

Thursday – November 9, 2023 - 11:00 a.m.

Agenda Briefing Worksession - For November 14, 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; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: Councilwoman Maggie Ullmane

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

Discussion occurred on the following other issues and updates:

- Thrive Presentation: How City Investments Could Make Housing Access More Equitable
- Greenway Master Plan

At 1:07 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – November 14, 2023 - 3:30 p.m.

Comprehensive Facilities Study Worksession - Phase 2

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

Building Construction Program Manager Walter Ear provided the following key takeaways from his presentation (1) condition - commit to maintenance to serve staff and residents well in existing facilities; (2) capacity - space needs for growing city, staff and services; and (3) consistent capital - prioritizing and sequencing large projects needs a reliable stream of capital funding to help make Council priorities a reality.

He then recapped his presentation from October 10, on why we do a facilities study, the aging facilities and investment needs, and facilities inventoried. The Part 1 worksession in October was “Dig the Hole.” This worksession will be a “Plan to Fill the Hole.” A recap of the key findings of space needs for core services is (1) City Hall can sustain administrative functions with renovations; (2) Fire and Police departments have outgrown the Municipal Building; and (3) Public Works Department has outgrown the Public Works Complex. A recap of the maintenance model is (1) maintenance model only; (2) no growth, improvement, building replacement; and (3) Version 1.0.

Today’s focus is process over projects. He then outlined the five study areas for the Capital Master Planning process: (1) City Hall - interior reorganization; (2) Municipal Building - interior reorganization; (3) Parkside - site master plan; (4) Public Works Building - interior reorganization; and (5) Oakley Complex - site master plan. He then outlined the 20-year phasing Plan (Version 1.0). The key takeaways are (1) process - align and prioritize with Council priorities, then lay the “tracks” to build the future; (2) incremental approach - project phasing

allows large and complex projects to be broken into more manageable independent projects; and (3) commit to maintain - continue our commitment to maintain core service delivery.

He then showed examples of the phased project process for the Municipal Building and the Parkside Transition Plan. The key findings (1) Fire and Police Departments are in an immediate space needs deficit; (2) either Fire or Police must acquire space to effectively serve for the next 20 years; and (3) existential questions exist about the future purpose for the building. The key takeaways for the Municipal Building and Parkside are (1) fulfills Fire and Police needs deficits downtown; (2) opportunity for other development that meets Council priorities; and (3) existential questions exist regarding the future uses for the Municipal Building.

Next steps include (1) Finance led capital worksession; (2) fine tune scope and cost estimates for public facilities improvements; and (3) review submitted projects for the Capital Improvement Program (CIP) Fiscal Year (FY) 2024-25 budget and beyond.

Regarding the parking garage assessment by Walker Consultants, the key takeaways are (1) high priority repairs - must implement repairs within 2 years; projected cost = \$11.3 Million; (2) maintenance saves dollars - property maintained garages will serve the City for 30 years 1.06 Million inflation adjusted over the next 30 years; and (3) demand/capacity - parking demand and accessibility considerations will inform future parking rates and plans for future structures.

Enrique Villalobos, with Walker Consultants, outlined their presentation. They were tasked with assessing the four City owned garages in downtown Asheville which included Harrah's Cherokee (550 spaces built in 1976), Rankin Avenue (262 spaces built in 1988), Wall Street (221 spaces built in 1988), and Biltmore Avenue (409 spaces built in 2011). He then showed a chart of previous restoration and assessments for the four garage. Components of the condition assessment include (1) visual observations (including Americans with Disabilities Act "ADA" review); (2) limited concrete floor delamination survey; and (3) limited concrete floor chloride testing - laboratory test. He showed sample observation pictures of structural, waterproofing, guards, Mechanical, Electrical and Plumbing, and ADA compliance. Recommendations include (1) repair recommendations were made for each garage; (2) repair recommendations divided into three categories (a) immediate repairs (immediate priority); (b) base repairs (high priority); and (c) enhancements (medium priority); (3) sample of most common recommendations (a) upgrade guards to meet current code fall and vehicular impact requirements; (b) replace stair/elevator landings framing significantly corroded; (c) concrete repairs (cracks, delaminations, spalls); (d) replace joint sealants and expansion joints; (e) clean and coat surface corroded members; (f) install traffic coating membranes; (g) install concrete penetrating sealers; and (h) restripe garages (worn markings, ADA spaces, access aisles, and paths of travel). For Wall Street, the current needed repair cost opinion is \$1.84 Million. For Rankin Avenue, the current needed repair cost opinion is \$1.53 Million. For Harrah's, the current needed repair cost opinion is \$5.33 Million; and for Biltmore Avenue, the current needed repair cost opinion is \$2.56 Million. Total cost opinions are \$11.26 Million.

Mr. Villalobos explained how preventative maintenance extends the life of the structure and saves money over time. He then used charts to show the 30-year capital expenditure costs; the recommended annual Capital Expense budget; and the capital repair fund balance. He explained that the costs of demolishing and building new structures of the same size is approximately twice that of restoring and maintaining existing structures.

Jim Corbett, with Walker Consultants, then presented the parking study results. During one typical week in May 2023, they (1) analyzed reports from revenue control equipment of the 4 city-owned garages; and (2) counted occupancy at six nearby privately-operated garages. He then shared the results that (1) estimated peak combined 2029 utilization = 85% or 1252 vehicles (optimum efficiency); (2) four small privately-owned parking lots studied at 100% peak utilization;

and (3) two large privately-owned parking structures studied at 50-75% peak utilization. Parking study recommendations include (1) Strategy #1 - shift contract parking from Rankin Avenue garage to Harrah's Cherokee garage; (2) Strategy #2 - shift contract parking from Wall Street garage to Harrah's Cee garage, or lease contract parking spaces at a nearby public parking garage; and (3) Strategy #3 - create demand-based parking rates. Increase hourly rates at Wall Street/Rankin Avenue to promote parking at Harrah's Cherokee and Biltmore Avenue. \$0 first hour, \$3 second hour, \$6 third hour, \$9 fourth hour, \$12 daily max.

Mr. Villalobos reviewed the project time and the following conclusions: (1) \$11.3M in recommended repairs are needed to be implemented by the end of 2025. Deferring repairs longer will result in more costly and more complex repairs in the future. A strategy of deferring repairs is not recommended as an adequate long-term asset management strategy; (2) Annual maintenance budget should be increased to \$1.06M starting in 2026 after implementing the recommended repairs to keep up with future estimated maintenance costs. The annual budget should be increased annually for inflation; (3) Cost of maintaining the existing assets for next 30 years is ~1/2 than cost of replacing with new ones and maintaining those; (4) ADA non-compliant conditions need to be addressed to the maximum extent 'technically feasible'; and (5) The parking study results will help the City decide on the future of additional parking, contract parking changes, parking rate increases, and inform decisions about repair implementation. The next steps for the parking garage assessment are (1) an immediate repairs project is in progress; (2) a high priority needs project to be evaluated in the CIP; and (3) parking rates to be evaluated for future discussion.

City Manager Campbell, along with Mr. Ear, Capital Projects Director Jade Dundas and Finance Director Tony McDowell responded to various questions/comments from Council, some being, but are not limited to: are we looking at state grants, federal grants, etc. to bring into the mix of revenue for these projects; confirmation that once we know the space and program needs, we will be reaching out to other partners, like Buncombe County for a possible partnership in the Oakley Complex; what is the rationale for the top five study areas; can we build higher on the Municipal Building; has there been any consideration of the Parkside land for the reparations project; estimate of what the Parkside land value will be in future; suggestion to look at visionary, long-term planning for what commercial real estate or retail activation would look like in this area; can the Wall Street Parking Deck be built higher; which of our four parking garages are cast in place or precast; are there any industry trends that add to the duration of concrete; how will we fund the maintenance of the \$11.26 Million in the first three years, and then the annual funding strategy; what is the debt financing for 20 years; suggestion to meter the spaces on the South Slope and in Biltmore Village; do we have a current parking garage maintenance budget; and request for historic revenues of the parking garages and the amount spent on repairs. Staff said that for any questions/comments that could not be readily answered, those would be forwarded to City Council.

At 4:51 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – November 14, 2023 - 5:00 p.m

Regular Meeting

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

### **PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

## **I. PROCLAMATIONS:**

### **A. PROCLAMATION PROCLAIMING NOVEMBER 11-18, 2023, "HUNGER AND HOMELESSNESS AWARENESS WEEK"**

Mayor Manheimer read the proclamation proclaiming November 11-18, 2023, as "Hunger and Homelessness Awareness Week " in the City of Asheville. She presented the proclamation to Laura Kirby, Executive Director of the Haywood Street Congregation, who briefed City Council on some activities taking place during the week..

## **II. CONSENT AGENDA:**

### **A. APPROVAL OF THE MINUTES OF THE AGENDA BRIEFING WORKSESSION ON OCTOBER 18, 2023; AND THE FORMAL MEETING HELD ON OCTOBER 24, 2023**

### **B. RESOLUTION NO. 23-244 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR CONTRACT (WITH FOUR ONE-YEAR OPTIONS TO RENEW) WITH sCUBE INC. TO IMPLEMENT THE DEPARTMENT OF DEVELOPMENT SERVICES CLARITI PERMITTING PLATFORM REPLACEMENT SOFTWARE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a one-year contract with four one-year options to renew with sCube, Inc. to implement the Clariti permitting platform for a total amount not to exceed \$1,500,000 inclusive of all yearly licensing, support, and maintenance cost for the total term of the contract.

#### **Background:**

- DSD requests funding to procure an end-to-end software as a service (SaaS) platform to replace the current Accela platform and fully digitize permitting, inspections and code enforcement processes.
- The new platform will increase permitting efficiency and improve access to development project information for community members and development professionals.
- DSD facilitated a comprehensive evaluation process that included internal and external organizational stakeholders to select sCube, Inc. to implement the web-based Clariti permitting platform.
- DSD selected sCube Inc. to implement the Clariti platform based on evaluation rubric, on-site product demonstration and reference check performance.

#### **Vendor Outreach Efforts:**

- DSD worked with the Purchasing Division to develop the RFP, which included MWBE contracting criteria and followed the City's business inclusion (ABI) processes.
- Staff performed outreach to minority and women owned businesses through solicitation processes which include posting on the State's Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- DSD and Purchasing co-hosted a pre-bid meeting for interested vendors to review ABI criteria.
- DSD received ten bids total, but disqualified three for not meeting ABI criteria.
- One bidder identified as a Disadvantaged, Woman or Minority Business Owner.
- The selected vendor sCube Inc. is not a minority vendor; however, they will make *Good Faith Efforts* to utilize minority suppliers where possible.

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

- Council Vision Focus Area: Well-planned and Livable Community
- Council Priority: Improve and Expand Core Services

**Committee(s):** N/A

**Pro(s):**

- Supports digital processing needs, improves permitting efficiency, enhances community access to information and replaces existing end-of-life software.

**Con(s):**

- None.

**Fiscal Impact:**

- Funding for the term of this contract will be funded from the Development Services Development Technology Fund.
- The contract will be funded utilizing revenues from the 4% technology fee applied to most development fees.
- The contract will operate on a one-year term with four one-year options to renew.

**Motion:**

- Motion authorizing the City Manager to execute a one-year contract with four one-year options to renew with sCube, Inc. to implement the Clariti permitting platform for a total amount not to exceed \$1,500,000, inclusive of all yearly licensing, support, and maintenance cost for the total term of the contract with all renewals exercised.

**RESOLUTION BOOK NO. 44 - PAGE 290**

**C. RESOLUTION NO. 23-245 - RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO CONDEMN EASEMENTS NEEDED FOR THE CONSTRUCTION OF A SLIDE REPAIR ON VANCE GAP ROAD**

**Action Requested:** Adopt a resolution authorizing the City Attorney's Office to condemn drainage easements needed for a slide repair project on Vance Gap Road.

**Background:**

- A section of roadway slope failed as a result of Tropical Storm Fred. Temporary repairs have been made, permanent repairs are funded through the Capital Improvement Program.
- The City has obtained easements from all but one property owner whose properties would be impacted by the project.
- All property owners were provided with offers of financial compensation for the needed easements, based on assessed value or appraisals.
- This project permanently repairs the roadway slope of Vance Gap Road

**Council Goal(s):**

- Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Will facilitate the completion of a needed slide repair project, and safeguard the project schedule.

**Con(s):**

- Will result in the commencement of eminent domain actions against one property owner.

**Fiscal Impact:**

- Funding for the required easements, estimated at \$8,000, was previously budgeted and is available in the General Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Attorney's Office to condemn an easement needed for a slide repair project on Vance Gap Road.

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**D. RESOLUTION NO. 23-246 - RESOLUTION AUTHORIZING THE EXCEPTION TO COMPETITIVE BIDDING ON PROCUREMENT OF GOODS AND SERVICES FROM SOUTHERN VAC FOR FLEET MANAGEMENT PARTS AND EQUIPMENT**

**Action Requested:** Adoption of a resolution authorizing the exception to competitive bidding on procurement of goods and services from Southern Vac for fleet management parts and equipment.

**Background:**

- The City owns and operates three Vacuum Suction Trucks equipped with Vac-Con Equipment.
- City of Asheville Unit# 1437 requires replacement of the Vacuum Compressor Assembly.
- Vacuum components are manufactured by Vac-Con and are only available through authorized dealers.
- Southern Vac is the only distributor authorized to sell new equipment and parts, and provide warranty and repair services for Vac-Con Components in our geographic area.
- Use of OEM (original equipment manufacturer) parts is recommended to maintain the equipment up to the manufacturer's warranty standards.
- Manufacturer warranty varies based on type of equipment as well as type of product or service provided.
- Warranty terms are provided at time of purchase.

**Vendor Outreach Efforts:**

- This is an exception to the competitive bidding process to allow procurement from the sole distributor authorized to sell OEM parts.

**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 existing Vac-Con equipped Vacuum Suction Trucks
- City of Asheville Unit# 1437 will be repaired and returned to service.

- This will assist in allowing the City to meet obligations of a federally mandated stormwater permit.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for these purchases, estimated at \$60,000, is available in the Public Works Department operating budget.

**Motion:**

- Motion to adopt a resolution approving the exception to competitive bidding for procurement of Vac-Con Parts and Service from Southern Vac

**RESOLUTION BOOK NO. 44 - PAGE 292**

**E. RESOLUTION NO. 23-247 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH HAZEN AND SAWYER FOR ENGINEERING SERVICES ASSOCIATED WITH THE DEVELOPMENT OF A PROFESSIONAL ENGINEERING REPORT FOR THE EVALUATION OF THE EAST ASHEVILLE BOOSTER PUMP STATION**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign a contract with Hazen and Sawyer to provide a Preliminary Engineering Report for East Asheville Booster Pump Station in an amount not to exceed \$245,000.

**Background:**

- The City of Asheville owns a water system booster pump station asset, known as the East Asheville Booster Pump Station or EABPS.
- The East Asheville Booster Pump Station has been non-operational since approximately 2010 and is currently considered decommissioned.
- A large-scale water system outage occurred at the end of December 2022 and beginning of January 2023 that impacted Asheville's Water Resources service area.
- As a result of the water outage, Asheville City Council voted to form a Water Outage Independent Review Committee whose task would be to analyze the event and make recommendations for water system improvements, which would reduce the risk of future large-scale outages.
- One of the recommendations from this committee was to conduct an evaluation of the East Asheville Booster Pump Station for the purpose of producing a Preliminary Engineering Report (PER), detailing what will be needed to refurbish the East Asheville Booster Pump Station and return it to useful service for system redundancy.
- The authorization and execution of this professional services contract for the development of the PER will fulfill the Water Outage Independent Review Committee's recommendation.
- The Water Resources Department has prioritized this water system analysis project for the current fiscal year and is seeking engineering services for the project.
- This project will become part of the Water Resources Department's ongoing Capital Improvement Program.

**Vendor Outreach Efforts:**

- Through a qualifications based selection process beginning in February of 2020, the City of Asheville selected several consulting firms to provide on-call professional services for General Services Projects.

- Hazen and Sawyer was one of the selected firms due to their expertise in areas of master planning, hydraulic modeling, water system analysis, pump stations, pump system controls and on staff expertise in electrical and mechanical systems.
- The City of Asheville entered into a master agreement with Hazen and Sawyer on September 28, 2020 for on-call professional services for General Services valid for three years with the option to renew for two additional years.
- The City of Asheville renewed the master agreement with Hazen and Sawyer on September 28, 2023 for an additional year.
- If approved, the proposed engineering services described here within will be developed into a subcontract under the conditions of the master agreement.
- City of Asheville Water Resources Staff determined that utilizing the on-call professional services for General Services was the best method to deliver this project in the recommended time frame and that Hazen and Sawyer is 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.
- Hazen and Sawyer have successfully provided engineering services for other water system improvement projects.
- Their experience with the Asheville water system and expertise in water distribution projects will lead to a reliable assessment of the feasibility of recommissioning this facility.

**Con(s):**

- Failure to award an engineering services contract would prevent the Water Resources Department from making an informed decision about the future of this facility.

**Fiscal Impact:**

- Funding for this contract is available in the Water Resources Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a professional services contract with Hazen and Sawyer to develop a Preliminary Engineering Report for East Asheville Booster Pump Station in the amount of \$245,000.

**RESOLUTION BOOK NO. 44 - PAGE 293**

- F. RESOLUTION NO. 23-248 - RESOLUTION AUTHORIZING EXECUTION OF AN INSTALLMENT FINANCING CONTRACT WITH TD EQUIPMENT FINANCE FOR CAPITAL IMPROVEMENT PROGRAM VEHICLES AND EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$8,300,000**



**Action Requested:** Adoption of a resolution authorizing execution of an installment financing contract with TD Equipment Finance for Capital Improvement Program (CIP) vehicles and equipment in an amount not to exceed \$8,300,000.

**Background:**

- The City annually budgets for the purchase of necessary vehicles and equipment and typically finances these purchases through an installment loan program.
- The Covid-19 pandemic and supply chain issues have slowed the purchase and delivery of new vehicles and equipment over the last several years.
- As a result, the City has cash funded some purchases and delayed entering into any new installment loans; with the last installment loan being approved by City Council in June 2020.
- As the pace of vehicle and equipment expenditures has returned to a more normal level, the City moved ahead in October with a Request for Proposal (RFP) seeking competitive bids for a new installment loan financing totaling \$8,300,000.
- Six proposals were received and reviewed.
- The most favorable proposal was submitted by TD Equipment Finance at interest rates not to exceed 4.30% per annum.
- Most of the expenses associated with this loan have already been incurred, and the proceeds will be used to reimburse the City for those expenses.

**Council Goal(s):**

- Financially Resilient City

**Pro(s):**

- Provides funding of capital expenditures at a favorable interest rate.
- Spreads capital costs over the purchased asset life.

**Con(s):**

- Increases the lifetime cost of acquisition through interest and cost of debt issuance expenses.

**Fiscal Impact:**

- Debt service payments on this loan are already accounted for in the City's multi-year Capital Improvement (CIP) and Debt model.

**Motion:**

- Motion to adopt the resolution authorizing the City Manager to execute the installment loan contract with TD Equipment Finance for the acquisition of vehicles and equipment.

**RESOLUTION BOOK NO. 44 - PAGE 294**

**G. RESOLUTION NO. 23-249 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNOPENED RIGHT-OF-WAY BETWEEN SULPHUR SPRINGS ROAD AND LANE AVENUE, AND SET A PUBLIC HEARING FOR DECEMBER 12, 2023**

**Action Requested:** Adoption of a resolution of intent to permanently close an unopened right-of-way between Sulphur Springs Road and Lane Avenue, and to set a public hearing for December 12, 2023.

**Background:**

- North Carolina General Statute § 160A-299 grants cities the authority to permanently close streets and alleys.
- The statute requires City Council to consider whether the closure of the right of way has a negative impact to the public interest and whether the closure would impede access to parcels, utilities, and other public infrastructure.
- Mr. Jeremy Cohen (owner of 158 Sulphur Springs Road) wishes to permanently close an unopened right-of-way that runs roughly north-south between Sulphur Springs Road and Lane Avenue between the following properties:
  - 158 Sulphur Springs Road (Applicant)
  - 160 Sulphur Springs Road
  - 17 Lane Ave
  - 23 Lane Ave
- All property owners abutting the unopened right-of-way have signed affidavits approving of the proposed closure.
- The Applicant has indicated that the purpose of the closure is to allow for the construction of additional housing units on the property.
- The City has not yet received a development application.
- If the Council approves the closure, the unopened right-of-way will be divided among the 4 properties and a new plat will be filed.
- The Technical Review Committee (TRC) reviewed the application at their meeting on July 17, 2023 and recommended that proposal move forward.
  - As part of this review, staff determined that there are no utility conflicts present and that no viable transportation-related connection could be achieved using this right-of-way due to the topography.
  - Additionally, there are other parallel transportation connections nearby therefore a connection using this right-of-way would have limited demand.
  - Therefore, staff determined that there would be no negative public impact from its closure.
  - Additionally, as part of the TRC review, it was noted that there was an unpermitted retaining wall within the unopened right-of-way adjacent to the residence at 23 Lane Avenue (not the applicant). Records indicate that the property was issued a stop work order in 2021.
  - A permit could not be issued due to the wall having been constructed in the right-of-way.
  - Approval of this right-of-way closure request would also bring the wall into compliance and a permit could be issued.
- The Multimodal Transportation Commission (MMTC) reviewed the request on August 23, 2023, and voted to recommend that the City Council deny the right-of-way closure request (5-2).
- The MMTC recommendation to deny the request was largely due to concerns regarding the presence of the unpermitted retaining wall at 23 Lane Avenue and the desire to have staff complete a comprehensive study of all unopened rights-of-way within the City to identify possible opportunities for transportation connections to be made, particularly for bicyclists, pedestrians, and people with disabilities.
  - Staff advised the MMTC that the unpermitted wall would be brought into compliance if the right-of-way were closed and that the presence of the unpermitted wall did not seem to be within the scope of the factors that the City Council would consider, per statute, in deciding to close the right-of-way.
  - Separately, staff advised the MMTC that a comprehensive review of all unopened rights-of-way within the City would be an extensive project that is not currently on staff's work program.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Technical Review Committee, July 17, 2023, unanimously recommended approval.
- Multimodal Transportation Commission, August 23, 2023, recommended denial (5-2) - see above.

**Pro(s):**

- There are no utility conflicts, nor any transportation connectivity opportunities associated with this unopened right-of-way.
- The existing unpermitted retaining wall that was constructed within the unopened right-of-way would become compliant and a permit can be issued.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution to set a public hearing for December 12, 2023, to permanently close an unopened right-of-way between Sulphur Springs Road and Lane Avenue.

**RESOLUTION BOOK NO. 44 - PAGE 296**

**H. RESOLUTION NO. 23-250 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE N.C. DEPT. OF TRANSPORTATION (NCDOT) PUBLIC TRANSIT APPRENTICESHIP GRANT PROGRAM AND IF AWARDED, AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NCDOT TO FUND THE APPRENTICESHIP FOR FISCAL YEAR 2024-25**

**Action Requested:** Adoption of a resolution authorizing the City Manager to apply for the N.C. Dept. of Transportation (NCDOT) Public Transit Apprenticeship Grant Program and if awarded, authorize the City Manager to enter into an agreement with NCDOT to fund the Apprenticeship for Fiscal Year (FY) 2024-25.

**Background:**

- The NCDOT funds and manages an annual program that places recent university graduates with an interest in public transit within a city/transit agency for one year as a full-time, paid staff member.
- The City must apply for the program by December 1, 2023 to potentially be approved as a participant.
- If approved, NCDOT provides 90% of the funding for the salary and benefits of the apprentice; the City Transit Operations Fund would provide the remaining 10%.
- The total salary for the apprentice is determined by NCDOT at a rate of \$49,920 + benefits/travel of \$4,911 = a total cost of \$54,904. The City's total cost for hosting an apprentice will not exceed \$5,491 (10%).
- The City has participated in this program several times over the last decade.
- The transit apprentice would work within the Transit Planning Division of the Transportation Department and would assist the division with ongoing work plan items related to transit service.

- The apprentice is also required by the NCDOT to prepare a research report at the end of the apprenticeship.
- If approved by NCDOT, the Transit Apprentice would begin work in early summer 2024.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- 90% of apprentice costs are covered by NCDOT.
- Provides support to the Transit Planning Division to assist in transit-related projects and programs.

**Con(s):**

- The City provides 10% of the cost, not to exceed \$5,491.

**Fiscal Impact:**

- If the grant is awarded, the City is required to provide 10% of the grant amount in matching funds (up to \$5,491).
- Matching funds will be considered during the FY 2024-25 budget development process.

**Motion:**

- Motion to adopt of a resolution authorizing the City Manager to apply for the North Carolina Department of Transportation (NCDOT) Public Transit Apprenticeship Grant Program and if awarded, authorize the City Manager to enter into an agreement with NCDOT to fund the Apprenticeship for Fiscal Year (FY) 2024-25.

**RESOLUTION BOOK NO. 44 - PAGE 298**

**I. RESOLUTION NO. 23-251 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH HENDRICKSON TRANSPORTATION GROUP TO SECURE TRANSIT-RELATED ADMINISTRATIVE SERVICE,S TRAINING, AND GRANT MANAGEMENT SUPPORT FOR FEDERAL TRANSIT ADMINISTRATION GRANTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Hendrickson Transportation Group for \$124,600 to secure transit-related administrative services, training, and grant management support for Federal Transit Administration Grants.

**Background:**

- The City is the Designated Recipient of Federal Transit Administration (FTA) grant funding that is allocated to the urbanized area.
- As the Designated Recipient, the City is responsible for administering the funding and processing the grants for the City's transit program, as well as those of other area transit agencies (subrecipients).
- The City is responsible for the timely administration of all grant funding and for ensuring that the City and all of the eight subrecipients are complying with the requirements of the FTA funding.

- There have been numerous staffing transitions in the Transit Grant position over the last five years, and the number of FTA grants being administered has increased significantly since the pandemic.
- This has created the need for additional grants management support and training of new transit staff as well as additional support for assisting with the increased number of grants awarded to the area.
- In order to allow for continued processing of grants, continue working with transit subrecipients, provide oversight and compliance monitoring, and provide training to new staff, the Transit Division issued an initial Request for Proposals (RFP) seeking qualified professionals with FTA grant experience to provide grant administration support and training to transit staff in early 2023.
- On June 13, 2023, Council adopted a resolution authorizing a contract with the consultant selected through the first RFP process.
- Unfortunately, following execution of the contract, the consultant could no longer provide the specialized staff that were needed for the project.
- Therefore, the City requested termination of the contract.
- This required that Transit staff re-issue the RFP and start the process over.
- Therefore, the second RFP was issued at the beginning of September. Proposals were due September 25th and six proposals were received, including one DBE firm.
- Based on the RFP scoring rubric, which ranked respondents based on experience and qualifications, project approach, and cost, HTG was selected by the selection committee and a one-year contract with options to renew for two additional years is proposed.
- The first year of the contract is proposed to be \$124,600 for FY 24 and is budgeted in the Transit Operations Budget.

**Vendor Outreach Efforts:**

- The Request for Proposals was posted on the NC HUB website and direct outreach was done to individual certified DBE firms with experience related to federal transit grants and compliance.
- A total of six proposals were received including one proposal from a certified DBE firm.
- A selection committee of staff from Finance, Budget, and Transit reviewed and ranked proposals, ultimately selecting Hendrickson Transportation Group (HTG).
- The selected contractor is not a MWBE/DBE firm.

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- The selected consultant will provide needed grant administration support while also training existing staff.

**Con(s):**

- Funding for the consultant contract is partially funded through savings from the vacant Transit Grants Analyst position.

**Fiscal Impact:**

- Funding for the first year of this contract is available in the Transit Services Division's operating budget.
- Future years will be planned for during the annual budget development process.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract with Hendrickson Transportation Group for \$124,600 to secure transit-related administrative services, training, and grant management support for Federal Transit Administration Grants.

**RESOLUTION BOOK NO. 44 - PAGE 299**

**J. RESOLUTION NO. 23-252 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WALDEN SECURITY TO PROVIDE SECURITY SERVICES AT THE CITY'S PARKING FACILITIES INCLUDING FOUR PARKING GARAGES AND 10 SURFACE PARKING LOTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Walden Security to provide security services at the City's parking facilities including four parking garages and 10 surface parking lots.

**Background:**

- There is a need to provide around the clock security service at the City's parking facilities, including four parking garages and 10 surface parking lots.
- The City currently has three full-time security guard positions in Parking Services, which have been difficult to fill.
- Over the last two years, only one of the three security guard positions has been filled and that individual remained in their role for two months.
- Given hiring challenges, the City is now pursuing contracted services to ensure security needs are met in the City's parking facilities.
- The scope of work for contracted services includes two security officers for each 8-hour shift (three shifts per 24 hours) who will routinely patrol all parking facilities, assist with routine traffic control, observe and report any unusual or suspicious activity, respond to any type of disturbance in the parking facilities, and assist customers and City parking staff with safety concerns.
- The initial term of the contract will be a one-year time period with two, one-year optional extensions.
- Walden Security was selected by a panel of six reviewers based on qualifications, action plan, references, and pricing.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through solicitation processes which included posting on the State's Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- No MWBE firms submitted bids with this prime contractor and all work will be self performed by the prime contractor (Verified by the ABI review team).

**Council Goal(s):**

- Improve/Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- Provides a safer environment for customers and Parking Services staff.
- Provides an enhanced customer experience.
- Loitering activity should decrease.

- Property damage should decrease.

**Con(s):**

- Cost of contracting the security services.

**Fiscal Impact:**

- Funding for the first year of this contract, not to exceed \$481,834, is available in the Parking Services operating budget.
- Future years will be planned for during the annual budget development process.
- The total cost of the contract with renewals is not expected to exceed \$1,445,502.

**Motion:**

- Adopt a resolution authorizing the City Manager to enter into a contract with Walden Security to provide security services at the City's parking facilities including four parking garages and 10 surface parking lots for one year with two one-year options to renew and for an amount not to exceed \$1,445,502 for the entire life of the contract, including the renewal periods.

**RESOLUTION BOOK NO. 44 - PAGE 300**

**K. RESOLUTION NO. 23-253 - 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**

**ORDINANCE NO. 5049 - BUDGET AMENDMENT FOR THE GREENWAY CONNECTOR PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into and execute a supplemental agreement with the N.C. Dept. of Transportation (NCDOT); and adoption of the associated budget amendment to accept Transportation Alternative Grant Funds to construct the "Greenway Connectors" project (EB-5790).

**Background:**

- This "Greenway Connectors" project was awarded a federal transportation grant in 2016. In April 2016 the City entered into the first grant agreement with NCDOT for the original project scope: to construct shared-use path connections between three priority greenways: Beaucatcher, Nasty Branch, and Bacoate Forest within existing right-of way
- These shared-use paths will be off-street and will serve pedestrians, bicyclists, and other micro mobility users, enhance multimodal safety, and provide wayfinding from one greenway to the other.
- This project includes two separate pieces, one on each side of the (future) Nasty Branch Greenway located in the Southside neighborhood. The two project areas are the following:
  - From the eastern trailhead of the Nasty Branch Greenway on the corner of Phifer Street and McDowell Avenue through Southside Avenue, Short Coxe Avenue, Biltmore Avenue, and Buchanan Avenue, ending at the parking lot of Memorial Stadium. The connector will remain within the right-of-way of the street. This facility will feature improved high-visibility crosswalks, a wide shared use-path along a portion of Southside Avenue and on Short Coxe Avenue, and greenway wayfinding
  - From the western trailhead of Nasty Branch Greenway on Depot Street, just south of the Dr. Wesley Grant Center, to the southern trailhead of the Bacoate

Branch Greenway on Clingman Extension. This facility will feature speed cushions on Depot Street, high-visibility crosswalks and greenway wayfinding.

- Prior grant funding of \$1,050,000 and a corresponding City match of \$262,500 has already been budgeted in the City's Capital Improvement Program (CIP).
- An additional \$356,800 in grant funds for the project were recently awarded. The proposed budget amendment would authorize the City to accept the additional grant funds and approve the required additional matching funds of \$89,200, which have already been budgeted in the CIP.
- This action will also authorize the City Manager to execute a supplemental agreement with NCDOT to reflect the updated grant funding and additional match.
- Final design documents for the project are currently being reviewed by NCDOT.
- Right-of-way acquisition is being finalized and will be sent to NCDOT for certification by November 2023.
- Bidding for construction of the project will be completed by the end of calendar year 2023.
- Construction of the project is planned to start in Spring 2024 and last approximately 9 months.

**Vendor Outreach Efforts:**

- The City followed all procurement policies to contract with a design firm to complete the design work.
- When the project is ready to put out to bid, our efforts will comply with all procurement policies.

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- Additional grant funds have been awarded for the construction phase.
- Fills a funding gap in the Greenway Connector project for the construction phase.

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this project, including the City's required match, was previously budgeted and is available in the Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into and execute a supplemental agreement with the N.C. Dept. of Transportation (NCDOT); and adoption of the associated budget amendment to accept Transportation Alternative Grant Funds to construct the "Greenway Connectors" project (EB-5790).

**RESOLUTION BOOK NO. 44 - PAGE 301**

**ORDINANCE BOOK NO. 35 - PAGE 125**

- L. RESOLUTION NO. 23-254 - RESOLUTION APPROVING THE RECOMMENDATION OF THE ALLOCATION OF \$50,000 IN STRATEGIC PARTNERSHIP GRANT FUNDINGS FOR ASHEVILLE PEAK ACADEMY AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE GRANT AGREEMENT**



**Action Requested:** Adoption of a resolution approving the recommended allocation of \$50,000 in prior year Strategic Partnership Grant Program for the Asheville PEAK Academy and authorizing the City Manager to execute the grant agreement.

**Background:**

- On September 19, 2023, the Equity and Engagement Committee (EEC) reviewed two options for allocating \$50,000 in remaining funds from the first round of the revised Strategic Partnership Grant.
- Following their review of the two options presented, the EEC directed staff to provide additional background information related to the applications from the first round (Summer 2022) and second round (Spring 2023) of grant funding.
- In response to this request, staff prepared a detailed appendix that includes links to all of the materials requested by the EEC.
- The EEC also directed staff to conduct additional engagement related to the allocation of the \$50,000 available from previous grant cycles.
- Following this direction, staff surveyed applicants and also included those responses in the appendix.
- During the October 13, 2023 EEC meeting, staff provided a brief update on the award data associated with Round 1 (Summer 2022) and Round 2 (Spring 2023) grant cycles.
  - All of the Round 2 Strategic Partnership Grant award agreements are now under contract and three of the six award agreements have requested and received payment.
- During the October 13 EEC meeting, staff also presented the committee options to reallocate the remaining \$50,000 available from previous grant cycles.
- The EEC voted unanimously to recommend the allocation of \$50,000 in Strategic Partnership Grant program funding for Asheville PEAK Academy.
- Asheville PEAK Academy intends to use Strategic Partnership Grant funding to support its "It Takes A Village" initiative.
- This program focuses on offering competitive wages and benefit packages to hire and retain highly qualified staff.
- This program will directly serve 10 highly qualified staff members who will educate approximately 216 scholars from public housing or low-income communities in Asheville for the current school year.

**Council Goal(s):**

- An Equitable and Diverse Community
- A Connected and Engaged Community

**Committee(s):**

- Equity and Engagement on 10-13-2023 - Heard staff recommendations; approved unanimously as described in suggested motion below.

**Pro(s):**

- This option allows for the redistribution of round 1 grant cycle funds based on recommendations from the Equity and Engagement Committee.

**Con(s):**

- None.

**Fiscal Impact:**

- Funding for this allocation is available in the Strategic Partnership Program.

**Suggested Motion:**

- Motion to approve the recommended allocation of \$50,000 available from previous Strategic Partnership Grant Program cycles for Asheville PEAK Academy and authorize the City Manager to execute the grant agreement.

Councilwoman Roney noted that the Equity & Engagement Committee had a good conversation about finding resources for what we all care about - and we care about our kids. She appreciated the Committee's recommendation to find more funding for our strategic partnerships, especially in addressing situations that our youth are dealing with and the opportunity gap in our schools.

**RESOLUTION BOOK NO. 44 - PAGE 302**

**M. RESOLUTION NO. 23-255 - RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO CONDEMN AN EASEMENT NEEDED FOR THE SWANNANOA RIVER GREENWAY PROJECT**

**Action Requested:** Adopt a resolution authorizing the City Attorney's Office to condemn easements needed for the Swannanoa River Greenway Construction Project.

**Background:**

- The Swannanoa River Greenway Construction Project will install approximately one mile of greenway along the Swannanoa River where no bicycle or pedestrian facilities currently exist.
- The City of Asheville entered into a design contract with Equinox in July 2018 for a feasibility analysis of potential greenway routes within the Swannanoa River area.
- Construction bids for the greenway were received August 31, 2023.
- The project was awarded to Baker Grading at the September 26, 2023 City Council meeting.
- All property owners were provided with offers of financial compensation for the needed easements, based on assessed value or appraisals obtained from a North Carolina licensed appraiser.
- Despite best efforts, the City has exhausted all opportunities to acquire the needed property rights through voluntary acquisition, therefore condemnation is necessary in order to protect the project schedule.

**Council Goal(s):**

- Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Will facilitate the completion of a needed greenway installation project and safeguard the project schedule.

**Con(s):**

- Will result in the commencement of eminent domain actions against eight properties.

**Fiscal Impact:**

- The expected value of the needed easements is approximately \$340,000. The appraisal value for the needed easements on each parcel is as follows:  
9658-32-2985: \$139,900; 9658-23-0140, 9658-13-9185, 9658-23-1310, 9658-23-1153,

- 9658-12-7767 combined: \$154,200; 9658-22-6896: \$20,275; 9658-23-3003: \$23,750
- Funding for these easements was previously budgeted and is available in the General Capital Projects Fund.

**Motion:**

- Motion to adopt a resolution authorizing the City Attorney's Office to condemn easements needed for the Swannanoa River Greenway Construction Project.

**RESOLUTION BOOK NO. 44 - PAGE 303**

**N. RESOLUTION NO 23-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH CINDERELLA PARTNERS INC. FOR ADDITIONAL URGENT REPAIRS ON THE PARKING GARAGE IMMEDIATE PRIORITY CAPITAL REPAIRS PROJECT**

**Action Requested:** Adoption of a resolution ratifying the execution of a change order with Cinderella Partners, Inc. in the amount of \$68,877 for additional structural repairs in the Wall Street garage for the Parking Garage Immediate Priority Repairs Project.

**Background:**

- The City engaged a consultant to perform an assessment of the City-operated parking garages.
- During the consultant's field investigation they identified critical repairs that require immediate attention at the Wall Street, Rankin Avenue, and Harrah's Cherokee Center garages.
- A request for bids was issued and the lowest, responsive bidder, Cinderella Partners, Inc., was awarded a contract at the October 14, 2023 Council meeting.
- Following contract award, staff reported unusual movement in the Level 2 parking ramp at the Wall Street garage.
- The engineer performed an on-site inspection and found that damaged concrete joints identified during the assessment and included in a future phase of garage construction, had degraded since the field investigation.
- The engineer issued a recommendation that 1) traffic be immediately diverted around the most vulnerable areas in the garage; 2) shoring posts be installed to provide additional temporary support; and 3) supplemental steel angles be fabricated and installed as soon as possible under the damaged joints in the parking deck.
- The scope of work is similar in nature to the steel and concrete repairs included in the contract awarded to Cinderella Partners.
- The change order was reviewed for reasonableness of cost and was executed without delay to ensure a quick response to the engineer's recommendations.

**Vendor Outreach Efforts:**

- When the project was advertised for bidding, staff performed outreach to minority and women owned businesses through solicitation processes using the State's Interactive Purchasing System and requiring prime contractors to outreach to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- Cinderella Partners, Inc. is a Woman-Owned Business Enterprise based out of Indian Trail, NC.
- No other MWBE subcontractors submitted bids with this prime contractor.

**Council Goal(s):**

- A Clean, Safe and Healthy Environment

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- These repairs increase the safety and longevity of the Wall Street parking garage.

**Con(s):**

- The work creates a temporary loss of parking spaces in the Wall Street garage, and a loss of associated parking revenue.
- The work creates a temporary inconvenience for parking patrons.

**Fiscal Impact:**

- Funding for this change order has been identified within the Parking Services Capital Fund.

**Motion:**

- Adopt a resolution ratifying the execution of a change order with Cinderella Partners, Inc. in the amount of \$68,877 for additional structural repairs in the Wall Street garage for the Parking Garage Immediate Priority Repairs Project.

**RESOLUTION BOOK NO. 44 - PAGE 304**

**O. MONTHLY MUNICIPAL PROPERTY TAX REFUNDS OR RELEASES PER N.C. GEN. STAT. SEC. 105-381**

**Action Requested:** Adoption of City of Asheville property tax refunds and releases for the month of September 2023.

**Background:**

- Buncombe County currently bills and collects City property taxes
- At the August 22, 2023, meeting, City Council approved an addendum to the existing tax collection agreement with Buncombe County to ensure that it fully conforms to the provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.
- As part of that compliance, the City Council must, on a monthly basis, approve all property tax releases and refunds that have been approved by the Buncombe County Board of Commissioners.
- City of Asheville refunds and releases for September 2023 are included in the document.

**Council Goal(s):**

- A Financially Resilient City

**Pro(s):**

- Ensures compliance with provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.

**Con(s):**

- None

**Fiscal Impact:**

- None.

**Motion:**

- Motion to adopt City of Asheville property tax refunds and releases for the month of September 2023.

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

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

Councilwoman Turner moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Kilgore and carried unanimously.

**III. PRESENTATIONS & REPORTS:**

**A. MANAGER’S REPORT - TOURISM DEVELOPMENT AUTHORITY APPLICATIONS UPDATE**

Assistant to the City Manager Jaime Matthews provided the following key takeaways from her presentation (1) Grants from the Tourism Development Authority (TDA) provide the City with opportunities to leverage funds for tourism-related capital projects; (2) The City’s goal is to align capital needs with the allowable uses for TDA grant funding; (3) TDA uses the Tourism Product Development Fund (TPDF) and Legacy Investment from Tourism (LIFT) funds to support grants to government and nonprofit agencies; (4) The City continues to work with the TDA and other partners to plan projects; and (5) Phase 1 Applications for LIFT funding are due December 1, 2023. The grant funds include (1) Tourism Product Development Fund (TPDF) - Focused on major tourism capital projects; and (2) Legacy Investment from Tourism (LIFT) - Focused on projects that: (a) Increase patronage of lodging facilities, meeting facilities, and convention facilities by attracting tourists, business travelers; and (b) Benefit the community at large in Buncombe County..

The 2023 TPDF project awards are as follows:

<b>2023 TPDF Awarded Projects</b>	<b>Amount</b>
<ul style="list-style-type: none"><li>• Harrah’s Cherokee Center Asheville - TPDF</li></ul>	\$1,586,000
<ul style="list-style-type: none"><li>• McCormick Field - Major Works Funding</li></ul>	\$22,950,000

The 2023 LIFT Applications are seen below:

1. Coxe Avenue	Partially grant funded planning, environmental and engineering work to improve the pedestrian and multimodal infrastructure along Coxe Ave, from Patton Ave. to Short Coxe Ave.	\$3,000,000
2. Thomas Wolfe Auditorium	HVAC Repair and Design for Auditorium	\$1,792,000
3. Big Belly Trash Cans	Big Belly Trial in key areas with 10 Big Belly Units	\$30,000
4. Harrah's Cherokee Center	HVAC upgraded, Elevator replacement, Loading dock suring.	\$675,000
5. Aston Tennis Center	Design of rebuild of 6 tennis courts	\$15,000
6. Nasty Branch Greenway	Urban greenway linking the southern River Arts District / Livingston Street neighborhood to the South French Broad neighborhood. The greenway will include two retaining walls, benches, approximately 4,000 linear feet of 10-foot (typical) asphalt greenway, entry treatments, and historical markers.	\$1,000,000

Upcoming possible TDA project applications for future cycles are as follows:

Infrastructure	Regional Assets
<ul style="list-style-type: none"> <li>● I-26 Recommended Priorities <ul style="list-style-type: none"> <li>○ Bowen Bridge Enhancements</li> <li>○ Haywood Bridge and Interchange</li> <li>○ Hill Street and I-240 Pedestrian Bridges</li> </ul> </li> <li>● Affordable Housing</li> <li>● Infrastructure improvements Downtown <ul style="list-style-type: none"> <li>○ ADA Sidewalks based on the GAP Plan</li> <li>○ Parking Garage improvements</li> </ul> </li> <li>● Greenways</li> </ul>	<ul style="list-style-type: none"> <li>● Thomas Wolfe Auditorium</li> <li>● Harrah's Cherokee Center Asheville</li> <li>● Municipal Golf Course</li> <li>● Nature Center</li> <li>● Aston Park Tennis Center</li> </ul>

The following is the LIFT grants timeline:

Date	Milestone
October 31, 2023	Phase I Applications Open
December 1, 2023	Phase I Applications Due

December 18, 2023	Phase I Applicants Notified (Invite to Phase II)
February 28, 2023	Phase II Applications Due
April 24, 2024	Funding Recommendations presented to the BCTDA Board

Regarding the occupancy tax changes, House Bill 1057/SL 2022-40 amended the Local Occupancy Tax Rules: (1) Marketing allocation reduced from 75% to 66%; (2) Created the Legacy Investment from Tourism (LIFT) fund for tourism related projects that attract tourists and benefits the community at large; and (3) Changes maximum debt service period of performance from 10 to 15 years.

There was considerable discussion, initiated by Councilwoman Turner, about the occupancy tax changes, and how she felt that the City needs to be better prepared for affordable housing applications. Since Buncombe County has an affordable housing project on Ferry Road (which is inside the City), it was the consensus of Council that one of the three letters that Buncombe County needs in support of their application, come from the City of Asheville. It was noted that the total LIFT grants are \$10 Million, and the County’s application for the Ferry Road project is \$6 Million. Since the City’s ask on our projects is approximately \$6 Million, that might mean that some of the City’s applications might not get funded.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONDITIONALLY REZONE 2 BUTLER ROAD FROM COMMUNITY BUSINESS II DISTRICT TO RESIDENTIAL EXPANSION - CONDITIONAL ZONE**

Councilwoman Ullman moved to recuse Mayor Manheimer from participating in this item due to a conflict of interest. This motion was seconded by Councilwoman Turner and carried on a 6-0 vote, with Mayor Manheimer not voting..

At this time, Mayor Manheimer turned over the gavel to Vice-Mayor Kilgore and she left the room.

Urban Planner Clay Mitchell said that this is the consideration of an ordinance to conditionally rezone 2 Butler Road from Community Business II District to Residential Expansion - Conditional Zone. This public hearing was advertised on November 3 and 10, 2023.

**Project Location and Contacts:**

- The project site totals 8.88 acres located with frontage on Long Shoals Road and Plott Place and includes a right of way labeled as Butler Road on city and county maps.
- There are 5 separate parcels: 9644 58 3305 Stepp, Marita; 9644 58 2240 Swicegood, Robert; 9644 57 2976 Fort, Jeanne Elise & Wallace Margaret Adele; 9644 57 6935 Hawes, Deirdre; 9644 58 6210 Earwood, Patricia; Earwood, Jimmie.

**Summary of Petition:**

[Project Site](#)

- The project site consists of 5 parcels of land and a private right of way known as Butler Road, the combined area is 8.88 acres at the intersection of Long Shoals Road and Plott Place.
- The site is currently zoned Community Business II (CBII).
- Given the size of the project (over 50 residential dwelling units) a conditional zoning to the Residential Expansion - Conditional Zone (RES EXP - CZ) district is required.
- The project site is currently a few single family dwellings and manufactured housing units.
- The site is designated "Urban Corridor" on the city's Future Land Use (FLU) Map.
- A change in the FLU designation will not be required.

#### Overall Project Proposal

- New building construction includes a total of 279 units in five four-to-five story multi-family buildings.
- Other site improvements include surface parking, internal sidewalks, and 4 garage buildings, and 4 amenity buildings providing functions that include a leasing office, mailroom, fitness and pool area building, car wash and dog spa and an outdoor amenity space with a pool.
- A minimum of 10% of the units will be affordable at 80% Area Median Income (AMI) for a minimum of 20 years. Up to half of the affordable units will accept Housing Choice Vouchers.
- This reduction in the required affordable units for increased density in the RES EXP district is subject to a request for a technical modification.

#### Site Layout and Design

- Maximum building height for multifamily buildings in the RES EXP district is 60 feet. The maximum building height of the proposed project is approximately 52 feet, as measured to the ceiling of the highest occupiable floor of Building 2000, as labeled on the architectural plans.
- Maximum density in the RES EXP district is 20 units/acre or 50 units/acre if 20% of the proposed units are affordable at 80% AMI.
- The project proposes a density of 31.4 units/acre with 10% of units being affordable at 80% AMI.
- The project is seeking a technical modification for density.
- All setbacks in the RES EXP are 15 feet and the project is compliant.
- Maximum impervious surface in the RES EXP district for multifamily uses is 80%.
- The proposed project would result in a total impervious area of 74.32%.
- The project includes several retaining walls.
- Two are located along the eastern (max height of 19') and western edge (max height of 15') of the property and one traverses the center of property and the last is immediately west of the southernmost building (both between 5' and 10' in height). The walls must be designed by a licensed engineer.
  - The applicant has requested final design and details on retaining walls to be submitted at the Final TRC review stage.
- Staff provided information about increased solar tax incentives due to the location of the facility and the recent adoption of the Inflation Reduction Act.

#### Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, and building impact.
- The project does not require a landscape buffer as the site is not adjacent to RS or RM zoning districts.
- The project is classified as "Urban" under the Tree Canopy Preservation standards and has a classification of "Class B". The applicant is proposing a condition that tree canopy requirements will be met through either fee in lieu or a mix of fee and onsite preservation and has requested permission to submit a final determination and plans as part of the



- Final TRC review.
- Open Space is required at a rate of 20% of the site as the project meets the incentive requirements for enhanced stormwater management, resulting in 2.14 acres of required open space (24% of the site).

#### Access, Sidewalks and Parking

- Access to the site will be provided by a driveway located on Plott Place and a secondary gated emergency access off the adjacent commercial property along Julian Shoals Drive.
- Sidewalks are proposed for both access drives and the frontage along Plott Place connecting to neighboring properties and existing sidewalks. Internal sidewalks are 5 feet minimum (subject to technical modification).
- The project proposes 358 surface parking and 24 garage parking spaces, 382 total. With 18 three bedroom units and the rest being one and two bedroom units, the final minimum and maximum required spaces is 297/576 spaces. The proposed spaces are at a ratio of about 1.36 spaces/unit. Required accessible spaces are shown at 8 spaces. Accessible spaces are shown at 19 spaces where 17 are required.
- Bicycle parking is required at a rate of five percent of the total number of vehicle parking spaces and are shown with 40 spaces where 19 are required.
- The RES EXP district requires new 10 foot-wide sidewalks be constructed, both along the primary access corridor and internally throughout the site.
  - The project is proposing a technical modification for new five foot-wide sidewalks internal to the site.
  - A new five foot-wide sidewalk is shown along the emergency access drive.
  - No new sidewalk is proposed along Long Shoals Road in place of the existing five foot-wide sidewalk located in the NCDOT right of way.

#### Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
  - Five foot-wide sidewalks internal to the site instead of the required 10 foot-wide standard.
  - No bike lanes are proposed into the development given the current condition of Long Shoals Road which has no existing or proposed bike facilities.
  - A maximum density of up to 32 units/acre where 20 units/ acre is the allowed maximum without meeting density bonus requirements (20% of units affordable at 80% AMI)

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

##### Living Asheville Comprehensive Plan (2018)

- The proposed development supports a number of goals in the Living Asheville Comprehensive Plan, including:
  - **Encourage Responsible Growth** - by providing infill development and more housing located proximate to jobs, schools, health services and public amenities, such as open space, grocery stores and restaurants.
  - **Increase and Diversify the Housing Supply** - by increasing the supply of housing, including some amount of affordable housing in proximity to schools, transit and parks.
  - Housing types should represent the natural evolution of neighborhoods to include diverse housing options.
- The proposed development is substantially compatible with the Future Land Use designation of "Urban Corridor", which states that "urban corridors could see infill redevelopment in the form of mixed-use residential, commercial and office uses that place emphasis on pedestrian-friendly amenities and infrastructure."

**Compatibility Analysis:**

- The proposed multi-family residential project is compatible with the surrounding land uses, including:
  - Close proximity to a large educational complex comprising intermediate, middle, and high schools.
  - Several medium density multi-family developments in the area and a significant number of commercial and entertainment locations within walking distance.
  - The site is also close to Lake Julian Park - providing active and passive recreation opportunities to residents.
  - To the south is Lake Julian and land owned by Duke Energy Progress along the shore of Lake Julian in Buncombe County outside Asheville's city limits.

**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) - August 7, 2023 - approved with conditions.
- Planning and Zoning Commission (PZC) - October 4, 2023 - no recommendation given, motion to approve failed with a tie vote (3-3).
  - A number of conditions agreed to by the applicant are included in the updated Exhibit E - Project Conditions.
  - These include: maximum limit for parking spaces, increased bicycle parking, EV charging, and cooperation toward upgrading existing bus stop to a shelter.
  - Conditions suggested by the Commission that were not agreed to by the applicant include a goal of preserving as many trees as is possible and feasible for tree canopy protection and accepting Housing Choice Vouchers for affordable units in the project.

**Staff Recommendation:**

- Staff recommends approval of this conditional zoning amendment based on the reasons stated above with the following qualifications that were considered upon formulating our recommendation.
  - Staff notes the nature of the location, the future land use designation, and surrounding development patterns for this area of the city as weighing in favor of increasing density for this project.
  - Staff respects the critical need for all housing types in the City with an especially dire need for affordable housing.
  - Providing affordable housing that accepts Housing Choice Vouchers addresses clearly articulated goals of the Asheville Comprehensive Plan related to diverse and affordable housing:
    - Goal 13: Increase and diversify the housing supply.
    - Goal 14: Promote the development and availability of affordable and workforce housing.
  - In addition to the above, Equitable and Affordable Housing and Stability became one of six Council Strategic Priorities beginning in fiscal year 2023 (FY23). Quality Affordable Housing is one of eight focus areas for the Council's Vision 2036.

Mr. Mitchell reviewed the location map, the existing and proposed zoning, and the future land use designation. Regarding the future land use designation, there is no change required for

the Urban Corridor. The proposed development supports a number of goals in the Living Asheville Comprehensive Plan including (a) Encourage Responsible Growth - by providing infill development in targeted growth areas; and (b) Increase and Diversify the Housing Supply - by increasing the supply of housing, including affordable housing in proximity to schools, transit and parks. The proposed development is compatible with the Future Land Use designation of "Urban Corridor" which is proposed, in part, as "redevelopment in the form of mixed-use residential, commercial and office uses that place emphasis on pedestrian-friendly amenities and infrastructure"). Regarding the site plan, 5 buildings total with 279 multi-family units. Affordable units: 10% (28) at 80% AMI; and 5% (14) to accept Housing Choice Vouchers; Parking: 376 surface, 24 garage, with 22 accessible, and 40 bicycle spaces; Amenities: outdoor pool, indoor, garages, dog/car wash. 7 buildings total at 13,120 s.f.; Main access: Plott Place, full secondary access: Julian Shoals Dr (abutting commercial site); and Sidewalks internal and along Plott, existing on Long Shoals Rd. Regarding the landscaping site plan, Vehicle Use Area landscaping - compliant and shown; Building Impact landscaping - compliant and shown; TCP - compliance with UDO provisions required to be finalized and shown on a recordable plan for approval at Final TRC stage; Open Space - compliant and shown at 24%; Street trees - compliant and shown; and (6) Retaining walls: Eastern: Max height: 19 feet, Western: Max height: 15 feet, and Internal: 5-10 feet height. Regarding conditions (1) EV charging spaces and make-ready spaces at 5% (20 spaces) and 5% (20 spaces) respectively; (2) The applicant will work with NCDOT and City Asheville to upgrade bus stop to shelter pending approval and feasibility; (3) Twenty-eight (10%) of the units will be designated as affordable at 80% of AMI; and (4) A minimum of 40 bicycle parking spaces will be provided. Technical modifications are The project is seeking technical modifications to development standards through the conditional zoning process including: (1) Five foot-wide sidewalks internal to the site instead of the required 10 foot-wide standard; (2) No bike lanes are proposed into the development given the condition of Long Shoals Road which has no existing or proposed bike facilities; and (3) Applicant has requested a modification to permit density of 32 units/acre where 20 units/ acre is the maximum. He then went through the Planning staff recommendations - technician modification - zoning density analysis. Regarding the review process, the Technical Review Committee, on August 7, 2023, approved with conditions, revise and resubmit. At the October 4, 2023, Planning & Zoning Commission meeting, the motion to approve failed by a 3-3 vote. The proposed development supports a number of goals in the Living Asheville Comprehensive Plan, including: (1) Encourage Responsible Growth - by providing infill development and more housing located proximate to jobs, schools, health services and public amenities, such as open space, grocery stores and restaurants; (2) Increase and Diversify the Housing Supply - by increasing the supply of housing, Including affordable housing in proximity to schools, transit and parks; and (3) Housing types should represent the natural evolution of neighborhoods to include diverse housing options. Regarding renewable energy considerations, they include (1) EV Parking (a) EV Charging: 5% or 20 spaces at construction; and (b) EV capable spaces: 5% or 20 spaces pre-wired with conduit; (2) Renewable Energy Incentives include (1) Calculation: Base credit: 30%; Domestic content: +10%; Energy Community: +10%; (2) Total Credit = 50% of investment (credit to taxes); and (3) Depreciation = 75% of basis (deduction from income). Staff recommends approval of this conditional zoning based on the reasons stated above and with the following qualifications that were considered upon formulating our recommendation. Staff notes the nature of the location, the future land use designation, and surrounding development patterns for this area of the city as weighing in favor of increasing density for this project. Staff respects the critical need for all housing types in the City with an especially dire need for affordable housing. Providing affordable housing that accepts Housing Choice Vouchers addresses clearly articulated goals of the Asheville Comprehensive Plan related to diverse and affordable housing: Goal 13: Increase and diversify the housing supply; and Goal 14: Promote the development and availability of affordable and workforce housing. In addition to the above, Equitable and Affordable Housing and Stability became one of six Council Strategic Priorities beginning in fiscal year 2023 (FY23). Quality Affordable Housing is one of eight focus areas for the Council's Vision 2036.

Councilwoman Roney felt that this project should consider a renewable energy plan, especially since there is an energy community tax credit bonus. She was concerned that we don't see projects like this providing multimodal infrastructure, because it tells her we are absolutely assuming that everyone in this neighborhood will have to drive a car.

In response to Councilwoman Roney, City Attorney Branham said that there are challenges on the expenditure of the tree fee in lieu of funds, and it is limited in fully restoring lost tree canopy.

Mr. Will Buie, with WGLA Engineering, explained how they have listened to comments and made changes since they began in January 2023. They have agreed to up to half of the affordable units accepting Housing Choice Vouchers; along with a full movement access (which originally was only a pedestrian and Fire Department access). He explained the NCDOT will not place a traffic signal at Plott Place and Long Shoals Road. He said that they are going above the minimum with stormwater management. They will preserve a fair amount of tree canopy on the southern portion of the site.

Councilwoman Turner asked how many 3-bedroom units (family sized units) are in the mix since there are three schools in the immediate vicinity and a park next door. Mr. Tom Burr, Vice-President of Flournoy Development, said that even though the details of the mixed units are not finalized, 60% are one-bedroom units and 20% of the one-bedroom units will have a room for a den or office space; 30% are two-bedroom units and roughly 10% of the mix are three-bedroom units. He then explained their rationale for parking spaces.

In response to Councilwoman Turner, Mr. Burr explained why they are requesting a higher density than allowed, and why they cannot do more than 10% affordable housing, noting that they did look into the City's Land Use Incentive Grant policy and it was not a great fit for this project.

Vice-Mayor Kilgore opened the public hearing at 6:15 p.m., and when no one spoke, she closed the public hearing at 6:15 p.m.

Councilwoman Ullman understood that the developer has done a lot of due diligence on this project, but hoped to see greater affordability and environmental aspects included.

Mr. Craig Justus, attorney for the applicant, believed the applicant has presented a good project and felt there may be some items that City Council is asking for that is beyond the bounds of zoning. He said they might be able to provide solar on some of the accessory structures, but not on the main buildings. They would be willing to negotiate that condition. At the Planning & Zoning Committee meeting, one concern was access, and they revised their plans to have a full movement access. Another concern was about preserving a percentage amount of property, which they cannot guarantee a specific percentage; however, they will preserve all they can.

Councilwoman Turner suggested the applicant may request a continuance in order to continue to work on the development conditions.

At the developer's request, Councilwoman Turner moved to continue this matter until December 12, 2023. This motion was seconded by Vice-Mayor Kilgore and carried on a 6-0 vote (with Mayor Manheimer being recused).

At this time, Mayor Manheimer re-entered the room and took over the gavel to proceed with the meeting..

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

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

Four individuals spoke to City Council about various matters, some being, but are not limited to: school issues, especially as it relates to Senate Bill 49; a request that the Public Art & Cultural Commission's proposed ordinance amendment not include a designated seat for Explore Asheville; history of Vance Monument; and discrimination of Jewish people.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 6:45p.m.

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CITY CLERK

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MAYOR