resilient Economy". Although the amendment makes no substantive changes to the code, the following goals of the Future Land Use section are applicable to this zoning amendment:
  - Goal 19: Facilitate real estate development that maximizes public benefit. (Asheville Comprehensive Plan).
  - Goal 19 Strategies:
    - Ensure consistency in the enforcement of development regulations. (Id).
    - Update the land use plan periodically to ensure all necessary land use types are provided for.
  - "Provide greater land use predictability and transparency" with a more coherent UDO document for administration and use. (Asheville Comprehensive Plan).

- Create a logical framework for future zoning and development by ensuring that future substantive amendments are applied in a strategic and coherent fashion while avoiding piecemeal changes that can cause confusion.

**Council Goal(s):**

- *Improve/Expand Core Services.*

**Committees:**

- Planning & Zoning Commission: Informal Introduction: 050323, Formal Hearing: 060523 (continued to 062123), Formal Hearing: 062123 - Approved, 6:0 .

**Pros:**

- Improves the consistency, clarity and access to UDO for applicants, the public and staff.
- Supports the goals of the comprehensive plan aimed at providing greater predictability and transparency in Asheville's regulatory process.
- Supports the Council goal of *Improve/Expand Core Services.*
- Creates a single-point of access for all use related matters that avoids confusion for the public and staff alike.

**Cons:**

- N/A

**Staff Recommendation:**

- Staff recommends approval of this zoning text amendment request based on the reasons stated above.

Mr. Mitchell said the background and context is (1) Comprehensive UDO update is planned in the future; (2) Substantive changes deserve and require significant engagement; (3) Structural and maintenance updates are equally important; and (4) Changes can and should be undertaken if improvements to customer service and operations result. The Table of Use Unification Qualifies: (1) There are 4 separate existing tables; (2) There are 3 additional lists of uses; (3) Unification can occur without changing the substance of the UDO; (4) Unification improves consistency and access to our UDO for all; and (5) Staff were able to complete the project internally. Issues identified are (1) Separate tables of permitted uses and lists creates confusion for customers and landowners; (2) Separate tables has created redundancy and confusing subsequent amendments; (3) A single unified table promotes consistency; and (4) A single unified table allow for future changes to be more effective and efficient. The proposed changes are (1) The change expands the primary Table of Permitted Uses to be the only table of permitted uses in the UDO; (2) All uses and references to special standards for all districts will now be located in one table in a single section of the UDO; (3) The list of land use impacts by type, used when determining non-conforming use replaced, will now be located in this one unified table with similar format; and (4) All redundant tables, lists, and text will be eliminated in many sections of the UDO. The pros are (1) the amendment reduces redundancy and complexity while correcting formatting and typographical errors; (2) A new unified table provides easy access and understandability for property owners and customers; and (3) A single, unified table makes future amendments more efficient. No cons are noted. He then explained how the amendment complies with the Living Asheville Comprehensive Plan and the Council goal of improve/expand core services. Staff concurs with the Planning & Zoning Commission and recommends approval of the proposed zoning text amendment.

Councilwoman Roney was pleased that we have all the tables in one place for many reasons, and Mr. Mitchell confirmed to her that there are no changes in the lodging use.

Mayor Manheimer opened the public hearing at 5:56 p.m., and when no one spoke, she closed the public hearing at 5:56 p.m.

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

Vice-Mayor Kilgore moved to approve the proposed wording amendments to Chapter 7 of the Asheville Code of Ordinances and find that the proposed amendments are reasonable, are in the public interest, are consistent with the City's comprehensive plan and meet the development needs of the community in that the amendment will: 1) help promote transparency and clarity for all users of the UDO; 2) simplify future amendments related to uses, definitions, and applicability; and, 3) create a clear and coherent unified table of uses. This motion was seconded by Councilwoman Turner and carried unanimously.

## **ORDINANCE BOOK NO. 35 - PAGE 21**

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

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

##### **A. RESOLUTION NO. 23-173 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR A DEVELOPMENT LOCATED AT 46 ASTON STREET**

Affordable Housing Officer Sasha Vrtunski said this is the consideration delaying consideration of the land use grant application for Aston Flats LLC (46 Aston Street) until the land use incentive policy has been revised and addresses micro-apartments.

#### **Background:**

- Aston Flats LLC applied for a Land Use Incentive Grant (LUIG) for their micro-apartment development at 46 Aston Street in the fall of 2022.
- Due to the timing of committee meetings and holidays, the LUIG application was first considered by the Housing & Community Development Committee (HCD) in February 2023.
- Micro-apartments typically comprise 200-350 square feet.
- The current LUIG Policy does not address micro-apartment projects and the City has not developed any specific policies or practices for these types of units.
- After their initial review of the LUIG application for the project located at 46 Aston, HCD requested that the Affordable Housing Advisory Committee (AHAC) make a recommendation on how micro-apartments should be considered under the LUIG Policy.
- AHAC and staff are recommending delaying consideration of LUIG applications and awards for micro-apartment projects until the LUIG Policy is revised and includes clear standards for micro-apartment projects.
- HCD approved the recommendation to delay consideration of LUIG applications on May 16, 2023, with a 2-0 vote.
- On June 20, HCD approved the recommendation 2-1 to delay consideration of the application for the 46 Aston project until the LUIG Policy has been revised to include micro-apartments.
- On June 27, the Policy, Finance & HR Committee reviewed the application but did not take a vote on the 46 Aston Project.
- AHAC also recommended that if Council wanted to proceed with consideration of micro-unit applications, that developers should fully address all of the committee's concerns and commit to setting aside 50% of the affordable units for voucher holders.
- AHAC's specific concerns included:



- Whether the incentive should be adjusted to account for the smaller unit size.
- The demand for smaller unit size, limited kitchen/shared kitchens among those people seeking affordable housing.
- Whether micro-housing projects need subsidies in order to be built.
- Micro-apartments meeting qualifications for vouchers of the issuing agency (HUD, VA, etc.) and the applicable rent payment standards.
- Staff and the developer have verified that these units will meet the requirements for voucher units. The other concerns expressed by AHAC remain unaddressed.
- Council voted on June 27, 2023 to suspend LUIG applications for micro-apartment projects until the LUIG Policy is updated.

**Review:**

- A LUIG application has been submitted for 46 Aston Street per the LUIG Policy as updated and adopted by City Council on June 22, 2021.
- The development consists of 231 rental micro-apartments and community space. These units are expected to be between 200-350 square feet.
- Housing represents 100% of all rentable square footage.
- Of the 231 proposed residential units, 47 rental apartments (20%) will be affordable, serving individuals and families earning at or below 80% of the Area Median Income (AMI). The affordability period will be 21 years to match the 21 year grant period.
- The project encompasses one parcel on Aston Street in the Central Business District. Currently the parcel is .64 acre (PIN 9648-39-6557) with an existing building on it. The building will remain and two new parcels will be created totalling .47 acre.
- Estimated Tax Value of the property is \$24 million post-completion.
- The project, as presented to staff, meets the following Eligibility Requirements:
  - The proposed development consists of two or more dwelling units for rent;
  - At least 20% of the units will meet the affordability standards set by the City of Asheville for households earning at or below 80% of the Area Median Income (AMI).
  - The affordable units will be affordable to and leased to income-eligible households for at least 20 years.
  - The proposed development is located inside the city limits.
  - The proposed development provides residents convenient access to jobs, schools, and services.
  - The proposed development is over the 70% residential threshold in use based on square footage not to include a parking structure if applicable.
- Per the LUIG Scoring Matrix and based upon the policy, the project will receive 20 total points for affordability, 10 points for rental assistance, 50 points for the location, 15 points for energy efficiency, 10 points for Universal Design, for a total score of 105 points. Per the policy, this will equal 21 years of grants in the amount of the City Property Taxes payable on the 46 Aston Street Development.
- 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 Housing Choice vouchers are utilized, this also opens up a unit in Public Housing where there are waiting lists.
- All units in the project will be micro-units.

**Proposal:**

- Affordable Rental Housing
  - The proposed project will provide forty-seven (47) affordable units (20% of the total units) to individuals and families earning at or below 80% AMI, with 23 (50% of the affordable units) accepting rental assistance, for an affordability period of twenty-one (21) years. Under this category, the project qualifies for 20 points.
- Rental Assistance

- The proposed project will accept 24 Housing Choice Vouchers / Rental Assistance in the community, and possibly consider more. The proposed project will house one person from the Homeless By-Name List for 5 points. Under this category, the project qualifies for 15 points.
- Locational Efficiency
  - The proposed project is located in the Central Business District (30 points), within a ¼ mile of a 30-minute transit stop (10 points), within 1 mile from a job or urban center (downtown, hospital district) (5 points), and within a .5 mile from a Transportation Amenity (schools, Transit Center) (5 points). Under this category, the project qualifies for 50 points.
- Energy Efficiency
  - The developer has committed to using Energy Efficiency (EE) / Energy Star Certification and green building certification. Under this category, the project qualifies for 15 points.
- Universal Design: The project has committed to using Universal Design for 20% of the units, which qualifies for 10 points.
- Staff has scored the project with 105 points.

### **Analysis**

- Delaying the decision about a LUIG for 46 Aston is not a reflection of the overall quality of the project. This project will provide housing in a central location where residents can access many services and jobs without having to own a car.
- LUIGs are intended to subsidize the affordability of a portion of the units, not to enable a project to be built.
- In response to AHAC's concerns, the following have been addressed:
  - The developer has confirmed with the Housing Authority and the Veteran's Administration that the units will qualify for voucher use.
  - According to the HUD Voucher Handbook on Special Unit types, these units are not categorized as Single Room Occupancy, so they are categorized as efficiencies or studios instead.
- Several of the concerns raised by AHAC remain unaddressed:
  - The market demand for these units by people who need affordable housing is untested.
  - It is uncertain as to whether subsidies are needed for the rents to be affordable or if the market price itself will fall within affordable rates.
  - It is not clear in the policy as to whether the incentives should be of a lower amount due to the smaller units sizes.
- A previous micro-unit project, 217 Hilliard, was approved in 2022 for a LUIG with the same developer. At the time Staff and HCD did not raise concerns regarding providing a subsidy for these types of units, with a total of 80 units, and 16 affordable units, for a total subsidy cost of \$592,790.
  - The developer has delayed construction due to rising costs, but is working to get it underway in the near future.
  - The Hilliard project was taken through the LUIG process in June 2022 and there have been 4 standard-unit LUIGs approved since then.
  - Overall, the increased number of total LUIG approvals and the larger subsidy being requested here, combined with the lack of clarity around the role of subsidies for micro-units have created questions for both staff and AHAC about LUIG and micro-apartments.

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

- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**

- Housing & Community Development Committee - June 20, 2023 - approved the recommendation 2-1 to delay consideration of the application for the 46 Aston project until the LUIG Policy has been revised to include micro-apartments.
- Policy, Finance & HR Committee - June 27, 2023 - declined to vote on the project. There were two members present and no consensus on the vote.

**Pro(s):**

- The LUIG Policy was not developed with this type of development in mind and does not address some of the issues it brings up, like smaller units, limited kitchens and the amount of the incentive granted.
- Delaying consideration of this LUIG will give time for the LUIG Policy to be revised in a more holistic way and give City Council more information to consider about these types of projects.
- With more time, input and also expertise from our Affordable Housing Plan consultants (starting in August/September), the City can more carefully consider how scarce City resources are being spent on affordable housing subsidies and what types of subsidies are the highest priority.
- Approving the staff recommendation will be in line with the Council action on June 27, 2023 to suspend consideration of LUIG micro-apartment applications until the policy is reviewed.

**Con(s):**

- A delay in a decision about the LUIG for 46 Aston will compromise certainty for the developer around subsidies for the affordable units.

**Fiscal Impact:**

- Approval of the staff recommendation to delay consideration and approval of this application has no fiscal impact.
- If HCD and City Council approves the application, the fiscal impact is as follows:
  - The two parcels totalling .47 acre that will be created have a current tax value estimated at \$921,273 and pays city property taxes of approximately \$3,173 annually.
  - Under the estimated tax value of \$24 million post-completion, the annual city property tax will be approximately \$96,720.
  - For 21 years and 47 affordable units at or below 80% AMI, the City will grant back a total of \$1,953,152 which equals \$41,566 per unit of subsidy which is lower than the estimate of up to \$80,000 in subsidy for 80% AMI homes as noted in Council Work Sessions and a subsidy cap noted in the LUIG Policy.
  - After year 21, the City will receive the approximate \$96,720 annually in city tax revenue (depending on future property tax increases, etc.). Please note the City will still receive property taxes of approximately \$3,173 per year in years 1 -21.
  - Land Use Incentive Grant payments are planned as part of the annual budget process.

**Staff Recommendation**

- Staff recommends that City Council delay consideration of the application for the Land Use Incentive Grant application for Aston Flats LLC / 46 Aston Street until the LUIG Policy has been revised and addresses micro-apartments.

Ms. Vrtunski said the key takeaways from this presentation are (1) Land Use Incentive Grant (LUIG) application for a micro-apartment project at 46 Aston includes 47 units (20%) to be affordable for 21 years at 80% or below (total of 231 units) with a total grant of \$1,953,152; (2) The current LUIG Policy does not address micro-apartment projects; (3) Council voted 6-0 on

June 27 to temporarily pause consideration of LUIG applications for micro-apartment projects until the LUIG Policy is revised; (4) Staff recommends that City Council delay consideration of the LUIG application for 46 Aston Street until the policy has been revised; (5) On June 20, HCD voted 2-1 to delay consideration of the application for 46 Aston Street micro-apartments until the policy is revised; and (6) The LUIG Policy will be revised as part of the Affordable Housing Plan update in Fiscal Year 2024 - The contract to select a vendor for this project is also being considered at the July 25 Council meeting. The background is as follows: (1) February 2022: City Council approved a LUIG for 217 Hilliard, a micro-apartment project. The project had a total of 80 units, with 16 affordable at 80% AMI for 20 years. The total incentive grant is \$592,790. To-date, the project has not completed the necessary permitting for construction (a) The LUIG Policy is technically silent on micro-units; and (b) When reviewing this application, staff saw benefit in using 217 Hilliard as a pilot because of the relatively small grant size (\$29,640 per year for 20 years) - The total grant for 217 Hilliard was \$592,790 compared to the proposed \$1,953,152 grant for 46 Aston; (2) September 2022: Aston Flats LLC applied for a LUIG for their development at 46 Aston Street. Because of committee timing and holidays, the request was heard by HCD in February 2023; (3) February 2023: HCD reviewed the application and the Committee requested that AHAC review the *LUIG Policy in regards to micro-unit requests* (not the project itself); (4) March and April 2023: AHAC discussed the LUIG Policy and considerations related to micro-units; (5) May 2023: AHAC voted 12-0 recommending the delay in consideration of LUIG applications and awards for micro-apartment projects until the policy is revised and includes clear standards for micro-apartment projects (a) AHAC also recommended that if Council wanted to proceed with consideration of micro-apartment applications, that developers should fully address their concerns and commit to setting aside 50% of the affordable units for voucher holders. AHAC's concerns included: (i) Whether the incentive should be adjusted to account for the smaller unit size; (ii) The demand for smaller unit size, limited kitchen/shared kitchens among those people seeking affordable housing; (iii) Whether micro-housing projects need subsidies in order to be built.; and (iv) Micro apartments meeting qualifications for vouchers of the issuing agency (HUD, VA, etc) and the applicable rent payment standards; (6) May 2023: In alignment with staff and AHAC's recommendation, HCD recommended delaying consideration of LUIG micro-apartment applications (2-0 vote); and (7) June 2023: Council voted 6-0 to delay consideration of LUIG applications for micro-apartment projects until the LUIG Policy is updated. The timeline for LUIG Policy review has not yet been determined with the Affordable Housing Plan Consultant. Staff has communicated that this item is top priority in the planning process. She then gave the project background of 46 Aston Street as follows: (1) The development consists of 231 apartments and community space on .47 acres of land at 46 Aston Street; (2) Housing represents 100% of all rentable square footage; (3) Of the 231 residential units, 47 rental apartments (20%) will be affordable, serving households earning at or below 80% of the Area Median Income (AMI) for a minimum of 21 years (affordability period matches the grant term); (4) The developer estimates a taxable value after construction at \$24 million; (5) All units in the proposed development are microunits/studios; and (6) As proposed, the total grant would be \$1,953,152 or \$93,007 per year at a subsidy of \$41,566 per year. Policy considerations for 46 Aston Street include (1) Delaying the decision about a Land Use Incentive Grant for 46 Aston is not a reflection of the overall quality of the project. This project will provide housing in a central location where residents can access many services and jobs without having to own a car; (2) The following concerns expressed by AHAC have been addressed: (a) The developer has confirmed with the Housing Authority and the Veteran's Administration that the units will qualify for voucher use; (b) According to the HUD Voucher Handbook on Special Unit types, these units are not categorized as Single Room Occupancy, so they are categorized as efficiencies or studios instead; and (c) The developer committed to set aside all 47 affordable units for voucher holders; (3) Several of the concerns raised by AHAC remain unaddressed: (a) The market demand for these units by people who need affordable housing has not yet been proven in the community; (b) Confirmation on the need for subsidies in order to ensure affordable rents; (c) The role of the LUIG program is to subsidize the affordability of a portion of the units, not to enable a project to be built; and (d) Clarification on if incentive amounts should be lower to account for smaller unit

sizes; (4) June 2023: HCD reviewed the project and voted 2-1 in favor of staff's recommendation to delay consideration of this application until the LUIG Policy is updated; and (5) June 2023: The Policy, Finance & HR Committee declined to take action on the application. She then showed an aerial view of the property. Pros include (1) Delaying consideration of this LUIG will give time for the policy to be revised in a more holistic way and give City Council more information to consider about these types of projects, including input from the Affordable Housing Plan consultants (starting in August/September); and (2) Approving the staff recommendation will be in line with the Council action on June 27, 2023 to suspend consideration of LUIG micro-apartment applications until the policy is reviewed. Cons are (1) A delay in a decision about the LUIG for 46 Aston will compromise certainty for the developer around subsidies for the affordable units; and (2) Because the LUIG Policy does not currently address this type of project, staff recommends that City Council delay consideration of the application for the Land Use Incentive Grant application for Aston Flats LLC / 46 Aston Street until the LUIG Policy has been revised and addresses micro-apartments. Because the LUIG Policy does not currently address this type of project, staff recommends that City Council delay consideration of the application for the LUIG application for Aston Flats LLC / 46 Aston Street until the LUIG policy has been revised and addresses micro-apartments.

There was discussion on whether the incentive should be lowered to account for smaller unit sizes and request that the consultant working on the revisions to the LUIG policy address this question, and the market demand for these units.

Councilwoman Mosley moved to delay the LUIG application for Aston Flats LLC for 46 Aston Street until after the LUIG policy is revised. This motion was seconded by Councilwoman Smith.

David Moritz, developer of this project and the 217 Hilliard project, and Barry Bailik both spoke in support of moving forward with approving the LUIG application.

Mayor Manheimer, Vice-Mayor Kilgore, Councilwoman Turner Councilwoman Ullman all spoke in support of moving forward with the application request, for various reasons, some being, but are not limited to: the length of time the LUIG policy will take to be revised; the length of time this particular application has been waiting for a decision; the risk of this project not being constructed due to finances; and need to move forward with this dense housing downtown.

In response to Councilwoman Roney, Mr. Moritz explained they do have financing for the first project (217 Hilliard). He explained they still have support of their vendor and are now negotiating with two local contractors.

The motion made by Councilwoman Mosley and seconded by Councilwoman Smith to delay consideration of the LUIG application failed on a 3-4 vote, with Mayor Manheimer, Vice-Mayor Kilgore, Councilwoman Turner and Councilwoman Ullman voting "no."

Councilwoman Turner moved to amend the agenda to add consideration of a resolution to approve LUIG application for Aston Flats LLC for 46 Aston Street. This motion was seconded by Councilwoman Ullman and carried on a 6-1 vote, with Councilwoman Mosley voting "no."

When Mayor Manheimer asked for public comment at this time, she received none.

Councilwoman Roney would support the application moving forward because she heard that there will be vouchers set aside and she wanted to be consistent in seeking voucher units. And, this being close to transportation is a plus because that is a big part of affordability in our community.

Councilwoman Turner moved to approve the LUIG application for Aston Flats LLC for 46 Aston Street. This motion was seconded by Councilwoman Ullman and carried on a 5-2 vote, with Councilwoman Mosley and Councilwoman Smith voting “no.

**RESOLUTION BOOK NO. 44 - PAGE 171**

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: quality of life issues; 1900 white supremacy; murder by our youth in the community; and information about a new not-for-profit organization called SUSTAINAVL.

Councilwoman Turner gave a brief update on the Sports Commission, noting that they have developed a task force to explore the mission statement, by-laws, and organizational structure to come up with alternatives. They will keep everyone updated.

**Closed Session**

At 6:58 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); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, the handling or settlement of claims. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of individual public officers or employees. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6). This motion was seconded by Councilwoman Roney and carried unanimously.

At 9:19 p.m., Councilwoman Turner moved to come out of closed session. This motion was seconded by Councilwoman Ullman and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 9:19 p.m.

---

CITY CLERK

---

MAYOR