

Thursday – October 19, 2023 - 11:00 a.m.

Agenda Briefing Worksession - For October 24, 2023 Council Meeting

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

City Council held an agenda briefing worksession to discuss the upcoming and future agenda items. In addition, the 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:

- Code Purple and Short Term Shelter Strategy
- ARPA Funding

At 1:11 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – October 24, 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 the City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 2023 AS “SISTER CITIES MONTH”

Mayor Manheimer read the proclamation proclaiming October, 2023, as "Sister Cities Month " in the City of Asheville. She presented the proclamation to Allison Weems, who briefed the City Council on some activities taking place during the month..

II. CONSENT AGENDA:

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

A. APPROVAL OF THE COMBINED MINUTES OF THE AGENDA BRIEFING WORKSESSION HELD ON OCTOBER 5, 2023, AND THE FORMAL MEETING HELD ON OCTOBER 10, 2023

B. RESOLUTION NO. 23-231 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CDM SMITH INC. TO PROVIDE ENGINEERING DESIGN AND CONSTRUCTION ADMINISTRATION

SERVICES FOR THE REPLACEMENT OF APPROXIMATELY 26,000 FEET OF WATERLINES THROUGHOUT VARIOUS NEIGHBORHOODS WITHIN THE CITY OF ASHEVILLE WATER RESOURCES' SERVICE AREA

Action Requested: Adoption of a resolution authorizing the City Manager to sign a contract with CDM Smith Inc. for engineering services in the amount of \$1,051,100.00 for the Neighborhood Enhancement Waterline Replacement Projects Area 8.

Background:

- The Water Resources Department has prioritized this waterline replacement project for the current fiscal year and is seeking engineering design and project management assistance for this project.
- The project will replace approximately 25,800 linear feet of existing substandard and failing water lines in favor of predominantly 6-inch and 8- inch ductile iron water lines and appurtenances designed and constructed in accordance with the City of Asheville standards.
- The waterlines prioritized for replacement as part of the Neighborhood Enhancement Projects Area 8 are within and along the following various neighborhoods and streets; Arbutus Rd, Deanwood Cir, Forest St, Ardmore St, Donna Drive, Euclid Pkwy, Avon Pkwy, Saint Charles Pl, Greenlee Ave, Roosevelt St, Moreview Dr, Iris St, Clinton Ave, Lane Ave, Meadowbrook Ave, Stewart St, Cordova St, Granada St, Haywood Rd, Wamboldt Ave, Success Ave, East Ln.

Vendor Outreach Efforts:

- Through a qualifications based selection process beginning in February of 2020 the City of Asheville selected four consulting firms to provide on-call professional services for Water Distribution and Storage Projects.
- CDM Smith Inc. was one of the selected firms due to their expertise in areas of water distribution projects, water system analysis and project development.
- The City of Asheville entered into a master agreement with CDM Smith Inc. on September 4, 2020 for on-call professional services for Water Distribution and Storage Projects, valid for three years and has been renewed for an additional year on September 4, 2023 with the option to renew for an additional year.
- If approved, the proposed engineering services described here will be developed into a subcontract under the conditions of the master agreement.
- City of Asheville Water Resources Staff determined that utilizing the on-call professional services for Water Distribution and Storage Projects was the best method to deliver this project and CDM Smith Inc. was specifically qualified to provide the required engineering services.
- No other vendor outreach was performed.

Council Goal(s):

- Improve/Expand Core Services
- A Financially Resilient City

Committee(s):

- None.

Pro(s):

- This project is aligned with the City and the Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- CDM Smith Inc. has successfully provided engineering services for other water system improvement projects.

- Their experience with our water system and expertise in water distribution projects will lead to a successful project with lesser negative impacts to customers and the City's water system.

Con(s):

- N/A

Fiscal Impact:

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

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a professional services contract with CDM Smith Inc. to provide engineering design services for a waterline replacement project known as Neighborhood Enhancement Projects Area 8 for an amount not to exceed \$1,051,100.00.

RESOLUTION BOOK NO. 44 - PAGE 271

C. RESOLUTION NO. 23-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH WASTE REDUCTION PARTNERS, WHICH IS ADMINISTERED BY THE LAND OF SKY REGIONAL COUNCIL, FOR THE PURPOSE OF PROMOTING CONSERVATION AND SUSTAINABILITY OF VITAL WATER RESOURCES

Action Requested: Adoption of a Resolution authorizing the City Manager to execute an Agreement for \$15,000 with the non-profit Waste Reduction Partners, which is administered by the Land of Sky Regional Council for the purpose of promoting conservation and sustainability of vital water resources.

Background:

- As part of the Water Resources Department effort to promote conservation and sustainability of vital water resources, the department offers no-cost water efficiency assessments for commercial, industrial and institutional customers.
- The objective for these water assessments is to help larger customers reduce water use where efficiencies can be improved, control costs and promote an efficient water use ethic for long term resource stewardship.
- For Fiscal Year 2023-24, the Waste Reduction Partners of the Land of Sky Regional Council plans to conduct four to eight water efficiency assessments for commercial, industrial, and/or institutional water customers under a contract agreement of \$15,000 with the City of Asheville Water Resources Department.

Vendor Outreach Efforts:

- N/A - The non-profit Waste Reduction Partners, which is administered by the Land of Sky Regional Council and is a partnership program of the NC Division of Environmental Assistance and Customer Service; and Land of Sky Regional Council, is a political subdivision of the State of North Carolina.

Council Goal(s):

- Improve/Expand Core Services; Neighborhood & Climate Resilience

Committee(s):

- N/A

Pro(s):

- The program is a customer service benefit sponsored by the City of Asheville's Water Resource Department to promote sound and efficient utilization of the city's water resources.

Con(s):

- N/A

Fiscal Impact:

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

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute an Agreement for \$15,000 with Waste Reduction Partners, which is administered by the Land of Sky Regional Council for the purpose of promoting conservation and sustainability of vital water resources.

RESOLUTION BOOK NO. 44- PAGE 272

D. RESOLUTION NO. 23-233 - RESOLUTION AUTHORIZING THE STANDARDIZED PURCHASE OF CNG STATION COMPONENTS AND SERVICES FOR THE CITY OF ASHEVILLE FUEL STATION FROM P.C. MCKENZIE, THE SOLE SUPPLIER OF INGERSOLL RAND CNG PARTS TO OUR REGION

Action Requested: Adoption of a resolution supporting the sole source procurement of Ingersoll Rand CNG parts and CNG Services from P.C. McKenzie Company.

Background:

- The City owns and operates a Compressed Natural Gas (CNG) Filling system at its Fuel Station for City and public use.
- Several components need replacement due to age to return the CNG System to safe and productive operating conditions.
- CNG components are manufactured by Ingersoll Rand.
- These parts are only available through authorized dealers.
- P.C McKenzie Company is the only distributor authorized to sell new equipment and parts, and provide warranty and repair services for Ingersoll Rand Brand CNG Components in our geographic area.
- Use of OEM (original equipment manufacturer) parts is recommended to maintain the equipment up to the manufacturer's standards.

Vendor Outreach Efforts:

- CNG components are manufactured by Ingersoll Rand.
- These parts are only available through authorized dealers.
- P.C McKenzie Company is the only distributor authorized to sell new equipment and parts, and provide warranty and repair services for Ingersoll Rand Brand CNG Components in our geographic area.

Council Goal(s):

- A Well-Planned and Livable Community

- A Clean and Healthy Environment

Committee(s):

- None

Pro(s):

- This resolution will allow the Fleet Division to efficiently purchase the parts required to repair and maintain the City's CNG Filling System at the City Fuel Station.
- Out-of-date components will be replaced to ensure safety of equipment and those who use it.

Con(s):

- None

Fiscal Impact:

- Staff estimate that \$60,000 will be spent in the current fiscal year.
- Funding for these purchases is available in the Public Works Department operating budget.

Motion:

- Motion to adopt a resolution approving the sole source procurement of Ingersoll Rand CNG Parts & Service from P.C. McKenzie Company.

RESOLUTION BOOK NO. 44 - PAGE 273

E. RESOLUTION NO. 23-234 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE SANCTUARY SERIES VOL. 2 ON NOVEMBER 3, 2023

Action Requested: Adoption of resolution to permit the possession and consumption of malt beverages and/or unfortified wine at Sanctuary Series Vol 2.

Background:

- N. C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on the public streets and on property owned, occupied or controlled by the City and to regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events.
- The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority; and that ordinance, codified as Section 11-11 in the Code of Ordinances of the City of Asheville, provides that the City Council may adopt a resolution making other provisions for the possession of malt beverages and/or unfortified wine at a special event or community festival.
- The following organization has requested that City Council permit them to serve beer and/or unfortified wine at it's event and allow for consumption its event:
 - Sanctuary Series Vol 2., to occur at 27 Church st. on November 3, 2023, from 4:00 p.m. - 10:00 p.m.
- Alcohol boundaries are defined as per the accompanying event site map.

Council Goal(s):

- This action has no direct connection with the City Council 2036 Vision.

Committee(s):

- None

Pro(s):

- Allows fundraising opportunities for the sponsoring nonprofit organization.

Con(s):

- None

Fiscal Impact:

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

Motion:

- Motion to adopt a resolution to permit the possession and consumption of malt beverages and/or unfortified wine at Sanctuary Series Vol 2.

RESOLUTION BOOK NO. 44 - PAGE 274

F. ORDINANCE NO. 5044 - BUDGET AMENDMENT FROM THE HARRAH'S CHEROKEE CENTER ASHEVILLE (HCCA) CAPITAL FUND TO THE HCCA ENTERPRISE FUND BALANCE FOR EXPENSES RELATED TO REPAIRS AND UPGRADES TO THE THOMAS WOLFE AUDITORIUM

Action Requested: Approval of a budget amendment to the HCCA Operating and Capital Funds in the amount of \$1,400,000 for expenses related to repairs and upgrades of the Thomas Wolfe Auditorium.

Background:

- In July of 2023, the Thomas Wolfe Auditorium (TWA) was temporarily closed to events due to a full system failure of the HVAC system in the stage and seating chamber areas of the facility.
- Immediate assessment and repairs were initiated, and contractor estimates are that the total cost of repairs needed to host events at full capacity is approximately \$1.4 million.
- The requested \$1.4M will be utilized to repair HVAC systems, design and install a catwalk and fall arrest system in the TWA attic.
- Some of this work has already commenced using available funding in the HCCA Capital Fund.
- The HCCA fund balance is currently estimated to have \$3.3M in available funds over the 16% of operating expenses fund balance policy target. Over \$1.9M will remain over the policy minimum with approval of this fund balance appropriation.

Council Goal(s):

- A Financially Resilient City

Committee(s):

- None - Asheville City Council Work Session 9/26
- Asheville Civic Center Commission - 10/3

Pro(s):

- Provides sufficient budget authorization for anticipated capital expenditures without requiring additional General Fund financial support for the HCCA.

Con(s):

- None

Fiscal Impact:

- The requested fund balance appropriation will reduce the HCCA Operating Fund fund balance as outlined above, but the fund will remain within its fund balance policy target.
- This funding will cover the cost of identified repairs already underway. Any available funds at the end of this project will be used towards a facility-wide upgrade project.

Motion:

- Motion to approve a budget amendment to the Thomas Wolfe Auditorium Renovation capital account in the amount of \$1,400,000 for expenses related to repairs and upgrades of the Thomas Wolfe Auditorium.

ORDINANCE BOOK NO. 35 - PAGE 106

G. RESOLUTION NO. 23-235 - RESOLUTION AUTHORIZING THE SALE OF ONE 2007 JOHN DEERE 624J LOADER WHICH IS BEYOND ITS USEFUL LIFE AND DEEMED SURPLUS

Action Requested: Approval of a resolution authorizing the sale of one (1) 2007 John Deere 624J Loader which is beyond its useful life and deemed surplus City personal property.

Background:

- The City's Sanitation Division of the Public Works Department identified one (1) loader as surplus personal property, with no anticipation of future utilization by the City.
- The 2007 John Deere 624J Loader is expected to sell for more than \$30,000.
- All bids are solicited through GovDeals online auction.
- Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at \$30,000 or more must be approved by the City Council.
- The City's Purchasing Manager has authority to dispose of personal property valued at less than \$30,000 by private negotiation and sale.

Vendor Outreach Efforts:

- Not Applicable

Council Goal(s):

- A Financially Resilient City

Committee(s):

- None

Pro(s):

- Prudent asset management
- Space utilization eliminates the need to store large, unused equipment
- Competitive process yielded market price

Con(s):

- None

Fiscal Impact:

- The vehicle is fully depreciated and the General Fund will recognize the entire amount as revenue.
- Estimated revenue from the sale of fixed assets is already budgeted in the General Fund.

Motion:

- Move to adopt a resolution authorizing the sale of one (1) 2007 John Deere 624J Loader which is beyond its useful life and deemed surplus City personal property.

RESOLUTION BOOK NO. 44 - PAGE 277

H. RESOLUTION NO. 23-236 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO ADMINISTER THEIR MATCHING CODE PURPLE FUNDING AND TO EXECUTE A FUNDING AGREEMENT WITH ASHEVILLE-BUNCOMBE COMMUNITY CHRISTIAN MINISTRY TO PROVIDE CODE PURPLE EMERGENCY SHELTER THIS WINTER

Action Requested: Adoption of a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to administer their matching Code Purple funding and to execute a funding agreement with Asheville Buncombe Community Christian Ministry in the amount of \$100,000 to provide Code Purple emergency shelter this winter.

Background:

- Code Purple is a longstanding community initiative begun by shelter providers to provide additional capacity with fewer requirements during extreme weather conditions to ensure safety and survival for people experiencing homelessness.
- In FY 2023-24, the City of Asheville has budgeted \$50,000 to support Code Purple operations.
- Buncombe County has requested that the City administer their matching budgeted funds for Code Purple and has initiated an interlocal agreement to that effect.
- City staff convened community partners to facilitate a planning process for the coming Code Purple season in partnership with the Homeless Coalition and the Homeless Initiative Advisory Committee (HIAC).
- Asheville Buncombe Community Christian Ministry (ABCCM) and Salvation Army will provide a combined 91 Code Purple beds, with overflow capacity available if needed.
- City staff published the opportunity to submit funding requests for City and County Code Purple funds and received one request from ABCCM in the amount of \$100,000.
- Salvation Army will be able to absorb Code Purple costs in their regular operating budget and therefore is not seeking public funds.
- The Funding Allocations Work Group reviewed ABCCM's request and recommended full funding to HIAC.
- At their October 12, 2023 meeting, HIAC approved ABCCM's funding request.
- Code Purple shelter will be available beginning October 15, 2023 through April 30, 2024 when the temperature is 32 or below, or 33-40 with precipitation.
- Code Purple events will be called by the Homeless Coalition.

Vendor Outreach Efforts:

- Funding opportunity was published on the City's website, announced at HIAC and in the Code Purple planning meetings, and distributed to community partners through the HIAC distribution list.

Council Goal(s):

- Quality Affordable Housing
- Connected and Engaged Community

Committee(s):

- Housing & Community Development Committee - October 17, 2023 - 3-0 approval to move to City Council
- Homeless Initiative Advisory Committee - unanimously voted to approve ABCCM's funding request at its October 12, 2023 meeting.

Pro(s):

- Provides essential, life-saving emergency shelter for people experiencing homelessness during extreme weather
- Facilitates funding partnership with Buncombe County and minimizes administrative burden on shelter provider

Con(s):

- None noted

Fiscal Impact:

- The revenue associated with this agreement was budgeted in the FY 2023-24 Adopted Budget.
- Funding for Code Purple sheltering is available in the Community & Economic Development operating budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an interlocal agreement with Buncombe County to administer their matching Code Purple funding and to execute a funding agreement with Asheville Buncombe Community Christian Ministry in the amount of \$100,000 to provide Code Purple emergency shelter this winter.

RESOLUTION BOOK NO. 44 - PAGE 278

I. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SUPPLEMENTAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO RELEASE TRANSPORTATION ALTERNATIVE GRANT FUNDS FOR CONSTRUCTING THE GREENWAY CONNECTORS PROJECT

BUDGET AMENDMENT FOR THE GREENWAY CONNECTOR PROJECT

After discussion, it was the consensus of City Council to continue these items until November 14, 2023, in order to give Council time to tour the routes being proposed in this request.

J. ORDINANCE NO. 5045 - ORDINANCE ENACTING SPEED LIMIT CHANGES ON THE FOLLOWING ROADS: PORTION OF SAND HILL ROAD, HOLT LANE, BANE BERRY COURT, SORREL COURT, PORTION OF DEARBORN STREET, PORTION OF AMBOY ROAD/MEADOW ROAD, WALTON STREET, PORTION OF MIDDLEBROOK DRIVE, PORTION OF PINCHOT DRIVE, PORTION OF LOUISIANA AVENUE AND PORTION OF ELKWOOD AVENUE

Action Requested: Adoption of an ordinance enacting (1) a 20 mph school zone speed limit on SR-3412 (Sand Hill Road) from a point 0.044 miles southwest of Pinewood Place to 0.049 miles north of Harnett Street, (2) a 20 mph speed limit on Holt Lane in its entirety and Baneberry Court

in its entirety and Sorrel Court in its entirety and Dearborn Street from East Schenck Crescent to Olmstead Drive, (3) a 25 mph speed limit on SR-3556 (Amboy Road/Meadow Road) from a point 0.15 miles west of Lyman Street to 0.041 miles south of Lyman Street and Walton Street in its entirety and Middlebrook Drive from New Haw Creek Road to Old Haw Creek Road and Pinchot Drive from Olmstead Drive to Overlook Road, and (4) a 30 mph speed limit on SR-1332 (Louisiana Avenue) from Haywood Road (U.S. 19-23 Business) to Patton Avenue (U.S. 19-23) and SR-1674 (Elkwood Avenue) from a point 0.012 miles north of Hickory Street (SR-1674) to Merrimon Avenue (U.S. 25).

Background:

- N.C. Gen. Stat. § 20-141 gives the City the authority to regulate speed limits within its corporate limits.
- City staff received requests from the public to consider changes to speed limits.
- SR-3412 (Sand Hill Road), SR-3556 (Amboy Road/Meadow Road), SR-1332 (Louisiana Avenue), and SR-1674 (Elkwood Avenue) are state maintained streets within the city limits.
- The N.C. Department of Transportation (NCDOT) conducted a traffic-engineering study and implemented a school speed limit of 20 mph on SR-3412 (Sand Hill Road).
- The NCDOT conducted a traffic-engineering study for SR-3556 (Amboy Road/Meadow Road) west and south of Lyman Street and determined that 25 mph would be a more appropriate speed limit.
- The NCDOT conducted a traffic-engineering study for SR-1332 (Louisiana Avenue) from Haywood Road to Patton Avenue and determined that 30 mph would be a more appropriate speed limit.
- The NCDOT conducted a traffic-engineering study for SR-1674 (Elkwood Avenue) from north of Hickory Street to Merrimon Avenue and determined that 30 mph would be a more appropriate speed limit.
- City staff performed appropriate traffic-engineering studies along seven streets: Holt Lane, Baneberry Court, Sorrel Court, Dearborn Street, Walton Street, Middlebrook Drive, and Pinchot Drive.
- The speed limit on the following streets will be set at 20 miles per hour:
 - Holt Lane in its entirety
 - Baneberry Court in its entirety
 - Sorrel Court in its entirety
 - Dearborn Street from East Schenck Crescent to Olmstead Drive
- The speed limit on the following streets will be set at 25 miles per hour:
 - Walton Street in its entirety
 - Middlebrook Drive from New Haw Creek Road to Old Haw Creek Road
 - Pinchot Drive from Olmstead Drive to Overlook Road
- The resident on Walton Street and the resident on Middlebrook Drive who expressed concerns about speed were contacted directly informing them of the recommended speed limits.
- The Biltmore Park Association requested more consistent speed limits throughout the neighborhood and were informed of the recommended speed limit changes on Pinchot Drive, Holt Lane, Baneberry Court, Sorrel Court, and Dearborn Street.
- The Asheville Police Department has reviewed the subject actions and they concur with them.
- Once the subject action is approved and prior to the installation of appropriate signs on the City-maintained streets, Transportation Department staff will coordinate outreach and public education with the Communication & Public Engagement Department (CAPE) and the Asheville Police Department.
- The NCDOT will install the appropriate signs on SR-3556 (Amboy Road/Meadow Road), SR-1332 (Louisiana Avenue), and SR-1674 (Elkwood Avenue).

Council Goal(s):

- Transportation and Accessibility.

Committee(s):

- MMTC - September 27, 2023 - Presented for information.

Pro(s):

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

Con(s):

- None

Fiscal Impact:

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

Motion:

- Motion to approve an ordinance enacting (1) a 20 mph school zone speed limit on SR-3412 (Sand Hill Road) from a point 0.044 miles southwest of Pinewood Place to 0.049 miles north of Harnett Street, (2) a 20 mph speed limit on Holt Lane in its entirety and Baneberry Court in its entirety and Sorrel Court in its entirety and Dearborn Street from East Schenck Crescent to Olmstead Drive, (3) a 25 mph speed limit on SR-3556 (Amboy Road/Meadow Road) from a point 0.15 miles west of Lyman Street to 0.041 miles south of Lyman Street and Walton Street in its entirety and Middlebrook Drive from New Haw Creek Road to Old Haw Creek Road and Pinchot Drive from Olmstead Drive to Overlook Road, and (4) a 30 mph speed limit on SR-1332 (Louisiana Avenue) from Haywood Road (U.S. 19-23 Business) to Patton Avenue (U.S. 19-23) and SR-1674 (Elkwood Avenue) from a point 0.012 miles north of Hickory Street (SR-1673) to Merrimon Avenue (U.S. 25).

ORDINANCE BOOK NO. 35 - PAGE 107

K. RESOLUTION NO. 23-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE MADISON COUNTY SHERIFF'S OFFICE FOR USE OF ASHEVILLE POLICE RADIO CHANNELS

Action Requested: Adoption of a resolution authorizing the City Manager to enter into an intergovernmental agreement with the Madison County Sheriff's Office for use of Asheville Police Radio Channels

Background:

- The requested action will establish an agreement that permits officers in the Madison County Sheriff's Office to access City of Asheville Police radio channels in the event of an emergency.
- The Sheriff's Office will not use these channels for daily communications; they will only be used in the event that they need to contact Asheville law enforcement.
- The City has similar agreements with most neighboring counties and law enforcement agencies.
- This agreement will automatically renew annually as long as both parties agree to continue the agreement.
- Information Technology Services manages all such agreements and their renewals.

Vendor Outreach Efforts:

- N/A

Council Goal(s):

- Improve/Expand Core Services

Committee(s):

- N/A

Pro(s):

- Improve communications with Asheville law enforcement in the event of a Madison County emergency that may cross counties or potentially impact Asheville law enforcement.

Con(s):

- N/A

Fiscal Impact:

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

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement with the Madison County Sheriff's Office for use of Asheville Police radio channels.

RESOLUTION BOOK NO. 44 - PAGE 279

L. RESOLUTION NO. 23-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE BRIGHTLY SOFTWARE CONTRACT TO EXTEND THE TERM OF THE CONTRACT FOR AN ADDITIONAL 2 YEARS OF SERVICE FOR THE CAPITAL PREDICTOR SOFTWARE

Action Requested: Adoption of a resolution authorizing the City Manager to execute an amendment to extend the existing Brightly Software contract for an additional two years to the Capital Predictor Software for an additional amount of \$42,067.55.

Background:

- In 2016, the City entered into an initial agreement with Dude Solutions for the City's facility maintenance work order and asset management software.
- Since the initial contract award, the company has grown and expanded its product offerings.
- Through this growth, the name of the company has also changed to Brightly Software, Inc.
- Brightly Software, Inc. continues to provide and maintain the original asset management software and in 2021 the City added their Energy Manager product to track carbon emissions.
- In 2022, additional investments in the system have been made with the purchase of a Capital Predictor tool.
- This service provided by Brightly Software Inc. was contracted through a Cooperative Purchasing group, Sourcewell which was competitively solicited.

- This system works with the asset management system, work order system, and the data collected from the Comprehensive Facility Study to forecast future capital needs and guide capital budgeting.
- The existing Brightly Software tools allow the City to maintain an accurate picture of building condition and performance.
- This software allows the City to be more proactive in future maintenance investments.
- Continuing with this contract is critical to ensuring continuity related to managing facility assets and ensuring that the other asset management platforms mentioned in this report remain functional.
- The change order is required in order to authorize the annual renewal payments for the next two years through the remainder of this contract. The initial authorization allowed for the purchase and the first year's licensing agreement.

Vendor Outreach Efforts:

- The change order is with the existing vendor.
- No additional outreach was performed because the Capital Predictor software is an add-on that is only available through Brightly which is the current software provider of the City's maintenance software.
- Brightly software was purchased in 2020 through the Sourcewell Cooperative Purchasing Agreement (Co-op). Sourcewell requires companies to submit documentation of their MWBE status.
- The contract under which this program was purchased lists the vendor as a certified MBE in the State of California. Subsequent company acquisitions have changed this status.

Council Goal(s):

- A financially resilient city, a clean and healthy environment, and a well-planned and livable community.

Committee(s):

- None

Pro(s):

- Provides the City with needed information regarding the current condition of its facilities, Long-term facility management, and will help in the prioritization and planning of future capital maintenance and investments in City facilities.

Con(s):

- None

Fiscal Impact:

- Funding for the first year of this contract is available in the Capital Projects Department operating budget. Future years will be planned for during the annual budget development process.

Motion:

- Motion authorizing the City Manager to execute an amendment to the existing contract with Brightly Software to extend the term of the contract for an additional 2 years of service of the Capital Predictor Software in the amount of \$42,067.55.

RESOLUTION BOOK NO. 44 - PAGE 280

M. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FRANK L. BLUM CONSTRUCTION COMPANY, IN ASSOCIATION WITH W.C. CONSTRUCTION COMPANY, FOR THE

MCCORMICK FIELD PRE-CONSTRUCTION SERVICES

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

- N. RESOLUTION NO. 23-240 - RESOLUTION AMENDING THE 2023 CITY COUNCIL MEETING SCHEDULE TO ADD WORKSESSIONS ON (1) NOVEMBER 14, 2023, AT 3:30 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL, TO DISCUSS THE COMPREHENSIVE FACILITIES STUDY - PHASE 2; AND (2) DECEMBER 12, 2023, AT 3:30 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL, TO DISCUSS THE FISCAL YEAR 2025 CAPITAL IMPROVEMENT PROGRAM PROCESS AND GENERAL OBLIGATION BOND PLANNING**

RESOLUTION BOOK NO. 44 - PAGE 282

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

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

Councilwoman Roney moved for the adoption of the Consent Agenda with the deletion of Consent Agenda Item "M" and the continuance of Consent Agenda Items "L 1 and 2". This motion was seconded by Councilwoman Ullman and carried unanimously.
ant - timeline and general explanation of what a CMA is for the purpose of this contract.

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

- M. RESOLUTION NO. 23-239 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FRANK L. BLUM CONSTRUCTION COMPANY, IN ASSOCIATION WITH W.C. CONSTRUCTION COMPANY, FOR THE MCCORMICK FIELD PRE-CONSTRUCTION SERVICES**

Action Requested: Adoption of a resolution authorizing the City Manager to enter into a contract with Frank L. Blum Construction Company, in association with W.C. Construction Company in the amount of \$92,435 for the McCormick Field pre-construction 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% (\$9,243).

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) approved the financial commitment funding model on July 26, 2023.
- In July 2023 City Council authorized a professional services contract with Ewing Cole, Inc. for the design of the McCormick Field Improvements.
- In July 2023, staff advertised a request for qualifications for Construction Manager at Risk (CMAR) services in accordance with N.C.G.S. 143-128.1
- Staff received six submittals from interested CMAR teams and a five member selection committee evaluated and ranked each team based on qualifications, project understanding and approach.
- The top two teams in the ranking were invited in to interview with the selection committee, where the selection committee again evaluated and ranked each team using the same criteria.
- The highest ranked team from this selection process was Frank L. Blum Construction Company (a North Carolina corporation), in association with W.C. Construction Company (a certified HUB North Carolina corporation).
- Staff negotiated the fee and scope for preconstruction services with Blum-WC Construction, as well as the general conditions and fee for future construction services.
- The preconstruction services in this agreement include close coordination with the design team and ownership group to carefully study and review preliminary design in terms of construction scheduling, sequencing, construction cost estimating, MWBE development and preparation of Guaranteed Maximum Price at the end of the design process.

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.
- The selected Blum-WC Construction team is structured as an association with WC Construction, a certified HUB firm having a 15% equity position on the team with limited risk exposure.
- Blum will not be requiring WC Construction to provide any portion of the bonding or insurances required for the team.
- For this preconstruction services contract, MWBE participation is 15%.
- For future construction phase services, Blum-WC has a longstanding commitment to maximize MWBE participation and regularly exceeds MWBE goals on all of their projects.
- Blum-WC Construction recognizes the importance that the City of Asheville places on utilizing minority-owned businesses and is committed to maximize opportunities for MBE participation.

Council Goal(s):

- A well planned and liveable community.

Committee(s):

- None

Pro(s):

- Provides for construction improvements on an asset with a demonstrated need for

- improvements.
- Provides construction scheduling and cost estimating services in advance of competitive bidding.
- Allows greater development and involvement by local and MWBE subcontractors using a CMAR delivery method.
- Utilizes grant and lease funding to maximize the local funding on a City owned asset.

Con(s):

- This phase of the work will not involve construction but ultimately this project, during construction, will have an impact on the adjacent communities.
- When under construction, this project will also have an impact on the activities that occur in this facility, in particular baseball.

Fiscal Impact:

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

Director of Community & Regional Entertainment Facilities Chris Corl and Capital Projects Director Jade Dundas responded to Councilwoman Mosley about her concerns about the selection process of the minority contractor and the timeline. Mr. Dundas did note that Mr. Carl Harris did offer to help with the interviews; however, they had conducted the interviews the day before.

Councilwoman Roney moved to authorize the City Manager to enter into a contract with Frank L. Blum Construction Company, in association with W.C. Construction Company for the McCormick Field pre-construction services, and further authorize the City Manager to execute any change orders that may arise during the project up to the contingency amount. This motion was seconded by Councilwoman Turner and carried on a 6-1 vote, with Councilwoman Mosley voting “no.”

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III. PRESENTATIONS & REPORTS:

A. MANAGER’S REPORT - FIRST QUARTER FISCAL YEAR 2024 FINANCIAL REPORT

Budget Manager Taylor Floyd said that the first quarter highlights are (1) Still early in the fiscal year, some data is not available yet; (2) Revenues are expected to meet or exceed budget; (3) Spending is occurring as expected; and (4) On the capital side of the budget, the last of the 2016 GO Bonds were issued in September.

Regarding the General Fund revenues, (1) Most property tax payments occur closer to when tax bills are due (January); (2) Only received one month of FY24 sales tax revenue (a) Jul 2023 sales tax revenues 1% over Jul 2022; and (b) FY23 sales tax revenues 6.2% over FY22; and (3) Economic uncertainty and interest rate increases will likely temper growth in the current fiscal year.

Regarding the Enterprise Fund revenues, (1) Thomas Wolfe closure will negatively impact Harrah’s Cherokee Center - Asheville Fund, but may still meet budgeted revenues for the fiscal year; and (2) Parking revenues are trending on budget.

Regarding personnel and operating expenses, (1) Actual expenses tracking budget as anticipated; and (2) Likely additional overtime costs in APD and AFD to maintain enhanced level of service currently provided downtown and in other areas of the city.

In response to Councilwoman Roney, City Manager Campbell said that further discussion regarding the water rates will be discussed during the December Policy, Finance and Human Resources Committee.

In response to Mayor Manheimer, Mr. Floyd said that the state does not provide the City with a breakdown of the sales tax revenue.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT 2020-24 CONSOLIDATED PLAN FOR FISCAL YEARS 2018-19, 2019-20, 2021-22 AND 2022-23, THAT WILL BE CARRIED OUT AS PART OF THE 2023-24 ANNUAL ACTION PLAN

RESOLUTION NO. 23-241 - RESOLUTION TO AMEND THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT 2020-24 CONSOLIDATED PLAN FOR FISCAL YEARS 2018-19, 2019-20, 2021-22 AND 2022-23, THAT WILL BE CARRIED OUT AS PART OF THE 2023-24 ANNUAL ACTION PLAN

Community Development Division Manager Dennis Newburn said that is the consideration of holding a public hearing and adoption of a resolution approve amendments to the 2020-2024 Consolidated Plan for activities that were funded for the following Fiscal Years: FY 2018-19, FY 2019-20, FY 2021-22, and FY 2022-23 to (1) allow Community Development Block Grant (CDBG) funding previously awarded to Helpmate, Inc. to additionally be used outside of the jurisdictional limits of the City of Asheville, but within Buncombe County; (2) to allow the unused amount of \$300,000 of Community Development Block Grant (CDBG) funding to be used for an accessibility improvement project at 108 Patton Avenue; and (3) to allow a previous award to Homeward Bound of WNC for FY 2021-22 HOME Tenant Based Rental Assistance (TBRA) program to include both Permanent Supportive Housing and Rapid Rehousing; and to authorize the City Manager to submit the amendments to the U.S. Department of Housing and Urban Development (HUD) and to sign all necessary documents to give effect to these Amendment requests. This public hearing was advertised on October 13, 2023.

Background: This public hearing and proposed amendments contain three key actions, as further described below.

CDBG Jurisdiction Change for Helpmate, Inc

- Previous Annual Action Plans have granted CDBG Housing Services funds to Helpmate, to support survivors of domestic violence (housing-related intake and case management) that receive HOME Tenant-Based Rental Assistance (TBRA). These two funding sources work together to provide comprehensive housing support for Helpmate clients.
- HOME funds can currently be used outside of the City of Asheville but CDBG, even those used in conjunction with HOME TBRA funds, must be used within Asheville City limits, per the City's 2020-2024 Consolidated Plan.
- Affordable housing options can be harder to find in City limits than in other parts of Buncombe County.
- In addition, survivors of domestic violence require more choices regarding their housing placement to ensure their ongoing safety.

- To reduce constraints that only using CDBG funds within City limits poses, City staff recommend that an amendment be made to the 2020-2024 Consolidated Plan such that CDBG Housing Services funds can be spent in Asheville City limits and also in areas of Buncombe County outside of Asheville City limits.

Homeward Bound Tenant-Based Rental Assistance (TBRA) Amendment

- Tenant-Based Rental Assistance is one of the most important tools used to end homelessness in our community and can be used for (1) Permanent Supportive Housing programs, like the recently completed Compass Point Village, where wrap-around services are provided alongside housing, and (2) Rapid Rehousing programs that do not include long-term supportive services, but focus on rental payments.
- Homeward Bound receives Tenant-Based Rental Assistance (TBRA) funding from the City of Asheville through the federal HOME and CDBG programs, though most of the funds are currently limited to Permanent Supportive Housing Programs.
- The agency has seen a diminishing number of chronically homeless individuals who need long-term housing services (Permanent Supportive Housing) and an increasing number of individuals experiencing episodes of homelessness who do not need long-term supportive services (Rapid Rehousing).
- Recent recommendations from the National Alliance to End Homelessness confirm this finding and point to a significant system gap in Rapid Rehousing capacity.
- Homeward Bound asked the City if an amendment could be made to expand the use of their existing HOME TBRA funds from Permanent Supportive Housing to include Rapid Rehousing to accommodate for these new needs and changes in the homeless population. City staff recommend support of this change.

CDBG Reallocation to 108 Patton Avenue Sidewalk and Accessibility Project

- The City of Asheville (COA) has \$300,000 in available CDBG funds that must be spent by April 2024 to meet HUD timeliness requirements. These funds come from previous years' (FY 2018-19 and FY 2019-20) contracts that have either expired or have unspent balances that have now been returned.
- Community Development staff met with multiple City departments to discuss projects in their capital plans that would meet HUD CDBG requirements.
- Projects that address Americans with Disabilities Act (ADA) accessibility concerns were prioritized, as these types of projects serve the target populations that CDBG regulations require.
- The Public Works Department had planned to improve sidewalks and curb ramps located in the vicinity of 108 Patton Avenue, using City funds allocated for FY 2023-24. This project was identified as the highest priority in the City's Greenways, Accessibility, and Pedestrians (GAP) Plan.
- This project was identified as the best fit for the reallocation of \$300,000 in CDBG funds, and construction can proceed as soon as the reallocation is approved.
- This action would reaffirm the City's commitment to the Americans with Disabilities Act by undertaking activities that will remove architectural barriers, achieve compliance with HUD's timeliness requirements, and assist with the preservation of City facilities.
- CDBG funds will be used to construct the sidewalk project at 108 Patton instead of General Funds. This will allow the Public Works Department to redirect those operational dollars to other critical sidewalk maintenance projects.

Vendor Outreach Efforts:

- N/A

Council Goal(s):

- Quality, Affordable Housing
- Clean, Safe, and Healthy Environment

- Well-planned and Livable Community
- An Equitable and Diverse Community

Committee(s):

- Asheville Regional Housing Consortium - July 6, 2023 - Approved Unanimously (Homeward Bound TBRA Amendment)
- Housing and Community Development Committee - August 21, 2023 - Approved, 2-1 (108 Patton)
- Housing and Community Development Committee - September 19, 2023 - Approved Unanimously (Helpmate Jurisdiction Change)

Pros:

- Concerning the Homeward Bound and Helpmate changes, these amendments will give greater flexibility and opportunity to serve the intended clientele and provide a greater chance for success.
- The proposal regarding the 108 Patton project allows for needed ADA improvements within a highly traveled corridor in downtown Asheville and is shovel-ready such that the City can achieve timely expenditure of funds.
- Additionally, all proposed amendments support the City's need to meet HUD's timeliness requirements for effective expenditure of federal funds.

Cons:

- None noted.

Fiscal Impact:

- All proposed amendments would enable the City to spend CDBG funds in a more timely manner and serve intended populations.
- CDBG funds will be used to construct the sidewalk project at 108 Patton Avenue instead of General Funds, allowing for those operational dollars to be redirected to other critical sidewalk maintenance projects.
- All proposed amendments involve the use of existing funds, with no request for additional City funding.

Community Development Division Manager Dennis Newburn said his presentation will be with the following key takeaways: (1) The City has a fiduciary responsibility to the U.S. Dept of Housing and Urban Development (HUD) to effectively manage Community Development Block Grant (CDBG) & HOME funds in order to create transformative impact in Asheville, and improve the lives of all residents, especially those with low-and moderate- income levels; (2) This public hearing brings forward three amendments to the City's 2020-2024 HUD Consolidated Plan: (a) Modifications to Helpmate's prior CDBG grant award; (b) Reallocation of non-public service CDBG funds for sidewalk and accessibility improvements at 108 Patton Avenue; and (c) Modifications to Homeward Bound's prior HOME award; and (3) These proposed changes are in direct response to improving timely performance and expenditure of federal funds (a) For Homeward Bound and Helpmate, these amendments will give greater flexibility and opportunity to serve the intended clientele and provide a greater chance for success; and (b) The proposal regarding the 108 Patton Project allows for needed ADA improvements within a highly traveled corridor in downtown Asheville and is shovel-ready such that the City can achieve timely expenditure of funds.

Regarding the CDBG jurisdiction change for Helpmate Inc, (1) Previous Annual Action Plans have granted CDBG Housing Services funds to Helpmate, to support survivors of domestic violence (housing-related intake and case management) that receive HOME Tenant-Based Rental Assistance (TBRA). These two funding sources work together to provide comprehensive housing support for Helpmate clients; (2) HOME funds can currently be used outside of the City

of Asheville but CDBG, even those used in conjunction with HOME TBRA funds, must be used within Asheville City limits, per the City's 2020-2024 Consolidated Plan; and (3) Helpmate identified the requirement that CDBG Housing Services funds only be used within City of Asheville limits as a limitation to providing services to their clients (a) Affordable housing options can be harder to find in City limits than in other parts of Buncombe County; and (b) In addition, survivors of domestic violence require more choices regarding their housing placement to ensure their ongoing safety. Staff's recommendation is to reduce constraints that only using CDBG funds within City limits poses, City staff recommend that an amendment be made to the 2020-2024 Consolidated Plan such that CDBG Housing Services funds can be spent in Asheville City limits and also in areas of Buncombe County outside of Asheville City limits.

Regarding the Homeward Bound tenant-based rental assistance (TBRA), (1) In order to be good stewards of the funds, Homeward Bound met with City staff to discuss difficulties they are encountering while trying to spend HOME TBRA funds solely for Permanent Supportive Housing; (2) The agency has seen a diminishing number of chronically homeless individuals who need long-term housing services (Permanent Supportive Housing) and an increasing number of individuals experiencing episodes of homelessness who do not need long-term supportive services (Rapid Rehousing); and (3) Recent recommendations from the National Alliance to End Homelessness point to a significant system gap in Rapid Rehousing capacity. Staff's recommendation is to modify the activities of Homeward Bound's FY21/22 HOME TBRA programs to include both Permanent Supportive Housing and Rapid Rehousing in order to help spend down existing TBRA funds and to accommodate for new needs and changes in the homeless population.

Regarding the CDBG reallocation to accessibility improvements at 108 Patton Avenue, the background is (1) The City of Asheville has \$300,000 in non-public service Community Development Block Grant (CDBG) that need to be reallocated and fully expended by April 2024 in order to meet Department of Housing and Urban Development (HUD) timeliness requirements; (2) These funds come from previous years' (FY 2018-19 and FY 2019-20) contracts that have either expired or have unspent balances that have now been returned; (3) Using the funds on an eligible City project poses the highest chance for success to ensure timely use of the funds; (4) Other opportunities were evaluated, however federal requirements (e.g. federal prevailing wage, environmental review requirements, etc.) for CDBG funds eliminated these options from consideration; (5) Staff is recommending to use the funds to complete a downtown sidewalk accessibility project (108 Patton Avenue); and (6) This proposal would reaffirm the City's commitment to the Americans with Disabilities Act by undertaking activities that will remove architectural barriers, achieve compliance with HUD's timeliness requirements, and assist with the preservation of City facilities.

Using maps, Public Works Director Greg Shuler said that regarding expanding accessibility at 108 Patton Avenue, (1) The proposed improvements include sidewalk and curb ramp replacement on both sides of Patton Avenue (between Coxe Ave and Asheland Ave); construction can proceed as soon as the reallocation is approved; (2) This project was identified as the highest priority ADA project in the City's Greenways, Accessibility, and Pedestrians (GAP) Plan; (3) The use of CDBG funds will allow the Public Works Department to redirect those operational dollars to other critical sidewalk maintenance and accessibility projects; and (4) The project is located in an area that has access to multiple essential services that benefit low-moderate income individuals including: the Federal building, Buncombe County Health and Human Services, U.S. Post Office, financial institutions, and is less than a block away from the Asheville Rides Transit station. The major drivers for 108 Patton Avenue recommendation are (1) National Objective: Meets CDBG National Objective to benefit low and moderate income people; (2) Eligibility: Sidewalk replacement is CDBG eligible; and (3) Timeliness: (a) City is best positioned to overcome cross-cutting federal requirements that often delay or complicate other projects - As an example, the work can be completed by City's Public Works Department and

therefore not be subject to federal prevailing wage requirements; and (b) City can prioritize this work and initiate construction shortly after the approval is granted.

Regarding timeliness, (1) HUD Timeliness Standard: (a) HUD's expressed intent is to see that funds are spent in the community; (b) HUD monitors this objective by checking the City's CDBG account balance each year through a process known as the Timeliness Test; and (c) The City is not permitted to have more than 1.5x worth of funding annually in the CDBG account each year; (2) On June 15, 2023, HUD notified the City that it had failed its timeliness requirement for the second consecutive year; and (3) The City identified opportunities and process improvements in order to achieve a timely expenditure of \$300,000 in available non-public service CDBG funds by April 2024.

He explained why other options are not recommended (1) Rental Assistance - Rental assistance is an ineligible activity for CDBG funding; and (2) Compass Pointe Village - Allocating CDBG funds to this project would have triggered prevailing wage requirements and environmental review - With construction already underway or completed for the project, federal prevailing wage requirements could not have been satisfied. The project was deemed ineligible for this purpose.

Using a chart, he then showed the CDBG awards for Fiscal Year 2023-24; the past CDBG awards for Fiscal year 2022-23; and the past CDBG-CV (COVID) awards for Fiscal Year 2019-20. He then outlined the public engagement of (1) project page; (2) targeted outreach; and (3) public meetings.

Staff recommendation is (1) The reallocation of \$300,000 from recaptured prior years' non-public service CDBG funds towards curbs and sidewalk replacements at 108 Patton Avenue for the purpose of expanding accessibility; and (2) This would reaffirm the City's commitment to the Americans with Disabilities Act by undertaking activities that will remove architectural barriers, achieve compliance with HUD's timeliness requirements, and assist with the preservation of City facilities.

Councilwoman Roney said that the Urban Forestry Commission (UFC) reviewed this and offered several good recommendations, from tree species to planting fewer trees. Public Works Director Greg Shuler said that the feedback from the UFC is always valuable. City staff (1) will follow up with the UFC on their recommendations regarding tree species (with consultation with the City's Urban Forester and Arborist); (2) is open to design changes regarding the crosswalks; (3) will phase in short sections at a time; (4) will make every effort to schedule project construction to accommodate the holiday season for the businesses affected; and continue communications with business/property owners affected.

Councilwoman Turner supported the 108 Patton Avenue accessibility needs and the timeliness that these funds need to be expended; however, she believed these funds should be used for more affordable housing.

Mayor Manheimer opened the public hearing at 6:12 p.m.

Five individuals spoke for various reasons, some being, but are not limited to, the need for a solution to homeless programs; support for Helpmate; request that construction be held off until January to help businesses with tourists through the holiday season; recommendations from the UFC; and politive policing.

Mayor Manheimer closed the public hearing at 6:28 p.m.

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

Councilwoman Ullman moved to adopt a resolution to approve amendments to the 2020-2024 Consolidated Plan for activities that were funded for the following Fiscal Years: FY 2018-19, FY 2019-20, FY 2021-22, and FY 2022-23 to (1) allow CDBG funding previously awarded to Helpmate, Inc. to additionally be used outside of the jurisdictional limits of the City of Asheville, but within Buncombe County; (2) to allow the unused amount of \$300,000 of non-public service Community Development Block Grant (CDBG) funding to be used for an accessibility improvement project at 108 Patton Avenue; and (3) to allow a previous award to Homeward Bound of WNC for FY 2021-22 HOME Tenant Based Rental Assistance (TBRA) program to include both Permanent Supportive Housing and Rapid Rehousing; and to authorize the City Manager to submit the amendments to the U.S. Department of Housing and Urban Development (HUD) and to sign all necessary documents to give effect to these Amendment requests. This motion was seconded by Councilwoman Smith and carried on a 6-1 vote, with Councilwoman Turner voting “no.”.

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

After recognizing the years this has been in the workflow and the enormous amount of time by City staff and resources, a brief discussion was held on the need to focus on other items like moving more people safely through the neighborhood, stormwater mitigation, tree canopy repair, support for small businesses, buffers between development and neighborhoods, etc., it was the consensus of Council to pause on this item and help the Southside finish their neighborhood plan.

Vice-Mayor Kilgore moved to remove the South Slope: A Southside Neighborhood Vision Plan from the agenda. This motion was seconded by Councilwoman Roney and carried unanimously.

C. PUBLIC HEARING TO CONDITIONALLY ZONE 30 BUCHANAN PLACE FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL-CONDITIONAL ZONE

ORDINANCE NO. 5046 - ORDINANCE TO CONDITIONALLY ZONE 30 BUCHANAN PLACE FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL-CONDITIONAL ZONE

Principal Planner Will Palmquist said that this is the consideration of an ordinance to conditionally zone 30 Buchanan Place from Institutional District to Institutional District-Conditional Zone for the purposes of providing technical modifications to the zoning requirements in relation to the proposed capital improvements at McCormick Field. This public hearing was advertised on October 13 and 20, 2023.

Project Location and Contacts:

- The project site totals 8.25 acres located at 30 Buchanan PI (PIN 9648-47-8566)
- Owner: City of Asheville

Summary of Petition:

[Project Site](#)

- The project area consists of 8.25 acres located at 30 Buchanan Pl and is identified in the Buncombe County land records as PIN 9648-47-8566.
- The site is the location of McCormick Field, a minor league baseball venue.
- Given the extent and value of the proposed renovations and additions at McCormick Field, the site is required to come into full site compliance.
- A number of these zoning requirements are infeasible to meet in both the field's current layout and the proposed additions to the stadium, mostly due to the geography of the site and physical constraints resulting from the siting of the existing stadium.
- The project is requesting a conditional zoning from Institutional to Institutional - Conditional Zone (INST-CZ).
- The conditional zoning is being proposed to provide technical modifications to zoning requirements under the Institutional zoning district.
- The site is designated "Parks / Open Space" on the city's Future Land Use (FLU) Map.
- A change in the FLU designation will not be required.

Overall Project Proposal

- The proposed work consists of an approximately \$30-million renovation of McCormick Field, which includes a new clubhouse building at the southern side of the site along the right field line, an enhanced outdoor seating area at the northern side of the site along the left field line, and an expanded concourse and entrance area at the western side of the site.

Site Layout and Design

- There is no maximum building height in the Institutional district except in the transition area designated as a 100' buffer around residentially zoned areas where maximum building height is that prescribed in said residential district.
- Both the RM-8 district, located to the north of the site, and the RS-8 district, located to the south of the site, have maximum building heights of 40'.
 - The project is seeking a technical modification for a maximum building height of 60'.
- Setback requirements in the Institutional district consist of a 15' front yard and 10' rear and side yards, as well as 7 ½' corner yards.
 - The project is seeking a technical modification for required setbacks.
- Maximum impervious surface in the Institutional district is 80%. The proposed project would result in a total impervious area of 80%.

Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, building impact, and property line buffers.
- The Institutional district requires a 30 foot-wide "Type B" landscape buffer where the subject property is adjacent to RS-8-zoned property to the south and a 20 foot-wide "Type A" landscape buffer where the project site is adjacent to RM-8-zoned property to the north.
 - The project is seeking a technical modification for required landscape buffers.
- The project site is classified as "suburban" under the Tree Canopy Preservation standards and has a classification of "Class C" with a tree canopy requirement of 15%. The existing tree canopy (2018) is approximately 32%. Compliance is proposed through preservation of existing tree canopy.
- Open Space is required at a rate of 50% of the site, or a rate of 20% of the site if the project meets the incentive requirements for enhanced stormwater.
- Retaining walls are proposed around the outfield walls at heights not to exceed 20'.
 - The project is seeking a technical modification for the wall material and foreground landscaping materials for retaining walls.

- To the maximum extent possible, the Project will incorporate attached vegetative screening onto 30% of the area of the proposed 20'-tall retaining wall that is located behind the outfield walls.

Access, Sidewalks and Parking

- Access to the site will be provided by an existing driveway and parking off of McCormick Pl, as well as drop-off and loading along Buchanan Ave.
- Sidewalks exist at a width of 5' along McCormick Pl.
- The Project will coordinate its design and construction with the greenway connector that is proposed along Buchanan Ave and Buchanan Pl.
- Based on the proposed number of seats (4,000), the minimum and maximum number of required parking spaces is 1,000/1,333 spaces. The project is providing 34 spaces on-site at the existing parking lot.
 - The project is seeking a technical modification for required parking spaces.
 - The project is seeking a technical modification for parking located in the required setbacks.
- The project is proposing a Traffic Control & Parking Plan which is intended for all users of McCormick Field and Memorial Stadium to minimize negative impacts of a specific event on adjacent neighborhoods.

Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
 - Maximum building height of 60' where height is otherwise limited to 40' within the 100-foot transition area from adjacent residential zoning districts.
 - Elimination of required building setbacks.
 - No landscape buffers as required adjacent to residential zoning districts:
 - Approximately 300 linear feet of 30 foot-wide "Type B" landscape buffer along southern side of site.
 - Approximately 175 linear feet of 20 foot-wide "Type A" landscape buffer along northern side of site.
 - Reduction of minimum required parking spaces to 34 spaces provided on-site, where a minimum of 1,000 spaces is required.
 - Parking spaces located within the required front yard setback where they are otherwise prohibited.
 - No landscape screening or material requirements for interior-facing retaining walls.

Consistency with the Comprehensive Plan and Other Plans:

Living Asheville Comprehensive Plan (2018)

- The proposed development supports a number of goals in the Living Asheville Comprehensive Plan, including:
 - **Promote Access to Well-Maintained Parks and Open Space for All** - by dedicating adequate resources to meet the maintenance demands of existing parks, including sufficient capital and operational funding consistent with best management practices and community standards for high level of service (p. 213).
 - **Enhance and Celebrate Asheville's Unique Places and Destinations** - by continuing to create accessible urban places throughout the city and ensure that downtown services, amenities, and resources are designed to serve residents as well as visitors (p. 291).

- The proposed development is compatible with the Future Land Use designations of “Parks and Open Space”, which is proposed, in part, that it “includes a wide variety of different park facilities, active and passive open space, and greenways. Parks and open space are a community need and new parks, including park maintenance, will be required to serve areas of the community in an equitable fashion” (p. 346).

Compatibility Analysis:

- The proposed project is compatible with the surrounding land uses, including:
 - Memorial Stadium and Mountain Side Park, located directly east of the project site.
 - The commercial uses located through Asheville’s South Slope, located to the west of the project site.
 - The surrounding residential neighborhoods located to the north and south of the project site.

Council Goal(s):

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

Committee(s):

- Technical Review Committee (TRC) - October 16, 2023 - approved with conditions.
- Planning & Zoning Commission (PZC) - October 18, 2023 - approved with the following conditions (Vote 6:0): 1) That Condition #7 be revised to state that the project will adhere to the Traffic Control & Parking Plan; 2) That the Project will coordinate its design and construction with the greenway connector that is proposed along Buchanan Ave and Buchanan Pl; and, 3) To the maximum extent possible, the Project will incorporate attached vegetative screening onto 30% of the area of the proposed 20’-tall retaining wall that is located behind the outfield walls.

Staff Recommendation:

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

Mr. Palmquist reviewed the existing and proposed zoning, the aerial imagery and the future land use map. About the site plan, (1) Renovation to McCormick Field: new clubhouse building, enhanced outdoor seating, expanded concourse area; (2) No maximum height in INST district, except within 100’ of residential zoning; (3) Setbacks: 15’ front, 10’ side and rear, 7.5’ corner; (4) Landscaping requirements including street trees, street tree, parking lot, building impact, and property line buffers; (5) Open space at 50% of site; and (6) Tree Canopy Preservation at 15% canopy. A condition is that the Traffic Control & Parking Plan which is intended for all users of McCormick Field and Memorial Stadium to minimize negative impacts of a specific event on adjacent neighborhoods, to be approved by the City Engineer. Technical modifications include: (1) Maximum building height of 60’ where height is otherwise limited to 40’ within the 100-foot transition area from adjacent residential zoning districts; (2) Elimination of required building setbacks; (3) No landscape buffers as required adjacent to residential zoning districts: (a) Approximately 300 linear feet of 30 foot-wide “Type B” landscape buffer along southern side of site; and (b) Approximately 175 linear feet of 20 foot-wide “Type A” landscape buffer along northern side of site; (4) Reduction of minimum required parking spaces to 34 spaces provided on-site, where a minimum of 1,000 spaces is required; (5) Parking spaces located within the required front yard setback where they are otherwise prohibited; and (6) No landscape screening or material requirements for interior-facing retaining walls. The Technical Review Committee on October 16, 2023, approved with conditions. The Planning & Zoning Commission on October 18, 2023, approved with the following conditions: (1) That Condition #7

be revised to state that the project will adhere to the Traffic Control & Parking Plan (instead of “generally adhere”); (2) That the Project will coordinate its design and construction with the greenway connector that is proposed along Buchanan Ave and Buchanan PI; and (3) To the maximum extent possible, the Project will incorporate attached vegetative screening onto 30% of the area of the proposed 20’-tall retaining wall that is located behind the outfield walls. He then explained how the project was consistent with the Living Asheville Comprehensive Plan. He said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed conditional zoning.

At the request of Councilwoman Mosley, City Attorney Banham said that the City had received a lot of public feedback on this item concerning parking and traffic issues; however, those concerns relate to the use of Memorial Stadium, not McCormick Field. Because that is a separate parcel from the one being rezoned, It would be beyond the legal scope of the current rezoning petition. Therefore, he advised Council not to consider conditions on the application of this conditional zoning of McCormick Field related to parking plans for Memorial Stadium. The good news is that the City is also the owner of Memorial Stadium and we have no limitations on communicating with the community on these concerns. He suggested any requests for such be directed to the City Manager and she can ask staff to coordinate with the community.

Director of Community & Regional Entertainment Facilities Chris Corl spoke to Council about conversations held with the community regarding parking and traffic.

Councilwoman Roney felt that this expansion will make our facility more accessible for everyone.

Mayor Manheimer opened the public hearing at 6:54 p.m.

Three individual spoke to Council on various issues, some being, but are not limited to: public safety concerns; support for the upgrades to McCormick Field and request for follow through by staff to address the parking at Memorial Stadium and Mountainside Park; and need for a road diet on Biltmore Avenue from Hilliard to Choctaw.

Mayor Manheimer closed the public hearing at 7:03 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 conditional zoning request for the property located at 30 Buchanan PI from Institutional (INST) to Institutional - Conditional Zone (INST-CZ) and find that the request is reasonable, is in the public interest, is consistent with the city’s comprehensive plan and meets the development needs of the community in that the request: 1) dedicates adequate resources to meet the maintenance demands of existing parks, including sufficient capital and operational funding consistent with best management practices and community standards for high level of service; and, 2) continues to create accessible urban places throughout the city and ensure that downtown services, amenities, and resources are designed to serve residents as well as visitors. This motion was seconded by Councilwoman Roney and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE DEVELOPMENT REGULATIONS RELATED TO COTTAGE DEVELOPMENT

Land Development Division Manager Chris Collins said that this is the consideration of an ordinance to amend the Unified Development Ordinance to change the development regulations related to cottage development. This public hearing was advertised on October 13 and 20, 2023.

Background:

- The referenced section of the code sets forth requirements for *Cottage Developments* which are allowed with supplemental requirements in the RS-8, RM-6, RM-8 and RM-16 zoning districts.
- As multi-family residential is an allowed use within RM districts, the anticipated impact of this amendment would be limited to parcels outside of the steep slope zones and within the RS-8 zoning district that have sufficient area and dimensions to accommodate the supplemental requirements for cottage developments.
- Within the RS-8 zoning district, a landowner may already build a primary residence and accessory dwelling unit.
- With the structure size limitations in place for cottage developments, staff does not believe that this proposal would create a substantial impact on density within the district or neighborhood compatibility.
- The resident petition for this UDO amendment proposes the following:
 - to reduce the minimum number of cottages from five to two,
 - to eliminate the 200 foot separation requirement between cottage developments, and
 - to eliminate the clause that orients cottages toward the primary street.
- Individual structures within cottage developments are limited by current UDO provisions to a 1,200 square foot footprint and 1,400 square foot gross floor area.
- The UDO does not allow accessory dwelling units within cottage developments.
- The UDO does not require specific public engagement for resident proposed text amendments.

Comprehensive Plan Consistency:

- This proposal's intention aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'A Livable Built Environment'. The following goals are applicable to this zoning amendment:
 - Increase and Diversify Housing Supply
 - Promote the Development and Availability of Affordable Housing and Workforce Housing

Council Goal(s):

- A Well-Planned and Livable Community

Committee(s):

- Planning and Zoning Commission, 08-2-2023, Recommended approval by 3-1 vote

Pro(s):

- Increases the land available for the creation of new residential units, which may lead to more housing units.
- Within the RS-8 zoning district, a landowner may already construct a primary residential structure and an accessory dwelling unit. With the structure size limitations in place on cottage developments, staff do not feel that this change would create the potential for any substantial impacts on density within the district or neighborhood compatibility.

Con(s):

- No provision requiring the creation of affordable housing on reduced requirement cottage developments in effect or proposed.

- The UDO requires only the publication of a legal ad as notification of a resident proposed text amendment and provides the petitioner with the expectation that the proposed amendment will move quickly through the process.
- Insufficient time was available for the normal level of community engagement staff would endeavor if working with a City proposed text amendment.

Fiscal Impact:

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

Staff Recommendation:

- Staff recommends approval of the staff proposed zoning text amendment to revise Section 7-16-1(b)(20) of the UDO in order to revise the standards for cottage developments. Though Staff had the concerns raised above, the impact of these types of developments is minimal because they are only allowed in RS-8 and the overall cottage development concept is being retained and therefore, the proposed text amendment is consistent with the *Living Asheville* comprehensive plan in that it directly furthers several goals of the plan while promoting specific Council goals as well.

Mr. Collins provided the following key takeaways from his presentation: (1) this text amendment will change the UDO requirements for the creation of cottage developments; (2) cottage developments are not frequently applied for and primarily seen with in the RS-8 zoning district; (3) current allowances within the RS-8 district allow for a size unlimited primary residence and an ADU size limited to 70% of the primary residence or 800 square feet; and (4) this proposal would allow more units on land, but would limit the size and height of all allowed units.

Regarding community-initiated UDO amendments, (1) Per section 7-7-2 of the City's UDO any resident of the city or owner of a legal or equitable interest in land located in the city may submit a petition to amend the City's zoning text or zoning map; (2) Community-Initiated Text Amendments are unusual, but not rare (Recently: Cat Cafe as a permitted use); (3) Text amendment petitions require public hearings at Planning and Zoning and City Council. As a practice, City staff-led text amendment considerations always include additional general public outreach and engagement; and (4) Staff is exploring amendments to 7-7-2 that would require any petitioner to meet additional public engagement requirements aimed at improving the public's ability to understand the impact of proposed amendments and develop input for public hearings.

He then reviewed the current zoning regulations (allowance) (1) allowed with supplemental requirements in the following districts: RS-8, RM-6, RM-8 and RM-16; and (2) not allowed in steep slope zone A or B in any zoning district. The current zoning regulations (developed) are (1) as the RM districts allow multiple units by right, developers generally choose to not adhere to the supplemental standards in those districts; (2) cottage developments primarily occur in RS-8; and (3) not allowed in steep slope zone A or B in any zoning district. He then reviewed the current zoning regulations along with the community petition proposed regulations as follows:

- Minimum Units = 5 2
- Maximum Units = 15
- ~~200' buffer required between cottage developments~~
- Maximum cottage home height = 28 feet
- Cottage home size maximum = 1,200 square foot footprint, 1,400 square foot total area.
- No Accessory Dwelling Units
- Parking Minimum and Maximum = 1 space per unit, 2 spaces per unit
- Common and Private Open Space Required
- ~~Orientation toward the primary street required.~~

A summary of the proposed changes are (1) reduction in the minimum units required for a cottage development from 5 to 2; (2) elimination of 200' buffer between separate cottage developments; an (3) elimination of requirement to orient units to the primary street (this has been a problematic provision for staff to apply).

He then reviewed the current allowances by right in the RM Districts; and the RS-8 District.

Regarding considerations (1) staff is recommending approval of this proposed amendment as the potential public benefit from creating additional housing supply is likely larger than the potential negative impact to the public from this marginal increase to neighborhood development intensity; and (2) staff can monitor the impact of this regulation if passed, and use development data, neighborhood feedback, as well as additional context from future studies (Missing Middle Report, the Affordable Housing Plan) to consider further refinements to this and other sections of the UDO.

Councilwoman Roney appreciated Barry Bialik for bringing these creative solutions to affordable housing. She understands that our new timeline for Housing Trust Fund creates the urgency for these to cut in line ahead of the Missing Middle study without substantial/intentional engagement. She submitted the Oct 3rd Urban Forestry Commission's recommendation to postpone Flag Lots until the Middle Middle Study, and they had no position on Cottage Cluster though impact on tree canopy is not yet known. She also submitted last night's Neighborhood Advisory Committee recommendation that was based on understanding that flag lots were being continued to January, so they recommended Cottage Units be delayed along with the same timeline as flag lots in January, but not until the Missing Middle study with concern for the deep need for affordable housing being named. Multiple comments were made with concerns about impact on legacy neighborhoods, and after the applicant, Barry Bialik, suggested that Shiloh might be rezoned back to RS4, representatives from the Shiloh Community Association expressed interest in that down-zoning suggestion be taken up by Council. With her own concerns, resident-initiated UDO changes don't have the same requirements for public engagement, so aligning these with the Missing Middle Study would allow greater understanding and community support. Also concerned about our stated alignment with plans and goals, the depth of affordability this is meant to incentivize, and how this might help us reach our affordable housing goals with an equity lens. She asked if we can name an example of affordability to secure the outcomes we've prioritized with our stated goals or equitable, affordable housing. Since we can't require involuntary zoning, she pointed back to the need for a community benefits table to incentivize volunteers zoning in conditional residential development.

City Attorney Branham said that because of the limitations we have on inclusionary zoning, the mechanism that we would use to require an affordability component would be an incentive-based program which would be administered on a case by case basis.

After discussion on Council's request to see more information, which will include a discussion from an equity lens and community outreach/engagement, with data from the Missing Middle Housing Study, Councilwoman Smith moved to continue this public hearing until January 23, 2024. This motion was seconded by Vice-Mayor Kilgore and carried on a 6-1 vote, with Councilwoman Turner voting "no."

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE DIMENSIONAL AND OTHER REQUIREMENTS RELATED TO THE CREATION OF FLAG LOTS

At the request of City staff, Councilwoman Roney moved to continue this public hearing until January 23, 2024. This motion was seconded by Councilwoman Ullman and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. PRESENTATION OF THE EXECUTIVE SUMMARY OF MILLER 3 CONSULTING'S DISPARITY STUDY FOR THE CITY OF ASHEVILLE

RESOLUTION NO. 23-242 - RESOLUTION TO (1) ACCEPT THE REPORT OF MILLER 3'S DISPARITY STUDY; AND (2) EXTEND THE RACE AND GENDER CONSCIOUS MEASURES OF THE ASHEVILLE-BUNCOMBE INCLUSION POLICY, THAT ARE SET TO EXPIRE ON NOVEMBER 1, 2023, FOR AN ADDITIONAL FIVE-YEAR PERIOD.

Community & Economic Development Director Nikki Reid said this action is to receive a report of the executive summary of Miller 3 Consulting's Disparity Study for the City of Asheville and adopt a resolution with two (2) key actions: (1) Accept the Disparity Study report conducted by Miller 3 Consulting; and (2) Extend/Continue the race- and gender-conscious measures of the Asheville Business Inclusion Policy that are currently set to expire on November 1, 2023, for an additional five (5) year period.

Action Requested: Receive a report of the executive summary of Miller 3 Consulting's Disparity Study for the City of Asheville and adopt a resolution with two (2) key actions:

- Accept the Disparity Study report conducted by Miller 3 Consulting.
- Extend/Continue the race- and gender-conscious measures of the Asheville Business Inclusion Policy that are currently set to expire on November 1, 2023, for an additional five (5) year period.

Background:

- The City's previous Disparity Study showed a compelling governmental interest for the implementation of additional measures to cure systematic and discriminatory inequalities in the City's public contracting.
- The Disparity Study further provided the necessary legal basis for the City of Asheville to create a new Asheville Business Inclusion Policy which prescribed narrowly tailored race and gender conscious procedures by which the City may use to more adequately address the ongoing effects of marketplace discrimination on City contracts.
- The Asheville City Council adopted the current Asheville Business Inclusion policy on October 27, 2020, with an effective date of January 1, 2021.
- In order to comply with the five (5) year federal law limitation, and sunset provision within the Asheville Business Inclusion policy of November 1, 2023, the City entered into a contract with Miller 3 Consulting to conduct a new Disparity Study and to evaluate the City's Asheville Business Inclusion Policy and program and make recommendations that would meet any applicable legal standard appropriate to the City of Asheville.
- Beginning in October 2022, Miller 3 Consulting undertook a review of the City's purchasing and contracting activities.
- Staff from all departments were engaged in providing the necessary data to the firm in order for the analysis to be completed.
- Miller 3 Consulting has completed their review and a Draft Final Report of the Disparity Study is complete.

- The results of the Disparity Study show clear evidence of ongoing inequalities within the public contracting marketplace.
- Based upon these findings, both Miller 3 and City staff recommend a continuation of the Asheville Business Inclusion Policy updated to address the most recent disparities.
- Once the new Disparity Study is accepted and the existing policy extended, staff will develop an implementation plan based on the recommendations, which will include proposed policy revisions and programmatic improvements.

Vendor Outreach Efforts: N/A

Council Goal(s):

- Improve/Expand Core Services

Committee(s):

- Equity and Engagement Committee, 10/17/2023, unanimously approved

Pro(s):

- Given the continued existence of contracting disparities, the completed Disparity Study provides the legal basis for the City to continue the operation of a race- and gender-conscious purchasing and contracting policy.
- The 2023 Disparity Study will replace the previous study completed in 2018 and guide the particulars of any future revisions to the City's Business Inclusion contracting policy.

Con(s):

- Implementation of the recommendations will require staff time to consider next steps.

Fiscal Impact:

- The Disparity Study was funded in FY 2022-23. Miller 3 Consulting was selected to complete this work for a contracted total of \$321,748.
- While Council acceptance of the study and extension of the policy require no additional City resources at this time, implementing the recommendations may require significant operating investments.

Ms. Reid reviewed the following key takeaways from her presentation: (1) The City is legally required to conduct a disparity study to extend the existing race- and gender-conscious contracting and purchasing policy; (2) The City engaged a consultant (Miller 3 Consulting) to conduct the required disparity study; (3) Based on the results, staff is requesting that City Council extend the race and gender conscious measures of the Asheville-Business Inclusion Policy (a) accept the 2023 Disparity Study as the legal basis to continue its race and gender conscious program; and (b) extend the race and gender conscious measures of the Asheville-Buncombe Inclusion Policy, that are currently set to expire on November 1, 2023, for an additional five-year period; and (4) Once the policy is extended, staff will develop an implementation plan for the recommendations of the 2023 Disparity Study.

Mr. Dave Miller, representing Miller 3 Consulting Inc. reviewed the approach and methodology, describing that a disparity study is a type of research study that is designed to assess whether there are disparities, or differences, in the participation rates and opportunities of various groups in a particular program or industry. The goal of a disparity study is to identify any barriers or obstacles that may be preventing certain groups from participating fully, and to develop strategies to promote greater diversity and inclusion.

Mr. Miller said the preliminary findings are (1) compliance - ensure compliance to the use of ABI Affidavits during the solicitation process; (2) subcontractor module - enforce usage of subcontractor module within MUNIS post award; (3) lack of resources - resource deficits

negatively impact monitoring and auditing tasks, under servicing, and unformalized performance metrics/goals; (4) limited reporting - limited internal and external dissemination of MWBE attainment data and reporting; (5) commodity codes entry and use (a) classify the entry of commodity codes as a required field during registration of a vendor; and (b) use of commodity codes during the creation of MUNIS contracts and for payments; (6) vendor scorecard - no formalized metrics and process for documenting vendor performance and to disseminate vendor performance "score cards" within the Asheville enterprise; (7) lack of transparency and community connection - perception of a lack of connectivity between certification and opportunities due to lack of forecasting and sharing ABI goals; and (8) low awareness and trust in City of Asheville procurement process - City of Asheville's MFTA service providers lack awareness of program objectives and have no formalized relationships with providers.

Mr. Miller then reviewed the statistical findings and qualitative findings.

Mr. Miller said that recommendations include (1) newsletter; (2) ABI office fully staffed; (3) Frequently Asked Questions page for partners and visitors; (4) information listing who to contact for solicitations on website; (5) external facing formalized program - how to do business with the municipality (including video explanations in English and Spanish); (6) KPI's and performance metrics; (7) tailored outreach to vendors sharing solicitation opportunities; (8) forecasting of opportunities to include timing of when opportunities come to market beyond strategic plan; and (9) post-award contract monitoring.

He then reviewed the policy, anecdotal, practice, and organizational statements. Mr. Miller said that based on the findings and recommendations, Miller 3 has tailored a recommended list of post-study support.

Ms. Reid said the current initiatives are (1) ARPA expansion of funding for the Mountain Community Capital Fund; (2) partnering with Carl Harris Construction Services for MWBE outreach and NC Historically Underutilized Business Certification (a) assisted in recruitment of new prime contractors to aid Cit in MWBE engagement; (b) outreach to prime and MWBE subs for attendance at outreach events; and (c) developed MWBE outreach list for projects;; (3) Quarterly MWBE vendor convenings (a) first session completed on August 16, 2023; and (b) second session is scheduled for November 8, 2023; (4) hiring of Business Inclusion Manager; and (5) budget set aside or Disparity Study implementation.

Ms. Reid said next steps include (1) upon acceptance of the draft disparity study report by City Council, staff will develop an implementation plan based on the recommendations of the report. (2) the City's Business Inclusion Manager will be the staff person responsible for the Disparity Study implementation plan, with support front he Economic Development Division; (3) the implementation plan will be a cross-departmental effort and will be supported by the City Manager's Office; and (4) staff will return to the Equity & Engagement Committee to provide regular updates on the timeline and actions of the implementation plan.

In response to Councilwoman Roney, Mr. Miller said that they have seen some success stories about building relationships in schools as well. He felt that you need to begin to publicize that you have viable, significant contract expenditures on an annual basis which you are looking for MWBE local businesses in this process.

In response to Councilwoman Roney, Ms. Reid explained how the Mountain Community Capital Fund fits into this picture and how this aligns with the economic development impact focus area of our Reparations Commission.

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

Councilwoman Ullman moved to (1) accept the 2023 Disparity Study as the legal basis of a compelling governmental interest of ongoing marketplace discrimination in public contracting, and as framework to continue the City's narrowly tailored race- and gender- conscious contracting program; and (2) extend/continue the race- and gender- conscious measures of the Asheville Business Inclusion Policy for an additional five year period based upon the data reflected in the Disparity Study and community engagement prior to its current expiration date of November 1, 2023. This motion was seconded by Councilwoman Smith and carried unanimously.

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B. ORDINANCE NO. 5047 - ORDINANCE AMENDING SECTION 16-146 REGARDING OUTDOOR DINING FOR THE PURPOSE OF UPDATING EXISTING OUTDOOR DINING REQUIREMENTS AND CREATING AN ANNUAL "STREETERY" PERMITTING OPTION

ORDINANCE NO. 5048 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL FOR OUTDOOR DINING ON PUBLIC SIDEWALKS AND STREETS

Downtown Projects Manager Dana Frankel said that this is the consideration of adoption of an ordinance (1) amending the entire Section 16-146 of the Code of Ordinances regarding outdoor dining on public right of way for the purpose of updating existing outdoor dining requirements and creating an annual "streetery" permitting option; and (2) amending the Fees and Charges Manual for outdoor dining on public sidewalks and streets.

Background:

- Outdoor dining and other permitted commercial uses of public space help contribute to a safe and active environment in downtown and other commercial/mixed-use areas.
- The City launched several temporary initiatives known as AVL Shares Space early in the pandemic; these initiatives supported safe business operations and facilitated customer access, including expanded outdoor dining in the public right-of-way and on private properties.
- An initial goal of launching the temporary initiatives was to learn from the experience and consider long-term implementation of successful tools and strategies that support a strong and resilient economy.
- Staff requested feedback at the June 13, 2022 PED meeting on a process to transition elements of the AVL Shares Space program (including the use of on-street parking spaces) to a long-term program and received direction to move forward with the development of a program.
- Staff developed the new program using lessons learned, best practices, and feedback from the Public Space Management Task Force - a group that includes members from several boards and commissions - and other community members that interact with the public realm.
- This proposal for an updated outdoor dining program prioritizes accessibility, maximizes public benefits and improves the City's ability to administer the program.
- An outdoor dining guide provides detailed guidance on the application process, design standards and management practices; it can be updated as needed in order to be responsive to changing needs and best practices.

Council Goal(s):

- Transportation and accessibility
- Well-planned and livable community
- Thriving local economy

- Connected and engaged community

Committee(s):

- Multi-Modal Transportation Commission, 08-23-2023, Unanimous Approval
- Downtown Commission, 08-25-2023, Unanimous Approval
- Planning and Economic Development Committee, 09-11-2023 Unanimous Support
- Policy, Finance and HR Committee, 10-10-2023 - 3-0 approval to move forward to City Council

Pro(s):

- Continues to support safe, active commercial and mixed-use districts.
- Continues to support businesses and the local economy.
- Improves accessibility and overall design standards for outdoor dining in public right of way.
- Updates fees to more appropriately account for commercial use of public space and align with values of the program and encourage multiple public benefits when possible.
- Responds to lessons learned and feedback received from the AVL Shares Space temporary initiatives as well as on-going input on downtown public space management.
- Improves the outdoor dining application process, operations, and design standards making the submission requirements management practices clearer for participants and staff.

Con(s):

- Temporary loss of parking spaces
- Some business may see an increased fee for permitting

Fiscal Impact:

- If approved, the current fees for outdoor dining will be updated, including the establishment of new fees for steeteries and public space use.
- Fee changes will likely generate additional revenue for the General Fund, which will partially offset the cost of review and enforcement.
- Revenue generated by fees for steeteries will offset loss of on-street parking revenue in the Parking Services Fund.
- The amount of revenue generated will be dependent on the number of businesses that participate in the program, but are unlikely to have a significant impact on either fund.

Staff Recommendation:

- Staff recommends approval of the municipal code amendment to Section 16-146 to amend the city's outdoor dining ordinance along with proposed fee changes and program updates because it is consistent with the *Living Asheville* comprehensive plan to support a downtown that is vibrant, sustainable, livable and accessible to residents and visitors alike, while furthering additional goals of the plan while aligning with Council's Strategic Priorities as well.
- In addition, it aligns with the Downtown Master Plan's goal of nurturing a sustainable and resilient economy through active management of Downtown.

Downtown Projects Manager Dana Frankel provided City Council with the following key takeaways from this presentation (1) Updates are being made to the City's existing outdoor dining program as applied to public right of way (streets and sidewalks); (2) Goals include: supporting activation and economic resilience; ensuring accessibility; maximizing public benefits; and improving management; (3) The updates were guided by community input and lessons learned before, during and after COVID-19; (4) The use of on-street parking spaces is being incorporated into the program; (5) Fees and annual permits are being established for streeteries, and updated

for sidewalk dining; (6) The fees and updated fee structure is designed to support program goals; and (7) Administration of the program is being clarified and improved.

Regarding the outdoor dining update, Ms. Frankel said the goals are (1) Support a welcoming, safe and active environment; (2) Prioritize mobility and access for all including those with disabilities; (3) Transition elements AVL Shares Space temp COVID program to long-term; (4) Support the success and resilience of Asheville’s local economy; (5) Improve the application, review and compliance process; (6) More appropriately account for the value of commercializing public space through an updated fee structure; and (7) Promote multiple public benefits whenever possible. The following items are what are new: (1) outdoor dining ordinance (a) expanded framework for outdoor dining (including streeteries); and (b) codifies and clarifies management practices; (2) Updated fees and standards - supports goals and management of the program; and (3) Outdoor dining guide - provides detailed standards (requirements) and best practices (recommendations) for reference by businesses and the public. Key elements include (1) Standards (a) prioritizes safety and accessibility; and (b) clearer guidance for businesses and staff; (2) Public vs. Private Use (a) Encourages multiple public benefits; and (b) Potential “public space improvement” fund; (3) Fees (a) Incentivizes efficiency use of space; and (b) Supports program goals; and (4) Process and Management - Improves management and clarifies protocol.

The proposed fees are seen in the chart below:

Item	Annual Fee	Applicable
Sidewalk Dining	\$7 per sq. ft.	Outdoor dining furniture on public sidewalks
Streeteries-One Parking Space	\$3,000	For the conversion of one public parking space to outdoor dining
Streeteries-Two Parking Spaces	\$4,500	For the conversion of two public parking spaces to outdoor dining
Public Space Use Fee	\$500	When an area is closed to the public outside of business hours

Ms. Frankel then went through the streetery cost recovery charts for the cost and fees/revenue; along with a chart for the sidewalk dining cost recovery.

She then went through the process and management for review, inspection and compliance, followed by a timeline of the project, with the new permit period beginning in January of 2024.

Ms. Frankel responded to various questions/comments from Council, some being, but are not limited to: what is the window for change if a business decides not to proceed with their sidewalk dining; suggestion that Phase 2 of this program be to look at it from an equity lens for

food trucks that might not have investable income; suggestion to study the fees for conversions of parking spaces; and explanation of their benchmarking fees.

Ms. Frangle noted that regarding the annual public use fee, since we don't know what to anticipate in terms of revenue, there is potential that that could go back into a public space improvement fund or an equitable grant fund.

When Mayor Manheimer asked for public comments, none were received.

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

Councilwoman Turner moved to adopt an ordinance amending the entire Section 16-146 of the Code of Ordinances regarding outdoor dining on public right of way for the purpose of updating existing outdoor dining requirements and creating an annual "streeterly" permitting option.. This motion was seconded by Councilwoman Ullman and carried unanimously.

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Councilwoman Turner moved to adopt an ordinance amending the Fees and Charges Manual for outdoor dining on public sidewalks and streets. This motion was seconded by Councilwoman Ullman and carried unanimously.

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C. RESOLUTION NO. 23-243 - RESOLUTION APPOINTING A MEMBER TO THE PLANNING & ZONING COMMISSION

Vice-Mayor Kilgore said that at the October 10, 2023, City Council meeting, Alvarez Abernathy was appointed to the Planning & Zoning Commission. Since his appointment, it has been confirmed that Mr. Abernathy is not a City of Asheville resident. According to the code of ordinances (Sec. 7-3-2) and the rules of procedure [emphasis added]: "The Asheville Planning and Zoning Commission shall consist of seven members. Five members who are residents of the City of Asheville shall be appointed by the Asheville City Council. The remaining two members shall be residents who reside within one mile of the municipal limits of the City of Asheville and appointed by the Buncombe County Board of Commissioners pursuant to N.C. Session Law 2013- 30. All members shall have equal rights, privileges, and duties.

The following are candidates eligible for appointment and the votes are as follows: Joseph Chesler received 0 votes; John-Michael Henson received 0 votes; Scott Lewandowski received 0 votes; David Moritz received 0 votes; Byron Greiner received 6 votes; and Andrew Fletcher received 1 vote. Therefore, Byron Greiner was appointed as a member of the Planning & Zoning Commission to serve a three-year term, term to expire August 14, 2026, or until Byron Greiner's 's success has been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Two individuals spoke to City Council about various matters, some being, but are not limited to: comments about our election system; and disappointment in the process for resident driven amendments to the Unified Development Ordinance.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:05 p.m.

CITY CLERK

MAYOR