

Thursday – December 7, 2023 - 11:00 a.m.

### **Agenda Briefing Worksession - For December 12, 2023 Council Meeting**

Present: Vice-Mayor Sandra Kilgore, Presiding; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sheneika Smith; Councilwoman Sage Turner; Councilwoman Maggie Ullman (entered meeting at 11:30 a.m.); City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: Mayor Esther E. Manheimer

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:

- Update on Independent Review Committee (IRC) Recommendations
- Update on Reparations Commission request for extension of time

At 12:30 p.m., Vice-Mayor Kilgore adjourned the agenda briefing worksession.

Tuesday – December 12, 2023 - 3:30 p.m.

### **Fiscal Year 2025 Capital Improvement Program Process and Initial General Obligation Bond Planning**

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

Absent - Councilwoman Sage Turner

City Manager Campbell provided the following presentation overview for this worksession: (1) Overview of the budget development process; (2) Capital overview; (3) Capital needs and prioritization; (4) GO Bond referendum planning; (5) Financial planning for capital; and (6) Summary and next steps.

Budget Manager Taylor Floyd provided the following key takeaways: (1) Capital investment in facilities, equipment and infrastructure is essential to service delivery; (2) Ongoing planning efforts have helped to identify and prioritize capital needs; (3) Internal and external review will continue; and (4) Additional resources are needed to continue existing service delivery and meet identified goals.

Mr. Floyd then gave the Fiscal year 2024-25 (FY25) budget process overview, outlining the budget development process, the FY25 budget development key dates, guiding principles, and Council priorities.

He then provided the capital overview, outlining what the capital basics are, why and how; how capital projects impact services, a chart of the General Fund capital spending from FY15 - FY28 est., capital planning summary, five-year Capital Improvement Program (CIP) plan (a) FY 2023-24 projects are adopted as part of the annual budget; (b) years 2 and 5 in the plan

shift forward; and (c) a new year 5 is programmed; and a capital project timing example. Significant adjustments in FY24 CIP are (1) McCormick Field - Added annual City funding for debt (\$865k); (2) I-26 Betterments/Aesthetic Improvements - (a) \$5.9M programmed in for FY27; and (b) Will work to identify funding opportunities; and (3) Municipal Building - Additional \$2.1M to complete essential repairs. He said the Capital Improvement Program (CIP) is primarily funded with debt and supported by ~\$15M annual allocation from the General Fund. Current CIP primarily consists of maintenance projects. Limited capacity to add projects/costs to plan within existing resources.

Mr. Floyd then reviewed the capital needs and prioritization. Regarding identifying and prioritizing capital needs, (1) Plans and studies identify needs and help to prioritize (e.g., corridor studies, GAP Plan, Comprehensive Facilities Study); (2) Sustainability, equity, core service delivery, and other goals; (3) Community engagement opportunities during plans/studies and project development; and (4) Holistic approach to project planning. Previous worksessions have been (1) Thomas Wolfe Auditorium (TWA) (9/26/23); and (2) Facilities I (10/10/23) & II (11/14/23) (a) Capacity needs for growing city, staff, and services; (b) Ongoing maintenance needs to serve staff and residents well in existing facilities; and (c) Funding needs to support prioritizing and sequencing large projects required to help make Council priorities a reality.

From the TWA worksession, significant needs were (1) Short term full capacity repairs underway; and (2) Long term renovation suggested focused on patron/performer experience (\$130-150 million). Next Steps are (1) Stakeholder input; (2) Understanding debt capacities; and (3) Funding feasibility. He then reviewed the facility maintenance model; the facility planning process; the parking garages (user fee funded); water infrastructure (user fee funded); the GAP Plan priority project lists; infrastructure needs; the FY25 CIP development process, the CIP community engagement, and the internal process update.

Finance Director Tony McDowell said that regarding the General Obligation (GO) bond referendum process, purposes GO bonds may be issued are: Public building; Facilities for fire fighting and law enforcement; Auditoriums, civic centers and public gathering; Facilities for parks and recreation; Streets and sidewalks; Public transportation facilities; and Housing projects for the benefit of persons of low/moderate income. He reviewed Asheville's 2016 GO bond referenda - \$74 Million total - \$17 Million parks, \$32 Million transportation; and \$25 Million housing. He reviewed the local GO bond referenda in North Carolina. GO bond Council actions include (1) Meeting 1 (June): Council adopts (a) Resolution directing publication of notice of intent to apply to the Local Government Commission; and (b) Resolution authorizing the Finance Officer to apply to the LGC and making certain findings of fact; (2) Meeting 2 (June): Council (a) Introduces the Bond Order(s); and (b) adopts the Resolution setting a public hearing on the Bond Order(s); and (3) Meeting 3 (July): Council (a) holds public hearing(s) on Bond Order(s); (b) adopts the Bond Order(s); and (c) adopts the Resolution setting a Special Bond Referendum. As of January 1, ballot language must include: (1) A statement that the bond may result in tax increases; (2) The estimated bond cost over its total life; and (3) The property tax liability increase that could be needed to fund the bond.

Mr. Doug Carter from DEC Associates, provided City Council with the City's financial planning, debt model and affordability. He outlined the Financial Planning, Policies and CIP Funding (a) City has sound and comprehensive Capital Oriented Planning; and (2) Intense capital planning and debt modeling began in 2013.

Mr. Andrew Carter from DEC Associates then outlined the (1) Current Resources & Debt Outstanding; (2) Asheville's Method of Debt Issuance (a) "Cash Flow" form of financing from capital fund; and (2) very creative method - used by other Triple A's; (3) Future Projects Funded by Financial Model & Additional Capacity (a) spending from FY25 - FY 29 - Total \$145 Million; (b) \$42 Million Draw Program issued June 2022 for spending from FY 23-24; (c) \$53,292,000 Draw

Program expected in mid 2025 for spending from FY 26-28; and (d) all affordable from current resources/assumptions; (4) Additional Capacity (a) current adopted CIP and 2016 GO bond authorized spending funded in financial model; (b) small amount of capacity exists past the 2029 spending cycle; and (c) to increase capacity past 2029, spend slower or add additional dedicated to financial model; (5) Potential New GO Bonds (a) discussion of potential new voted GO bonds - November 2024; and (b) additional resources will be needed to fund new voted bonds (gave examples for illustration); (6) "Steady State" (a) cities moving to using a consistent "steady state" vote cycle (i) allows for better long-term GO capital program planning; (ii) shaves "peakes and valleys" of debt service and resources needed; (iii) establishes importance of funding future capital needs; (iv) improves resource allocation; and (v) gives policy makers breadth of decision making and roadmap; and (b) consistent cycle has many benefits (i) bond votes are normal part of raising capital; (ii) increases affordability and consistency in bond purposes and sizing; and (c) occurs periodically; and (7) Very Conceptual Annual Resources Needed - Each Alternative.

Throughout discussion, Mr. Doug Carter, Mr. Andrew Carter, Mr. McDowell, Mr. Floyd, Capital Projects Director Jade Dundas, along with City Manager Campbell, responded to various questions/comments from Council, some being, but are not limited to: is there a way for City Council to see the 100+ projects submitted by departments to get a perspective and scope of the projects; what are the pros and cons of hiring internal crews to do some projects; a chart showing Council priorities and how many have been completed would be helpful to educate the public; need to weave neighborhood and climate resilience into conversations; suggestion to have our boards & commissions to discuss different GO bond options; request for a 3-5 year projection on wage and compensation; are third-party contracts eligible GO bond expenses; need to continue property tax mitigation; and how the language of a bond on the ballot is highly regulated; however, Council can make a clear policy of how the funds would be spent.

At 4:38 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – December 12, 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 RECOGNIZING THE EFFORTS OF THE MILLS RIVER PARTNERSHIP RESTORATION AND PROTECTION OF RIVERBANK AND RIPARIAN BUFFER**

Mayor Manheimer read the proclamation recognizing the efforts of the Mills River Partnership to restore approximately 2,500 linear feet of riverbank along the Mills River and protect 14 acres of riparian buffer upstream of the water intake at the Mills River Water Plant. She presented the proclamation to Maria Wise, Executive Director of Mills River Partnership; Damon Hearne, Land and Water Fund Western Field Representative and Bert Lemkes, Mills River Partnership Board Chair who thanked City Council for this recognition.

**II. CONSENT AGENDA:**

At the request of Councilwoman Roney, Consent Agenda Item “G” 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 NOVEMBER 9, 2023; AND THE FORMAL MEETING HELD ON NOVEMBER 14, 2023**
- B. RESOLUTION NO. 23-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WNC LANDSCAPING LLC FOR THE FISCAL YEAR 2024 DOWNTOWN CLEANING CONTRACT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE TWO OPTIONAL EXTENSIONS PROVIDED THE PROJECT IS FUNDED IN THE FISCAL YEAR 2025 AND FISCAL YEAR 2025 BUDGETS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with WNC Landscaping, LLC. in the amount of \$256,995 plus a contingency of \$38,549 for a total of \$295,544.00 for the Fiscal Year (FY) 2023-24 Downtown Cleaning Contract; and authorizing the City Manager to execute the two optional extensions to the contract provided the project is funded in the FY25 and FY26 budgets.

**Background:**

- This base contract includes provisions for the pressure washing of City-owned sidewalks in the Central Business District (CBD) and weed control on City-owned sidewalks and curb lines.
- Alternate bids were included for two additional pressure washing cycles of Zone A, general cleanup services to remove loose litter and debris from City-owned sidewalks, the cleaning of City-owned garbage and recycling cans, and “hot spot” litter collection.
- The alternate bids will be accepted from the lowest responsive bidder on the base price provided the costs of the alternate services fit into the project budget.
- The contract has the possibility of 2 one-year extensions.
- The contract carries an automatic 3% price increase for each extension.
- The contract was advertised on September 27, 2023 and bids were opened on October 30th, 2023
- The following bids were received:

	Base Bid	Alternate Bids
WNC Landscaping, LLC of Weaverville NC	\$102,504.00	\$154,491.00
MSLean, LLC of Asheville, NC	\$128,938.00	\$191,582.00
Xtreme Eco Blasting, LTD of Charlotte, NC	\$145,000.00	\$127,780.00
B.H. Graning Landscapes of Sylva, NC	\$592,615.00	\$257,585.00

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through solicitation processes which include posting on the State’s Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- In addition staff searched the NCDOT vendor database, the NC HUB database and the City of Asheville ABI vendor database for potential contractors.
- Three MWBE companies attended the mandatory database and one submitted a bid.
- The lowest responsive bid was not a MWBE company.

- No MWBE firms submitted bids with this prime contractor and all work will be self performed by the prime contractor.

**Council Goal(s):**

- Clean, Safe and Healthy Environment

**Committee(s):**

- N/A

**Pro(s):**

- Provides the pressure washing of the CBD.
- Provides for the cleaning of City-owned garbage and recycling cans, which are a source of complaint.
- Provides for cleaning of litter hotspots throughout the CBD.

**Con(s):**

- Pressure washing can cause short disruptions for pedestrian traffic.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract with WNC Landscaping, LLC. in the amount of \$256,995 plus a contingency of \$38,549 for a total of \$295,544 for the FY 2023-24 Downtown Cleaning Contract; and authorizing the City Manager to execute the two optional extensions to the contract provided the project is funded in the FY25 and FY26 budgets.

**RESOLUTION BOOK NO. 44 - PAGE 305**

**C. RESOLUTION NO. 23-258 - RESOLUTION DIRECTING THE CITY ATTORNEY TO FORMALLY INTERVENE IN THE NORTH CAROLINA UTILITIES COMMISSION DOCKET E-100 SUB 190 OF DUKE ENERGY'S CARBON PLAN INTEGRATED RESOURCE PLAN IN ORDER TO PROVIDE COMMENT FROM THE SUSTAINABILITY STAFF REGARDING THE CITY'S RENEWABLE ENERGY GOALS AS THEY RELATE TO THE CARBON PLAN INTEGRATED RESOURCES PLAN**

**Action Requested:** Adoption of resolution directing the City Attorney to formally intervene in the North Carolina Utilities Commission Docket E-100 Sub 190 of Duke Energy's Carbon Plan Integrated Resource Plan

**Background:**

- In 2016, the City Council adopted [Resolution 16-64](#) which established a joint task force with Duke Energy and Buncombe County to collaborate on solutions to reduce energy consumption in the region and increase deployment of renewable energy.
- In 2018, the City Council adopted [Resolution 18-279](#) establishing a 100% renewable energy goal for all municipal operations by 2030 and to support the County's communitywide goal by 2042.
- In 2023 the City Council adopted [Resolution 23-70](#) adopting the Municipal Climate Action Plan which identifies engaging in state level and utility policy as a high impact activity.
- Session Law 2021-165, more commonly referred to as House Bill 951 required Duke Energy to develop a Carbon Plan outlining how utilities would achieve a 70% reduction in

carbon dioxide emissions by the year 2030 and carbon neutrality by 2050 and to be updated every two years. The first Carbon Plan was developed in 2022.

- Every two years Duke Energy submits an Integrated Resource Plan (IRP) to communicate strategies for delivering reliable electricity at the lowest cost (typically a 10 to 20 year horizon).
- In 2023 the North Carolina Utilities Commission approved Duke Energy's request to submit the Carbon Plan and Integrated Resource Plan at one time and it was named the Carbon Plan Integrated Resource Plan (CPIRP).
- The proposed CPIRP includes three pathways. All scenarios include a mix of electricity generated from both renewable and nonrenewable sources in 2030 thus the City will need to procure additional renewable energy to meet its 100% renewable energy goal by 2030.
- The North Carolina Utilities Commission (NCUC) hosts statutory reviews prior to approving carbon plans and integrated resource plans from utilities.
- To participate, the City must petition to become a formal intervenor by demonstrating they are a stakeholder in the proceeding.
- Intervention in the review allows the City to help shape the final CPIRP content, potentially accelerating the transition to renewable energy in our utility territory.
- NCUC tends to give greater weight to public comments provided through this more formal intervention process, so the City's participation is critical to advance efficiency and renewable generation strategies aligned with our policies.
- This is an opportunity to strengthen and highlight the success of the current partnership with Duke Energy and advocate for affordable, renewable electricity.
- The City will partner with Buncombe County to provide consistent and coordinated comments on behalf of both the City of Asheville and Buncombe County.
- If approved, this intervention will be the third time the City has officially intervened in a docket at the NCUC. The City's comments continue to be reflected in Duke's continual plan development.

**Vendor Outreach Efforts:**

- Not applicable

**Council Goal(s):**

- Equitable and Diverse Community
- A Clean and Healthy Environment

**Committee(s):**

- Environment and Safety, November 28, 2023 - 3-0 to approve and move forward to City Council

**Pro(s):**

- Supports [Resolution 17-104 Encouraging a State Goal of 100% Renewable Energy by 2050](#)
- Supports [Resolution 18-279 Establishing a 100% Renewable Energy Goal](#)
- Supports [Resolution 20-25 Declaration of a Climate Emergency](#)
- Action prioritized in [Moving to 100% Renewable Energy Roadmap](#)
- Action prioritized in the [Municipal Climate Action Plan](#)

**Con(s):**

- This will consume staff time to file the petition to intervene, draft comments, and monitor the docket

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution directing the City Attorney to formally intervene in the North Carolina Utilities Commission Docket E-100 Sub 190 of Duke Energy's Carbon Plan Integrated Resource Plan

**RESOLUTION BOOK NO. 44 - PAGE 306**

**D. RESOLUTION NO. 23-259 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH ASHEVILLE CITY SCHOOLS FOR USE OF ASHEVILLE MIDDLE SCHOOL AS PART OF THE NATIONAL PARK & RECREATION ASSOCIATION GRANT FOR THE GO! GUIDING OTHERS MENTORSHIP PROGRAM**

**Action Requested:** Adoption of an Interlocal Agreement between Asheville City Schools for use of Asheville Middle School as part of the National Park & Recreation Association grant for the Go! Guiding Others mentorship program.

**Background:**

- The Parks & Recreation Department was awarded a \$70,000 grant to support a youth mentoring program over the course of 2.5 years.
- Funding for this program (Grant #15PJDP-22-GG-03735-MENT) is provided by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), a component of the Office of Justice Programs, U.S. Department of Justice.
- The program will target youth who are currently misusing or dependent on substances, youth with family members experiencing substance use disorder, and youth living in communities with high rates of drug/opioid overdose mortality.
- The mentorship program will work with youth at Asheville Middle School as an alternative to suspension in a sixteen week group mentoring program during the academic day using the NRPA Mentoring Youth Framework and restorative practices.
- The term will be for two (2) years and the program started this 2023-24 academic year.
- Parks & Recreation will provide staff to lead programming and provide all supplies, materials, and equipment associated with the curriculum and/or activities
- Asheville City Schools will identify students for the program and will provide space during the academic day for programming

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- Continues partnership with Asheville City Schools
- Access to programming at Asheville Middle School will remove barriers to participation

**Con(s):**

- None

**Fiscal Impact:**

- Funding for this program was previously budgeted and is available in the Special Revenue Fund.

**Motion:**

- Motion to authorize the City Manager to enter into an Interlocal Agreement with Asheville City Schools for use of Asheville Middle School as part of the National Park & Recreation Association grant for the Go! Guiding Others mentorship program.

**RESOLUTION BOOK NO. 44 - PAGE 307**

**E. MOTION TO ADOPT THE FISCAL YEAR 2024-25 BUDGET CALENDAR**

**Action Requested:** Adoption of the Fiscal Year 2024-25 (FY25) Budget Calendar.

**Background:**

- As a part of the Fiscal Year 2024-25 operating and capital budget development process, staff is proposing the calendar for City Council and Council Committee meetings.
- Staff have already begun work to develop estimates for costs to deliver existing programs and services, needed capital infrastructure and facility investments, and major revenue sources.
- In addition to meeting the statutory requirement that City Council adopt a balanced budget before July 1, 2024, the FY25 budget process is intended to align the budget with ongoing organizational work planning efforts, City Council priorities, and community input.
- Community engagement efforts for the budget development are already underway, and again include an early opportunity for public comment at the January 23 City Council meeting.
- The process culminates with the following actions as required by state law:
  - Formal presentation of the City Manager’s Proposed Budget on May 14, 2024.
  - A public hearing on the Proposed Budget on May 28, 2024.
  - Budget adoption on June 11, 2024.

**Council Goal(s):**

- A Financially Resilient City
- A Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- Provides City Council, staff, and the community with a calendar of upcoming dates related to development of the FY25 budget.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt the Fiscal Year 2024-25 Budget Calendar.

**F. ORDINANCE NO. 5051 - TECHNICAL BUDGET AMENDMENT IN EACH OF THE CITY’S ANNUAL OPERATING FUNDS TO APPROPRIATE FROM RESTRICTED AND ASSIGNED FUND BALANCE THE REQUIRED BUDGET**

**AUTHORIZATION FOR PROJECT CLOSURES, PRIOR YEAR CONTRACTS,  
PURCHASE ORDERS, AND OTHER CARRY-OVER APPROPRIATIONS THAT  
ROLLED FORWARD TO FISCAL YEAR 2023-24**

**Action Requested:** Adoption of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for project closures, prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2023-24 (FY24).

**Background:**

- As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year.
  - Budget funds are encumbered for the full amount of the expected purchase.
  - These contracts and purchase orders are often not fully completed and paid in one fiscal year.
  - North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.
- As a part of the FY23 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY24.
  - These dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Annual Comprehensive Financial Report.
  - The technical budget amendment will provide authorization to officially appropriate these amounts in the FY24 budget for each of the City's annual operating funds.
  - It is standard practice for staff to bring forward this technical budget amendment each year at the same City Council meeting in which the external auditors present the annual audit results.

**Council Goal(s):**

- A Financially Resilient City

**Committee(s):**

- None

**Pro(s):**

- Provides budget authorization for project closures, prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY24.

**Con(s):**

- None.

**Fiscal Impact:**

- There is no impact on unassigned or available fund balance in the City's operating funds.

**Motion:**

- Motion to adopt a technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for project closures, prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2023-24.

**G. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE MASTER AGREEMENT AND GIVE THE CITY OF ASHEVILLE PURCHASING MANAGER AUTHORITY TO SIGN PURCHASING AGREEMENTS WITH AXON ENTERPRISE INC. TO PURCHASE EQUIPMENT AND SUPPORT FOR THE ASHEVILLE POLICE DEPARTMENT BODY-WORN CAMERA, TASER, IN-CAR CAMERA, AND INTERVIEW ROOM RECORDING SYSTEMS, AS WELL AS DRONE PROGRAM SOFTWARE THROUGH THE CHARLOTTE COOPERATIVE PURCHASING ALLIANCE**

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

**H. RESOLUTION NO. 23-261 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH RESPONDER SUPPORT SERVICES TO PROVIDE CONTINUED EMBEDDED BEHAVIORAL HEALTH SERVICES TO THE POLICE & FIRE DEPARTMENTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with Responder Support Services to provide continued embedded behavioral health services to the Asheville Police & Fire Departments.

**Background:**

- Responder Support Services currently provides embedded behavioral health support to the Fire and Police Departments four days per week for each department.
- Utilization of the services has steadily increased since implementation of the program.
- Employees in each department have access to behavioral health care providers on-site during regular work hours.
- Ongoing uninterrupted behavioral health support to public safety employees is critical in maintaining the health and well-being of these employees and ensuring ongoing service delivery to the community.
- Staff completed a Request for Proposals to continue these services and the current vendor was selected.

**Vendor Outreach Efforts:**

- Funding for this project is provided through City general fund and/or operating budgets. As a result, the outreach and engagement followed the City's business inclusion processes.
- Staff completed MWBE outreach efforts, utilizing the City's internal ABI list and searching the State of North Carolina electronic Vendor Portal System
- One other vendor submitted a proposal but did not complete the required ABI documentation and was disqualified
- Staff was unable to identify other local vendors that provide this specific service

**Council Goal(s):**

- A Connected and Engaged Community

**Pro(s):**

- Support for public safety employees dealing with trauma on a daily basis
- Known provider who specializes in supporting public safety employees

**Con(s):**

- None

**Fiscal Impact:**

- Funding for the first year of this contract is available in the Health Insurance Fund operating budget.
- Future years will be planned for during the annual budget development process.
- The total contract value is \$557,539 for the three-year contract period, with an option of \$419,702.90 for two one-year renewals.

**Motion:**

- Motion to authorize the City Manager to execute a new three-year contract with two one-year renewals with Responder Support Services, LLC to provide continued embedded behavioral health services to Police and Fire employees.

**RESOLUTION BOOK NO. 44 - PAGE 309**

**I. RESOLUTION NO. 23-262 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH TRANSYSTEMS CORP FOR THE DOWNTOWN SIGNAL POLE REPLACEMENT DESIGN AND ENGINEERING PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a professional services contract with TranSystems, Corp. in the amount of \$245,023.03 for the Downtown Signal Pole Replacement design and engineering project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$24,500 (10%).

**Background:**

- The signal poles within the project area are aging and need replacing.
- Currently there are pedestrian access challenges adjacent to existing traffic signal infrastructure. and this project provides an opportunity to address access challenges while replacing existing signal infrastructure, providing Public Right of Way Accessibility Guidance (PROWAG) compliance where feasible.
- 4 intersections will be included in the design and engineering phase. The following are the affected intersections:
  - College St at Haywood St
  - Patton Ave at Haywood St
  - Haywood St / Flint St / Page Ave
  - College St at Lexington Ave
- Prioritization and phasing will be considered during the design phase of this project for effective and efficient use of the available construction budget.
- This project will replace and upgrade existing aging traffic signals and associated apparatus.
- This project will also improve Public Right-of-Way Accessibility Guidance compliance on the adjacent curb ramps and crosswalks.
- The project sequencing and schedule will be developed as part of the design effort. The current schedule indicates that the project will be bid in August of 2024.
- As the design is finalized and project sequencing is developed, impacted business owners will be engaged to inform them of the project and mitigate construction impact.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through solicitation processes using the State's NCDOT Directory of Firms.
- The City's Asheville Business Inclusion Vendor List for Outreach was consulted. 2 women owned firms along with 1 black owned firm were notified of the opportunity.
- The selected firm originally submitted as SEPI (one of the women owned firms contacted), however; SEPI has since been acquired by TranSystems.

**Council Goal(s):**

- Improve/Expand Core Services

**Committee(s):**

- None

**Pro(s):**

- Increased driver and pedestrian safety
- Affected curb ramps and sidewalks will be PROWAG compliant where feasible

**Con(s):**

- During the construction phase there will be impacts to circulation, sidewalks, and downtown streets
- Numerous utilities are adjacent to the existing poles limiting design alternatives

**Fiscal Impact:**

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

**Motion:**

- Motion to authorize the City Manager to enter into a professional services contract with TranSystems, Corp. in the amount of \$245,023.03 for the Downtown Signal Pole Replacement design and engineering project; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$24,500 (10%).

**RESOLUTION BOOK NO. 44 - PAGE 310**

**J. RESOLUTION NO. 23-263 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH YOUNG & MCQUEEN GRADING COMPANY INC. FOR THE MUNICIPAL GOLF COURSE STORMWATER IMPROVEMENTS PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a construction contract with the lowest responsive and responsible bidder, Young & McQueen Grading Company, Inc. of Burnsville, NC, in the amount of \$1,373,741, for the Municipal Golf Course Stormwater Improvements; further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$110,000 (8%).

**Background:**

- The Asheville Municipal Golf Course has failing stormwater infrastructure, creating sinkholes and affecting play.
- This stormwater project will enhance the condition and safety of the Asheville Municipal Golf Course.
- The planned improvements were clearly defined by the Municipal Golf Course Stormwater Assessment project that began in 2019.
- The project scope includes stormwater pipe replacements at holes 1 & 2, 10 & 11, and 18.
- Construction is scheduled to start in late December 2023 with a 90 day construction timeline.
- Bids were initially advertised on October 23, 2023.
- Three bids were submitted, their names and bid prices are listed below:

- Young & McQueen Grading Company, Inc., Burnsville, NC, \$1,373,741
- NHM Constructors, Asheville, NC, \$1,436,182
- TP Howard's Plumbing Company, Inc. Asheville, NC \$1,944,000
- Young & McQueen Grading Company, Inc. was the lowest responsive, responsible bidder.

**Vendor Outreach Efforts:**

- Asheville Business Inclusion goal of 4.6% of the construction contract to go to Black, Asian or Native American contractors.
- 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 and direct outreach to 3 general contractors identified in the City's recent minority vendor outreach event. Direct outreach was to the following Black owned general contracting firms:
  - CA Harris, Inc.
  - Mcfarland Construction
  - Baston - Cook
- No minority contractors expressed interest in bidding on this particular project, however Baston-Cook acknowledged receipt and expressed interest in additional City projects

**Council Goal(s):**

- A Thriving Local Economy
- A Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Continues the process of improvements at the Asheville Municipal Golf Course

**Con(s):**

- None

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a construction contract with the lowest responsive and responsible bidder, Young & McQueen Grading Company, Inc., in the amount of \$1,373,741, for the Municipal Golf Course Stormwater Improvements; further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$110,000 (8%).

**RESOLUTION BOOK NO. 44 - PAGE 311**

**K. ORDINANCE NO. 5052 - ORDINANCE TO ENABLE THE CITY OF ASHEVILLE TO REGULATE AND ADMINISTER PARKING AT PROPERTIES OWNED BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

**Action Requested:** Adoption of an ordinance to enable the City of Asheville to, at its discretion, regulate and administer parking at properties owned by the Housing Authority of the City of Asheville (HACA).

**Background:**

- HACA has identified parking issues at its properties that negatively impact a safe and healthy environment.
- Double and triple parking is a major concern because that activity impedes and/or blocks efficient traffic flow including emergency response.
- HACA has requested in writing that the City of Asheville regulate and administer parking at properties it owns within the City's jurisdiction.
- Many interior streets in Asheville Housing Authority developments are privately-owned.
- N.C. Gen. Stat. § 160A-301(d) gives the City the authority to regulate and administer parking on privately-owned public vehicular areas.
- The City of Asheville has the capacity to perform this function to some extent on HACA property (see below).
- Asheville Housing Authority staff would primarily take care of resident outreach before enforcement begins.
- Asheville City staff would help with resident outreach as needed.
- The goal would be to have voluntary compliance with formal enforcement only used after extensive outreach and resident engagement has occurred.
- Pending Council approval of this ordinance and confirmation from HACA leadership that necessary community engagement has occurred, the Parking Services Division will be available to perform parking enforcement in the Hillcrest Community Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. beginning on January 1, 2024.
- The role of the Parking Services Division would be to provide the primary parking enforcement activities regarding the parking regulations that are listed in the Code of Ordinances.
- The Asheville Police Department would supplement parking enforcement if and when resources are available.
- While enforcement assistance would be limited to certain days and times in the Hillcrest apartment complex, staff may expand the parking enforcement partnership with HACA in the future to other properties.
- The recommended ordinance would give staff the authority to perform parking enforcement on privately-owned public vehicular areas at any HACA property.

**Council Goal(s):**

- Transportation and Accessibility.

**Committee(s):**

- Environment and Safety Committee - November 28, 2023 - Approved a motion unanimously recommending that City Council adopt an ordinance to enable the City of Asheville to regulate and administer parking at properties owned by the Housing Authority of the City of Asheville.

**Pro(s):**

- Enables the City to provide a service to another entity.
- Provides a good partnership opportunity.

**Con(s):**

- None

**Fiscal Impact:**

- The cost of regulating and administering parking is included in the current operating budget using existing resources.

**Motion:**

- Motion to approve an ordinance to enable the City of Asheville to regulate and administer parking at properties owned by the Housing Authority of the City of Asheville.

Councilwoman Roney was pleased that the parking enforcement would not start until after community engagement..

**ORDINANCE BOOK NO. 35 - PAGE 132**

**L. RESOLUTION NO. 23-264 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE CAR PARK GROUP LLC TO PROVIDE SUPPLEMENTAL STAFFING SERVICES AT THE CITY'S PARKING FACILITIES ON AN AS-NEEDED BASIS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with The Car Park Group, LLC to provide supplemental staffing services at the City's parking facilities on an as-needed basis.

**Background:**

- Temporary staffing in the City's parking facilities is used to supplement current City staff during events and on weekends.
- Parking supports roughly 75 to 100 hosted events at the Harrah's Cherokee Center Asheville annually.
- This contract will provide as needed staffing upon request.
- The initial term of the contract will be one year with two, one-year optional extensions.
- The Car Park Group, LLC was the lowest responsive qualified bidder.

**Vendor Outreach Efforts:**

- Funding for this contract is provided through the Parking Enterprise Fund current operating budget.
- As a result the outreach and engagement followed the City's business inclusion processes including telephone and email notification to known MWBE businesses.
- Staff contacted four vendors via email messages.
- No MWBE firms submitted bids with The Car Park Group, LLC and all work will be self performed (Verified by the ABI review team).

**Council Goal(s):**

- Improve/Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- Provides an enhanced customer service experience.
- Supports the Harrah's Cherokee Center Asheville.
- Expedites the ingress and egress of customers using City-owned parking facilities during events.

**Con(s):**

- Cost of contracting staffing services.

**Fiscal Impact:**

- Funding for the first year of this contract, not to exceed \$60,000, 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 \$180,000.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with The Car Park Group, LLC to provide supplemental staffing services at the City's parking facilities for one year with two one-year options to renew and for an amount not to exceed \$180,000 for the entire life of the contract; including renewal periods.

**RESOLUTION BOOK NO. 44 - PAGE 312**

**M. 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 October 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 are provided to City Council.

**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 October 2023.

**N. RESOLUTION NO. 23-265 - RESOLUTION ADOPTING THE 2024 CITY COUNCIL MEETING SCHEDULE**

Summary: City Council Agenda Briefing Worksessions - 11:00 a.m. - 1st and 3rd Thursday of each month (except for the months of February and May, which agenda briefing worksessions will be held on the 2nd and 4th Thursday of each month) and except for July 4, August 8, November 21 and December 19 due to formal meeting cancellations - Remote.

City Council Formal Meetings - 5:00 p.m. - 2nd and 4th Tuesdays of each month, except for July 9, August 13, November 26 and December 24 (meeting canceled) - Council Chamber – 2nd Floor - City Hall Building, Asheville, N.C.

### **RESOLUTION BOOK NO. 44 - PAGE 313**

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 Ullman moved for the adoption of the Consent Agenda with the deletion of Consent Agenda Item “G”. This motion was seconded by Councilwoman Turner and carried unanimously.

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

- H. RESOLUTION NO. 23-260 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE MASTER AGREEMENT AND GIVE THE CITY OF ASHEVILLE PURCHASING MANAGER AUTHORITY TO SIGN PURCHASING AGREEMENTS WITH AXON ENTERPRISE INC. TO PURCHASE EQUIPMENT AND SUPPORT FOR THE ASHEVILLE POLICE DEPARTMENT BODY-WORN CAMERA, TASER, IN-CAR CAMERA, AND INTERVIEW ROOM RECORDING SYSTEMS, AS WELL AS DRONE PROGRAM SOFTWARE THROUGH THE CHARLOTTE COOPERATIVE PURCHASING ALLIANCE**

**Action Requested:** Adopting a resolution authorizing the City Manager to authorize the Purchasing Manager to purchase equipment, licensing, warranties, storage, and support from Axon Enterprises, Inc., through the Charlotte Cooperative Purchasing Alliance (CCPA).

#### **Background:**

- The original contract was approved by City Council on December 8, 2020 for five years.
- The contract needs to come back to Council because the Axon contract requires changes to the in-car camera equipment.
- If the contract must be rewritten, it is prudent to make updates to the equipment and services and add any supporting technology provided by Axon to improve the transparency and accountability provided by this equipment.
- The current contract requires Axon to provide upgraded devices for BWC and In-car Cameras
- The licensing and support for the upgraded equipment are part of this purchase.
- Axon Air drone management software is being added to provide tracking and accountability.
- Axon Air tracks all supported drone flights and allows live streaming of video and direct upload of video into Axon’s proprietary evidence management system.
- For better management, the components of the current contract will be purchased separately and include software support for the drone program through Axon Air. The BWC, Taser, Interview Rooms and Drone management purchases cover a 5 year term. The in-car camera purchases and support will cover a 7 year term to coincide with the vehicle replacement cycle.
- Axon is no longer available for purchase through the original cooperative purchasing agreement.

- All Axon products are currently combined in one contract.
- Alterations to any portion of the contract require new pricing for the entire contract.
- The purchase will be acquired through the Charlotte Cooperative Purchasing Alliance (CCPI).
- This purchase provides equipment, licensing, training, support, storage, and warranties for all Axon equipment utilized by the Asheville Police Department.
- The Axon equipment includes body-worn cameras, tasers, an interview room recording system, software support for the drone program, and in-car camera systems.

**Vendor Outreach Efforts:**

- This will be purchased through the CCPA which is an acceptable purchasing contract vetted by the City of Asheville Finance and Management Services Department.

**Council Goal(s):**

- Connected and Engaged Community

**Committee(s):**

- N/A

**Pro(s):**

- Transparency and safety are increased with newer equipment and technology.
- Continued partnership with the industry leader provides excellent equipment across platforms.
- Contracting before the end of the calendar year saves costs on an expected 15% price increase.

**Con(s):**

- Increased annual cost

**Fiscal Impact:**

- Funding for the first year of the original contract (\$683,420) is available in the Police Department's operating budget. Due to the changes highlighted, additional funds (\$183,344) have been identified and reallocated from within the Police Department's operating budget to fully fund the new contract (\$866,764).
- Additional funding required to upfit vehicles with new in-car camera equipment (\$103,738) was previously budgeted as part of the annual fleet replacement project and is available in the General Capital Projects Fund. Related funding for equipment licensing and support (\$18,786) was already budgeted in the Police Department FY24 operating budget.
- Future years will be planned for during the annual budget development process.

**Motion:**

- Motion to approve the City Manager to sign the Master Agreement and give the City of Asheville Purchasing Manager authority to sign purchasing agreements with Axon Enterprise Inc. for the Asheville Police Department's body-worn camera system, taser system, in-car camera system, interview room recording system, and drone management software.

Councilwoman Roney was curious about the goal of "Connected & Engaged Community" named as the reason when considering we have not connected with or engaged the community around use of drone surveillance and what it means for our priority of Reimagining Public Safety. Lacking policy for drone equipment, she would not support this item due to drone program software part of the decision.

Councilwoman Ullman said that this topic will be discussed at the Environment & Safety Committee meeting in January.

In response to Councilwoman Smith, Captain Janice Hawkins said this item did not go through a Council committee because as they were renegotiating, they were advised that the potential 15% cost increase would go into effect on January 1, and City staff was just notified of that right before Thanksgiving.

Vice-Mayor Kilgore moved to approve the City Manager to sign the Master Agreement and give the City of Asheville Purchasing Manager authority to sign purchasing agreements with Axon Enterprise Inc. for the Asheville Police Department's body-worn camera system, taser system, in-car camera system, interview room recording system, and drone management software. This motion was seconded by Councilwoman Ullman and carried on a 6-1 vote, with Councilwoman Roney voting "no."

## RESOLUTION BOOK NO. 44 - PAGE 308

### III. PRESENTATIONS & REPORTS:

#### A. PRESENTATION OF THE FISCAL YEAR 2023 AUDIT

Finance Director Tony McDowell said that the following are the key takeaways from this presentation: (1) The fiscal 2023 year-end audit was completed and submitted to the NC Local Government Commission (LGC) on November 6th; (2) The Audit Opinion issued by Cherry Bekaert LLP was Unmodified or "Clean" which is the Highest Level of Assurance; (3) Cherry Bekaert LLP's audit identified two accounting errors in the materials staff initially submitted to them that resulted in findings that they are required to report to management and the board; and (4) Year-end unassigned fund balance in the General Fund was 18.8%, which is slightly above the City's policy threshold of 15% and in-line with results from prior years. He said we have an external audit because (1) Required by State Statute (GS 159-34) (a) Each local government shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Commission as qualified to audit local government accounts; and (b) The auditor shall be selected by and report directly to the governing board; (2) Federal government requires Single Audits from all recipients who expend \$750,000 or more in federal financial assistance within a fiscal year - Financial Statements & Programmatic Compliance Evaluation; (3) Best practice, transparency, assurance to debt rating agencies; and (4) Importance of independent review (Asheville rotates audit firms every 5 years).

Mr. McDowell said the regarding the audit results, (1) Types of Audit Opinions - Adverse; Disclaim; Qualified; and **Unmodified - "Clean" (Highest Level of Assurance)**; (2) November 1 Representation Letter provides a detailed summary of the key components of the audit (a) Which includes no fraud, illegal acts, or violations of laws and regulations noted; and (b) Auditors will review the findings in their presentation; and (3) Fiscal Year 2022-23 Annual Comprehensive Financial Report (ACFR) provides a complete overview of the City's financial position.

Mr. Daniel Gougherty from Cherry Bekaert, provided City Council with the audit executive summary. He reviewed the client service team; the results of the audit (Issued unmodified opinions on the financial statements and on compliance of the City's major federal and state awards identified in the schedule of findings and questioned costs. An unmodified opinion is also known as a "clean opinion" and is the highest level opinion they can give under their auditing standards); qualitative aspects of accounting practices; independent considerations; other required communications; other matters; internal control communication; corrected and uncorrected misstatements; upcoming financial reporting changes, and LGC

performance indicators.

Mr. McDowell showed a chart of the General Fund unassigned fund balance from Fiscal Year 2014 (16.8%) to Fiscal Year 2023 (18.8%). He said next steps include (1) The LGC requires that Council submit a response to the auditor's two findings within 60 days of tonight's presentation - Finance staff will draft that response and circulate for Council signatures; and (2) Staff will implement the corrective action plans for the two findings and report back to the Audit Committee at its January 2024 meeting.

Mr. Gougherty responded to Councilwoman Roney that it is not standard practice for auditors to look at industry standards for department overtime.

## **B. REPARATIONS PROJECT TIMELINE EXTENSION PRESENTATION**

Dr. Dwight Mullen, Chair of the Community Reparations Commission (Commission), asked City Council to extend the timeline for the Reparations Project so they have time to (1) consider all data provided by the City, County, State and private sector to confirm that their narratives and personal experiences are backed by the data; (2) allow the Impact Focus Areas (IFA) to now meet as a group to find redundancy and gaps; and (3) consider how each of the IFA are affected by the Stop the Harm auditor's preliminary findings, and their potential solutions should there be any findings of harm.

Throughout the presentation, Dr. Mullen, and Vice-Chair of the Commission Dewana Little, responded to several questions/comments from Council. There was considerable discussion by Council regarding the work of the Commission, and their timeline for outreach in the community. At the suggestion of Vice-Mayor Kilgore, Ms. Little said that the Commission would be happy to provide Council an update of the community engagement in approximately three months.

## **C. MANAGER'S REPORT**

### **Employee Recognition**

City Manager Campbell recognized Equity & Inclusion Director Brenda Mills for receiving the (1) The Robert E. Shepherd Excellence in Local Government Excellence Award is presented by the Land of Sky Regional Council to a local government professional who has shown great leadership in improving governance and service delivery, especially in the areas of regional cooperation and collaboration; and (2) The NC Minority Women Business Enterprise Network "Standing Shoulders of Giants" Award is presented to individuals who have demonstrated unwavering commitment and outstanding achievements in creating economic opportunities for minority firms.

Assistant City Manager Rachel Wood said that Brenda has been an invaluable professional resource for the City of Asheville for 18 years, with 33 years of experience in local government. Brenda joined the City of Asheville in 2005 and has served in multiple roles including: Minority Business Program Manager, American Recovery and Reinvestment Act Project Manager, Administrative Services Manager, Economic Development Specialist, Neighborhood & Community Engagement Specialist, and is currently the Director of Equity & Inclusion.

Mr. Nathan Ramsey, with the Land-of-Sky Regional Council, was pleased to present Brenda Mills with the Robert E. Shepherd Excellence in Local Government Excellence Award is presented by the Land of Sky Regional Council.

The City Manager's Office appreciates the exceptional work that Brenda is doing and her tireless commitment over the course of your public career.

Ms. Mills thanked City Council for their recognition of these awards.

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

##### **A. PUBLIC HEARING TO CLOSE AN UNOPENED RIGHT-OF-WAY BETWEEN SULPHUR SPRINGS ROAD AND LANE AVENUE**

##### **RESOLUTION NO. 23-266 - RESOLUTION TO CLOSE AN UNOPENED RIGHT-OF-WAY BETWEEN SULPHUR SPRINGS ROAD AND LANE AVENUE**

Assistant Transportation Director Jessica Morriss said that this is the consideration of a resolution to permanently close an unopened right-of-way (ROW) between Sulphur Springs Road and Lane Avenue. This public hearing was advertised on November 17, 24, December 1 and 8, 2023.

#### **Background:**

- Council passed a resolution on November 14, 2023 to set a public hearing for the proposed right-of-way closure on December 12, 2023.
- North Carolina General Statute § 160A-299 grants cities the authority to permanently close streets and alleys.
- The statute requires City Council to consider whether the closure of the right of way has a negative impact to the public interest and whether the closure would impede access to parcels, utilities, and other public infrastructure.
- 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.
- All of these properties also have access to streets independent of the unopened right-of-way, giving them reasonable means of ingress and egress to their property, even if the unopened right-of-way is closed.
- The closure does not appear to deprive reasonable means of ingress and egress to any other property.
- 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 the 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.
- For all of these reasons, staff believes that the right-of-way closure is not contrary to the public interest and that no individual owning property in the vicinity of the right-of-way would be deprived of reasonable means of ingress and egress to their property by closing the right-of-way.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Technical Review Committee - July 17, 2023 - Recommended approval
- Multimodal Transportation Commission - August 23, 2023 - Recommended denial (5-2). See above information.

**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.

Ms. Morriss said that Jeremy Cohen, property owner of 160 Sulphur Springs, has petitioned for this closure. Mr. Cohen 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; 160 Sulphur Springs Road - applicant; 17 Lane Ave; and 23 Lane Ave. If the closure is approved, the right-of-way will be divided among the 4 properties and a new plat will be filed. All adjacent property owners have signed affidavits of approval. She

said the Applicant has indicated that the purpose of the right-of-way closure is to facilitate construction of additional residential units to the rear of the property. The applicant has not yet submitted an application to Development Services. Information regarding the intended number/size/type of units has not been provided. State law does not require an Applicant to provide the development plan or purpose associated with the ROW closure request. However, if there is an application that has already been submitted, or if the Applicant provides one voluntarily, staff can process them simultaneously. However, this is not a legal requirement for a closure application. She then reviewed the aerial location map, along with the vicinity map/parcel lines. The Technical Review Committee (TRC) met on July 17, 2023. The TRC determined (1) There are no utility conflicts present; (2) That a viable transportation-related connection within the unopened right-of-way would be difficult to construct due to the topography; and (3) Additionally, there would be limited demand for a connection in this location because there are other parallel roads in the vicinity providing the same access. She showed a vicinity map of the transportation connectivity and a picture of Sulphur Springs Road looking east toward Herring Elementary. 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 at that time due to the wall having been constructed in the unopened right-of-way. Approval of this right-of-way closure request would also bring the wall into compliance and a permit could be issued. She then showed other views of the proposed closure from 160 Sulphur Springs Road looking south; Lane Avenue looking north; and Lane Avenue looking east toward Herring Elementary. The TRC recommended approval of the closure request and forwarded it to the Multimodal Transportation Commission. The MMC reviewed the request on August 28, 2023, and did not recommend approval 5-2. The MMTC members that voted "no" had 3 primary concerns: (1) The presence of the unpermitted retaining wall at 23 Lane Avenue; (2) The desire to have a better understanding and context of right-of-way closure requests; and (3) MMTC requested that staff complete a 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 is not generally 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. Since the August MMTC meeting, staff has provided MMTC members with copies of the State Law, the City's existing policy, and additional information from the City's Attorney's office regarding ROW closure requests. Staff recommends Council adopt a resolution to permanently close an unopened right-of-way between Sulphur Springs Road and Lane Avenue.

There was a brief discussion of the role of the MMTC in reviewing these closures since state law is very finite and City Council has a very narrow review. Councilwoman Roney said the MMTC was asked to review these closures because the property might be used as a road, greenway, or for open space.

Mayor Manheimer opened the public hearing at 6:27 p.m., and when no one spoke, she closed the public hearing at 6:27 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 permanently close an unopened right-of-way between Sulphur Springs Road and Lane Avenue. This motion was seconded by Vice-Mayor Kilgore and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 314**

**B. CONSIDERATION OF CONTINUATION TO CONDITIONALLY REZONE 2 BUTLER ROAD FROM COMMUNITY BUSINESS II DISTRICT TO RESIDENTIAL EXPANSION - CONDITIONAL ZONE**

**ORDINANCE NO. 5053 - ORDINANCE 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. On November 14, 2023, this public hearing was open and closed, and then the matter was continued to this date.

**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.
- The Project will include a mixture of 1-bedroom, 2-bedroom, and 3-bedroom units. The project is proposing a condition that a minimum of fourteen (14) 3-bedroom units will be provided.
- 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 shown as red lines on page 10 of [Exhibit D](#). 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.
- The applicant has proposed a project condition to install a 30 panel minimum solar PV system (approximate panel size of 6' 9" by 3' 0") on the roof areas of garage buildings as shown on the site plan.

#### 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 second fully accessible drive through the adjacent commercial property along Julian Shoals Drive which is a signalized intersection with a crosswalk facility.
- 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 Project will include bicycle-friendly signage near the two entry/exit points to the Project and bicycle-safe storm drainage grate covers will be installed throughout the Project.
- 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.
- City Council - November 14, 2023 - Continued to December 12, 2023.

**Staff Recommendation:**

- 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.
    - 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

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 for business investment tax credit: (a) Calculation: Base credit: 30%; Domestic content: +10%; Energy Community: +10%; (b) Total Credit = 50% of investment (credit to taxes); (c) Depreciation = 75% of basis (deduction from income); and (d) includes qualified energy storage.

Mr. Mitchell said that the changes to the project conditions are (1) New solar array condition: The Project will install a minimum of 30 total solar PV panels (approximately 6'9" x 3'9" each) on the site at optimal locations on the roof area of the garage buildings shown on the site plan; (2) New unit count condition: ...The Project will include a mixture of 1-bedroom, 2-bedroom, and 3-bedroom units. A minimum of fourteen (14) 3-bedroom units will be provided; (3) New drive access condition: Access to the project will be provided by both a new driveway from Plott Place and a second full access road off the adjacent commercial property along Julian Shoals Drive; and (4) The Project will include bicycle-friendly signage near the two entry/exit points to the Project and bicycle-safe storm drainage grate covers will be installed throughout the Project.

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 said that the S-6 bus serves several roads in this area and it's every 90 minutes, noting that it's hard to rely on the bus in this new neighborhood. She noted that we did commit to increase bus service in south Asheville; however, we could not get enough bus drivers or buses. She stressed for the need of more south Asheville bus service

Councilwoman Ullman was pleased that the applicant was responsive to the last meeting's conversation about adding more 3-bedroom units and adding solar panels.

Vice-Mayor Kilgore opened the public hearing at 6:38 p.m. and when no one spoke, she closed the public hearing at 6:38 p.m.

Vice-Mayor Kilmore 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 2 Butler Road from Community Business II (CBII) to Residential Expansion - Conditional Zone (RES EXP-CZ) and find that the request is in the public interest. The project is aligned with the Comprehensive Plan goals #13 and #14 that calls for increased diversity in housing opportunities and increased availability in affordable housing, and aligns with Council's FY '24 Strategic Priority area for Equitable and Affordable Housing. This motion was seconded by Councilwoman Mosley and carried on a 5-1 vote, with Councilwoman Turner voting "no" and Mayor Manheimer being recused.

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

#### **ORDINANCE BOOK NO. 34 – PAGE 133**

##### **C. 115 FAIRVIEW ROAD**

Mayor Manheimer said that the public hearings for consideration of the land use incentive grant for 115 Fairview Road and the conditional zoning for 115 Fairview Road will be combined; however, each vote will be taken separately.

#### **RESOLUTION NO. 23-267 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT TO CATALYST CAPITAL PARTNERS LLC FOR 115 FAIRVIEW ROAD**

Affordable Housing Officer Sasah Vrtunski said that this is the consideration of approving a land use incentive grant (LUIG) to Catalyst Capital Partners LLC for 115 Fairview Road.

##### **Review:**

- Catalyst Capital Partners has applied for a Land Use Incentive Grant (LUIG) for their development at 115 Fairview Road per the LUIG Policy adopted by City Council on June 22, 2021.
- The proposed development consists of 281 rental apartments and community spaces.
- The affordable units will be a mix of studios and 1, 2, and 3-bedroom apartments.
- Housing represents 100% of all rentable square footage, excluding the parking structure.
- Of the +/- 281 residential units, 57 rental apartments (20%) will be affordable, serving individuals and families earning at or below 80% of the Area Median Income (AMI) for a minimum of 20 years.
- The project encompasses 8.25 acres of land on Fairview Road just outside Biltmore Village, PIN 9647-99-4447.

- The applicant's estimated appraised post-completion value of the property is \$79.9 million/.
- The project, as presented to staff, meets the LUIG Policy Eligibility Requirements.
- Per the LUIG Scoring Matrix and based upon the policy, the project qualifies for 80 points which equals 16 years of grants in the amount of the City Property Taxes payable on the 115 Fairview Road Development.
- The developer requests additional points totaling 105 or 21 years (see below).

**Proposal:**

- Affordable Rental Housing
  - The proposed project will provide fifty-seven (57) affordable units (20% of the total units) to individuals and families earning at or below 80% AMI, with 29 (50% of the affordable units) accepting rental assistance for an affordability period of twenty (20) years. Under this category, the project qualifies for 20 points.
- Rental Assistance
  - The proposed project will accept 29 Housing Choice Vouchers / Rental Assistance in the community. The proposed project will house one person from the Homeless By-Name List for 5 points. Under this category, the project qualifies for 15 points.
- Superior Locational Efficiency
  - The proposed project is located within 1 mile from a job or urban center (Walmart Shopping Center is defined as an Urban Center), and within a .5 mile from a Transportation Amenity (near to 2 transit lines w/one-hour frequency). Under this category, the project qualifies for 10 points.
- Energy Efficiency
  - The developer has committed to using Energy Efficiency (EE) / Energy Star Certification. Under this category, the project qualifies for 5 points.
- Universal Design: The project has committed to using Universal Design for 20% of the units, which qualifies for 10 points.
- Non-Qualified Census Tract: The project is located in a Non-Qualified Census Tract, which qualifies for 10 points.
- Staff has scored the project with 80 points, which qualifies the project for sixteen (16) years of Land Use Incentive Grant.
- Staff recommends 18 years of total grant in response to additional site remediation costs (further described in the next bullet and sub-bullets below).
- The applicant requests an additional 25 points for a 21-year grant term (105 points).

- 1) The applicant requests an additional 15 points for locational efficiency because there are multiple bus lines near the location, convenience stores, a 1.2-mile walk from the high school, and a 1.4-mile walk from Oakley Elementary.

*The policy does not provide adding points for multiple transportation amenities.*

- 2) The applicant is also requesting an additional 10 points due to the presence of asbestos resulting in an additional \$500,000 cost.

*The policy does allow developers to request additional years due to site-specific costs. This decision is at City Council's discretion.*

- The applicant acknowledges the \$80,000 per unit subsidy cap for the affordable units and requests a total grant of \$4,560,000 (57 units x \$80,000).
- Because the \$80,000 per unit subsidy cap results in a capped grant value of \$4,560,000, the number of years determines how the total amount would be paid out.
  - A 16-year grant would equate to payments of up to \$285,000 per year.
  - An 18-year grant would equate to payments of up to \$253,333 per year.

- During the November 27th Housing and Community Development Committee meeting, the applicant made a verbal commitment to set aside 29 of the units for voucher holders with an understanding that if voucher holders cannot be found after working with the Housing Authority, units may be rented at 80% AMI. The Resolution language reads as follows:
  - 50% of the affordable housing units will be reserved for HACA Housing Choice Vouchers and voucher holders will receive priority as to the leasing of said units. To this end, the developer will notify HACA of the actual or pending availability of eligible units on a monthly basis. If no voucher holder is able to commence tenancy when an eligible unit becomes available, that unit may be leased as an affordable unit, and the next available unit shall be reserved and marketed to a voucher holder under the same terms and conditions.

**Council Goal(s):**

- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**

- The Housing and Community Development Committee reviewed this item on November 27, 2023, and voted 1-2 on a motion of support for the request (motion failed).
- The Policy, Finance, and Human Resources Committee will review this item on December 12, 2023, before the City Council meeting.

**Committee(s):**

- The Housing and Community Development Committee reviewed this item on November 27, 2023, and voted 1-2 on a motion of support for the request (motion failed).
  - Concerns aligned with the Thrive report were cited for the no votes.
  - There was also a concern about the need for more deeply affordable housing in the Oakley school district.

**LUIG Program Background**

- The LUIG program was created to incentivize the inclusion of affordable units at 80% AMI in projects that otherwise would have only offered market-rate rents.
- The LUIG Policy was not designed to produce units for lower-income residents (50% AMI or less) without additional funding layers like vouchers or other sources.
- Over time the policy has been revised, slowly increasing the percentage of affordable units required, the length of the affordability period, and adding in voucher acceptance to help serve those at 60% AMI and below.
- In 2019, the point structure was changed to make the longer affordability periods and higher numbers of affordable units feasible. Since that change, there has been an increase in the volume of LUIG requests.

**Thrive Asheville Report Background**

- Thrive Asheville received \$135,000 in ARPA funding from the City for their landlord-tenant partnership program and to study the outcomes of the Land Use Incentive Grant Program and Housing Trust Fund.
- As a part of the study, Thrive looked at census information for the city, including median household incomes by race, household size, and voucher data from the Housing Authority.
- Thrive also looked at City permit data, LUIG, and Housing Trust Fund data to see where city funding has supported affordable units.

**Thrive Asheville Report Highlights and City Programs/Policies**

- The median income of African American and Latinx households is below 50% AMI for a family of four.
- 80% AMI for a family of four was \$60,100 in Asheville (50% AMI was \$37,550) (HUD data, 2021)
- The report shows a graph of the completed affordable units that the City approved between 2018-2022, the majority of units serve households at 60% AMI and below.
- A greater proportion of overall LUIG funding has gone toward producing “affordable” units at the 80% AMI level.
- The conclusions written by Thrive were speculative, not definitive:
  - “city housing investments that target incomes at higher ends of affordability (e.g. 60-80% AMI) likely exacerbate racial and gender gaps in our community because our most underserved community members, on average, fall below this AMI band.”
- Thrive recommended further research on these issues.

### **LUIG Program Equity Assessment**

- The City is currently working with Enterprise Community Partners on an Affordable Housing Plan.
- Updates to the Affordable Housing Plan will include recommendations on affordable housing incentives, including LUIG and the Housing Trust Fund.
- Enterprise was selected partly because of its commitment to centering equity in its recommendations.
- Research and plan development is currently underway, staff expects to have recommendations back from Enterprise by May 2024.

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

- The proposed project will provide 57 affordable rental housing units to households earning 80% or less of area median income;
- The proposed project will have an affordability period of twenty (20) years;
- The proposed project should have a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy;
- The 57 affordable units are located in Central/East Asheville near jobs and two transit lines (S5 and S1) (walkability score of 42 - car-dependent, bike score of 17 - somewhat bikeable, minimal bike infrastructure) and provide employment and shopping options for individuals and families who fall within the 80% AMI incomes.
- Catalyst Capital Partners will communicate with the Asheville Housing Authority and others that they are reserving Housing Choice Vouchers for 29 of the affordable units and Rental Assistance as the development prepares to come online, as outlined above.

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

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

### **Fiscal Impact:**

- The project parcel has a current tax value of \$1,612,000 and pays City property taxes of approximately \$6,494.36 annually. This will continue to be paid throughout the benefit period.
- Using an estimated tax value of \$79.9 million post-completion, the annual City property tax will be approximately \$321,997.
- The annual difference in tax is \$315,500, which exceeds the policy cap of \$80,000 per unit subsidy. To align with the policy, the City would pay \$253,333 annually.
- For 18 years and 57 affordable units at or below 80% AMI, the City will grant back a total of \$4,560,000 over the 18 years of the LUIG.

- After year 18, the City will receive approximately \$321,997 annually in City tax revenue (depending on future property tax value and rates, etc.). Please note the City will still receive property taxes of approximately \$6,494.36 per year in years 1 -18.
- The City sets aside a budget annually for Land Use Incentive Grants.

Ms. Vrtunski said the following are the key takeaways from her presentation: (1) LUIG application for 115 Fairview Road, 281-unit apartment complex; (2) 20% of units (57 apartments) will be affordable for households at 80% AMI for 20 years - half of the affordable units (29) will be set aside for voucher holders; (3) Project qualifies for 16 years of taxes paid and the developer is requesting a 21-year grant due to additional construction expense and the location; (4) Concerns were raised at the Housing & Community Development Committee around who benefits from LUIG-funded units - the LUIG policy will be evaluated through the Affordable Housing Plan process using Thrive Asheville’s report and other considerations; and (5) based on the current LUIG policy, staff recommends a \$4,560,000 LUIG for this project spread over a period of 18 years.

The project background is (1) The development consists of 281 apartments and community space and amenities for residents; (2) Housing represents 100% of all rentable square footage; (3) The project encompasses 8.25 acres of land on Fairview Road; (4) The developer estimates a taxable value after construction at \$79.9 Million; and (5) Total estimated construction cost is \$59,262,000 and total estimated project cost is \$77,775,000.

Below is the unit breakdown:

<b>Unit Type</b>	<b>Affordable Units</b>	<b>Market Rate Units</b>	<b>Total</b>
<b>Studio</b>	<b>33</b>	<b>20</b>	<b>51</b>
<b>1 Bedroom</b>	<b>8</b>	<b>130</b>	<b>137</b>
<b>2 Bedroom</b>	<b>15</b>	<b>64</b>	<b>79</b>
<b>3 Bedroom</b>	<b>1</b>	<b>13</b>	<b>14</b>
<b>Total</b>	<b>57</b>	<b>227</b>	<b>281</b>

She then showed an overview of the project location, along with a rendering from Fairview Road. She explained the point summary as follows: 20% of units affordable at or below

80% AMI (20 points); 10% Rental Assistance (10 points); Housing for the Homeless by Name list (5 points); Locational Efficiency: .5 mile Transportation amenity + 1 mile from job center (10 points); Energy Efficiency: Energy Star + Green building certificate (15 points); Universal Design-20% of units (10 points); and Building in a non-QCT Census Tract (10 points). Total Points: 80 points = 16 years of tax grant. The developer is requesting an additional 15 points for locational efficiency because there are multiple bus lines near the location, convenience stores and a 1.2 mile walk from the high school, 1.4 mile walk from Oakley Elementary (*Policy does not provide adding points for multiple transportation amenities*). The developer is also requesting an additional 10 points due to the presence of asbestos resulting in an additional \$500,000 cost - (*LUIG policy does allow developers to request additional years due to site specific barriers or costs.*) The developer is requesting a total of 21 years of the grant (105 points). **Staff recommends 18 years of total grant in response to the higher site development costs (additional 10 points).**

LUIG specifics include (1) The parcel included in the project has a current tax value of \$1,612,000 and pays city property taxes of approximately \$6,496.36 annually; (2) Under the estimated tax value of \$79.9 million post-completion, the annual city property tax will be approximately \$321,997; (3) The difference is **\$315,500 annually**, which exceeds the policy cap of \$80,000 per unit for 57 units; and (4) The Developer is asking for the maximum subsidy of \$80,000 per unit. **For an 18 year period, the City would pay \$253,333 annually in incentive funding, for a total grant of \$4,560,000.**

The Housing & Community Development Committee reviewed this request on November 27, 2023 and they voted 1-2 on a motion of support for the request (motion failed) (1) concerns aligned with the Thrive report were cited for the no votes; and (2) there was also a concern about the need for more deeply affordable housing in the Oakley School District. The Policy, Finance & HR Committee will review this request at their meeting on December 12.

She then provided the LUIG program background as follows: (1) The LUIG program was created to incentivize inclusion of affordable units at 80% AMI in projects that otherwise would have only offered market-rate rents; (2) The LUIG Policy was not designed to produce units for lower income residents (50% AMI or less) without additional funding layers like vouchers or other sources; (3) Over time the policy has been revised, slowly increasing the percentage of affordable units required, the length of the affordability period and adding in voucher acceptance to help serve those at 60% AMI and below; and (4) In 2019, the program's point structure was changed to make the longer affordability periods and higher numbers of affordable units feasible. Since that change, there has been an increase in the volume of LUIG requests.

The Thrive Asheville Report background is as follows: (1) Thrive Asheville received \$135,000 in ARPA funding from the City for their landlord tenant partnership program and to study the outcomes of the Land Use Incentive Grant Program and Housing Trust Fund; (2) As a part of the study, Thrive looked at census information for the city, including median household incomes by race, household size, and voucher data from the Housing Authority; and (3) Thrive also looked at City permit data, LUIG and Housing Trust Fund data to see where City funding has supported affordable units. The Thrive Asheville Report highlights are (1) The median income of African American and Latinx households is below the 50% AMI level for a family of four; (2) 80% AMI for a family of four was \$60,100 in Asheville (50% AMI was \$37,550) (HUD data, 2021) - *Note: The median incomes by race/ethnicity are not one particular household size*; (3) A graph that represents the use of different City tools to achieve different levels of affordability; and (4) Of the constructed, affordable units that the City approved between 2018-2022, the majority of units serve households at 60% AMI and below. The conclusions written by Thrive were speculative, not definitive: *"city housing investments that target incomes at higher ends of affordability (e.g. 60-80% AMI) likely exacerbate racial and gender gaps in our community because our most*

*underserved community members, on average, fall below this AMI band.” Thrive recommended further research on these issues.*

The LUIG Program equity assessment is (1) The City is currently working with Enterprise Community Partners on an Affordable Housing Plan; (2) Updates to the Affordable Housing Plan will include recommendations on affordable housing incentives including LUIG and the Housing Trust Fund; (3) Enterprise was selected partly because of its commitment to centering equity in its recommendations; and (4) Research and plan development is currently underway, staff expects to have recommendations back from Enterprise by May 2024. With the 115 Fairview Road request,

The developer has offered to set aside 50% of the affordable units (29 units) for voucher holders. - Based on the Housing Authority data (Thrive study), 95% of Tenant Mobility Voucher holders have household incomes in the 0-30% AMI range and 44% of those voucher holders are African-American households.

Staff recommends approval of the Land Use Incentive Grant application for Catalyst Capital Partners at 115 Fairview Road for 18 years and a total grant of \$4,560,000, with the provision that 29 units will be reserved for voucher holders and the developer will take actions to ensure good faith efforts to make units accessible to all qualified households who want to apply.

Councilwoman Roney said that we have various means of accessing information. One access to information is narrative data, and when black and brown families tell me that the affordable housing the City built is not accessible to them. She believes them. And then the State of Black Asheville documents disparities and income and she believes that source of information. And now we have additional information from the Thrive Study. We say equitable, affordable housing is our strategic priority, and with gratitude to staff for bringing us forth solutions and better tools. She wants to support LUIG as a voluntary rent control, because our community needs and expects that of us, but if it's not getting to racial equity, then it's not meeting our goals. She is looking forward to our retreat when we talk about how making this tool better to meet our goals. But until then, she is responsible for the outcomes, and she won't be able to support this LUIG request.

Councilwoman Mosley noted when she says equitable affordable housing, she means more deeply affordable housing going to a group of community members left behind.

Throughout the presentation there was considerable discussion while Ms. Vrtunski responded to various questions/comments from Council regarding the LUIG program. Assistant City Manager Rachel Wood said that the Housing & Community Development Committee will be reviewing the LUIG policy in their January meeting.

**PUBLIC HEARING TO CONSIDER CONDITIONALLY ZONING 115 FAIRVIEW ROAD FROM URBAN VILLAGE TO RESIDENTIAL EXPANSION/ CONDITIONAL ZONE**

**ORDINANCE NO. 5054 - ORDINANCE TO CONDITIONALLY ZONING 115 FAIRVIEW ROAD FROM URBAN VILLAGE TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE**

Urban Planner Clay Mitchell said that this is the consideration of an ordinance to conditionally zone 115 Fairview Road from Urban Village to Residential Expansion/Conditional Zone. This public hearing was advertised on September 15 and 22, 2023. On September 26, 2023, this public hearing was continued to this date.

**Project Location and Contacts:**

- The project site totals 8.25 acres located at 115 Fairview Road. (PINs 9647-99-4447)
- Owner: Robertson's Daughters, LLC.

### **Summary of Petition:**

#### Project Site

- The project site consists of one property totalling 8.25 acres located at 115 Fairview Road.
- The site is currently zoned Urban Village (UV).
- 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 retail commercial facility located in a single building on the site with associated parking.
- The site is designated "Town Center" 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 281 units (269 apartments in two four-to-five story multi-family buildings and 12 townhomes in 3 four-plex buildings).
- Other site improvements include off-street parking, new sidewalks, and amenities such as a pool and auxiliary pool building.
- A minimum of 20% of the units (56) will be affordable at 80% Area Median Income (AMI) for a minimum of 20 years.

#### Site Layout and Design

- Maximum building height for multifamily buildings in the RES EXP district is 60 feet. The maximum building height of the proposed project is approximately 59 feet 2 inches, as measured to the ceiling of the highest occupiable floor of Building 2.
- Maximum density in the RES EXP district is 50 units/acre for this project, since at least 20% of the dwelling units are affordable at 80% AMI. The proposed project's density is 34.1 units/acre.
- Front yard setback is proposed to be 5 feet where the required setback is 15 feet. A technical modification is proposed.
- Maximum impervious surface in the RES EXP district for multifamily uses is 80%. The proposed project would result in a total impervious area of 57%.

#### Landscaping and Open Space

- Landscape requirements apply, including street tree, parking lot, building impact, and property line buffers.
- The RES EXP district requires a 20 foot-wide "Type A" landscape buffer where the subject property is adjacent to any other residentially zoned property, which is required along the eastern property boundary where the site is adjacent to the RM-8 zoning district. The project complies with the required buffer.
- The project is classified as a combination of "urban" under the Tree Canopy Preservation standards and has a classification of "Class B". Based on these classifications and the existing tree canopy, a total of 10% of tree canopy preservation is required, which the project is meeting through preservation on-site at a total of 10.2% (35,200 s.f.).
- 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 1.65 acres of required open space, which the project is providing.

#### Access, Sidewalks and Parking

- Access to the site will be provided by a reconstructed driveway located on Fairview Road and a secondary emergency access off Westview Avenue with gates shown at both ends of the access way.

- The project proposes 333 parking spaces. With 14 three bedroom units and the rest two bedrooms or below, the final minimum and maximum required spaces is 295/576 spaces. The proposed spaces are at a ratio of 1.2 spaces/unit. Required accessible spaces are shown at 8 spaces.
- Bicycle parking is required at a rate of five percent of the total number of vehicle parking spaces.
- 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 proposes a technical modification allowing for 5 foot width sidewalks along Fairview Road with an associated planting strip to match the existing condition.
  - The project is proposing a technical modification for new five-foot wide sidewalks internal to the site.
  - No sidewalk is proposed along the Westview Avenue boundary given the lack of connection to this area and the reduced number of residential units along the road.

#### Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
  - Maintain an existing planting strip and five-foot sidewalk along Fairview Road.
  - No sidewalk along the frontage of Westview Avenue.
  - Five foot-wide sidewalks internal to the site instead of the required 10 foot-wide standard.
  - Reduced front setback to 5 feet.
  - No bike lanes are proposed into the development given the condition of Fairview Road and due to the potential for internal conflicts in the site parking facilities.
  - 50 foot length minimum throat distance along the entrance way where 90 feet is required.

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

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

- The proposed development supports a number of goals in the Living Asheville Comprehensive Plan, including:
  - **Encourage Responsible Growth** - by providing infill development in targeted growth areas.
  - **Increase and Diversify the Housing Supply** - by increasing the supply of housing, including affordable housing in proximity to schools, transit and parks.
  - **Promote the Development and Availability of Affordable and Workforce Housing** - via incentives such as bonus densities and building height bonuses.
- The proposed development is substantially compatible with the Future Land Use designations of "Town Center", which provides "Affordable housing in town centers is encouraged and should be incentivized. New development should ensure that buildings are located to reinforce the relationship to the street, with parking located behind buildings that front the primary street. Pedestrian, bicycle and transit-friendly streetscapes are critical to the success and sustainability of town centers. Therefore, particular emphasis should be given to the (sic) public realm." (p 342). Furthermore providing that "[w]hile there is no exact density cap expected with a town center development, density should ensure a vibrant community that supports community infrastructure such as transit."

#### **Compatibility Analysis:**

- The proposed multi-family residential project is compatible with the surrounding land

uses, including:

- The District, a multi-family development located directly across Fairview Road.
- Medium density single-family development to the east of the site and buffered by landscaping and topography, providing a transitional area for the uses.
- Increasingly dense mixed uses and commercial development to the west toward Biltmore Village

**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 21, 2023 - approved with conditions.
- Planning and Zoning Commission - September 14, 2023 - approved 7-0.

**Staff Recommendation:**

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

Mr. Mitchell reviewed the existing and proposed zoning, the aerial imagery and the future land use map. About the site plan, (1) the current zoning is Urban Village, and the proposed zoning is residential-expansion; (2) 8.25 Acres Total - Existing Screen Door. railroad right-of-way along south; (3) Frontage and access along north Fairview Road; (4) Westview Ave along northeastern edge secondary fire access at end of Westview; (5) 20% affordable units proposed to achieve density at 34.1/acre; (6) 269 Apartments + 12 Townhomes (281 Total) - Parking under townhomes; (7) 333 Parking Spaces (1.2:1) - 8 Accessible, 18 Bicycle; (8) Pool and Amenity Building on site. Next to Building 2; (9) Retaining walls shown throughout; (10) Public Transit on Fairview; (11) Central trash compactor; (12) Landscaping standards: (a) Street trees shown on property at both streets; and (b) Buffer along Westview; (13) Parking, building (press and planting); (14) Tree Canopy Plan (met with preservation on site); and (15) Open space is compliant. He then showed internal renderings, along with building elevations. Technical modifications include (1) The project proposes a minimum of five foot-wide sidewalks internal to the site; (2) The project proposes a new 5 foot-wide sidewalk along a portion of Fairview Road; (3) No sidewalk is proposed along Westview Avenue due to narrow width of roadway, existing tree growth, and low traffic volume; (4) The Project proposes a front setback of 5 feet where 15 feet is required along Fairview Road; (5) The project proposes a 50' minimum throat distance on the main entrance accessing Fairview Road where 90' is required; and (6) No bike lanes will be provided into the development. Standard conditions regarding the project include affordable housing is included in the Project: (1) A total of 20% of the units will be affordable at 80% of the Area Median Income (AMI) for Asheville, NC, as established by HUD, for a minimum period of 20 years; and (2) Prior to issuance of Certificate of Occupancy for the property, the Developer shall record a Declaration of Restrictions setting for the Affordability Terms, which shall become effective upon the execution and recording thereof. He then explained how the project was consistent with the Living Asheville Comprehensive Plan. He said the Technical Review Committee approved the project with conditions. The Planning & Zoning Commission voted unanimously to approve the project. He said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed conditional zoning.

In response to Councilwoman Roney on whether the project has a current or future plan for renewable energy, Mr. Mitchell said he has talked with the applicant about support and information regarding renewable energy; however, at this time it is not a project condition.

Upon inquiry of Councilwoman Mosley, City Attorney Branham read the following amendment to a project condition: "50% of these affordable housing units will be reserved for

HACA Housing Choice Vouchers, and voucher holders will receive priority as to the leasing of said units. To this end, developer will notify HACA of the actual or pending availability of eligible units on a monthly basis. If no voucher holder is able to commence tenancy when an eligible unit becomes available, that unit may be leased as an affordable unit. The next available unit of the same type shall be reserved and marketed to a voucher holder by notifying HACA as set forth above.” And, Mr. Derek Allen, attorney for the applicant, agreed to the amended condition.

Mayor Manheimer opened the combined public hearing at 7:33 p.m.

Two individuals spoke in support of the conditional zoning request.

Three individuals spoke in opposition to the conditional zoning request, mainly citing already congested traffic and pedestrian impact.

Mayor Manheimer closed the combined public hearing at 7:49 p.m.

Councilwoman Roney, member of the Metropolitan Planning Organization (MPO), said that anyone who has concerns about state roads, should direct their comments to the MPO which has jurisdiction on state roads. She cited the meeting time and dates, noting that their meetings are hybrid.

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

Councilwoman Turner moved to approve the Land Use Incentive Grant application for Catalyst Capital Partners / 115 Fairview Road with a per unit subsidy of up to \$80,000 and a total grant value of up to \$4,560,000 over a period of 18 years, with an the amendment to the terms of the LUIG to coincide with updated conditions in the conditional zoning application for this same property. This motion was seconded by Councilwoman Ullman and carried on a 4-3 vote, with Councilwoman Mosley, Councilwoman Roney and Councilwoman Smith voting “no.”

#### **RESOLUTION BOOK NO. 44 – PAGE 316**

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

Councilwoman Turner moved to approve the conditional zoning request for the property located at 115 Fairview Road from Urban Village to Residential Expansion - Conditional Zone (RES EXP-CZ) with the following amended project condition: “50% of these affordable housing units will be reserved for HACA Housing Choice Vouchers, and voucher holders will receive priority as to the leasing of said units. To this end, developer will notify HACA of the actual or pending availability of eligible units on a monthly basis. If no voucher holder is able to commence tenancy when an eligible unit becomes available, that unit may be leased as an affordable unit. The next available unit of the same type shall be reserved and marketed to a voucher holder by notifying HACA as set forth above.”; and find that the request is reasonable, is in the public interest, is consistent with the city’s comprehensive plan and meets the development needs of the community in that the request: 1) provides infill development in targeted growth areas; 2) increases the supply of affordable housing in proximity to schools, transit and parks; and, 3) promotes the development and availability of affordable and workforce housing. This motion was seconded by Vice-Mayor Kilgore and carried on a 5-2 vote, with Councilwoman Roney and Councilwoman Smith voting “no.”

#### **ORDINANCE BOOK NO. 35 – PAGE 142**

## **V. UNFINISHED BUSINESS:**

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

#### **A. RESOLUTION NO. 23-268 - RESOLUTION APPROVING REVISIONS TO THE HOUSING TRUST FUND POLICY**

Affordable Housing Officers Sasha Vrtunski said that this is the consideration of a resolution approving revisions to the Housing Trust Fund Policy prior to initiating the Fiscal Year (FY) 2024-25 funding cycle.

#### **Background:**

- On June 13, 2000, the City Council created the Housing Trust Fund (HTF) with the adoption of a HTF Policy and the approval of a \$400,000 allocation to the fund for Fiscal Year 2001.
- Each year thereafter, the City Council has dedicated funding from the City's General Fund to the HTF. For the past 5-10 years, the budgeted amount has been \$500,000.
- From 2001 to 2019, the HTF lent approximately \$15 million and produced over 1,300 affordable housing units.
- Starting in 2022, the City aligned its funding application and award timeline with Buncombe County's to assist in decision-making and provide more predictability to the development community.
- For the next funding cycle, the request for funding applications will be published mid-December 2023, with awards announced in late April 2024.
- The Housing Trust Fund Policy was last revised in December 2022.
- In the FY 2023-24 funding cycle, the City Council allocated \$4,387,850 to construct 239 units.
- Staff is pursuing changes to the HTF Policy before the upcoming funding FY 2025 cycle.
- There is approximately \$4.1 million currently available in the Housing Trust Fund for allocation in the next cycle.

#### **Policy Revision Process**

As a part of their work plan, the Affordable Housing Advisory Committee (AHAC) reviewed the Housing Trust Fund policy with the intention of making recommendations with a limited scope.

- AHAC HTF Policy revision recommendations: November 2
- HCD HTF Policy consideration and recommendation: November 27
- City Council HTF Policy review and vote to consider approval: December 12

#### **AHAC Recommendations**

AHAC met on November 2, 2023, and voted unanimously (8-0) to recommend the policy changes to the HCD Committee. In summary, those changes included:

- Revised priorities for the use of the Housing Trust Fund Dollars
  - More units, deeper affordability, accepting vouchers, and longer affordability periods are the highest priorities.
- A recommendation to realign the HTF scoring card with policy priorities
  - Develop separate scoring for ownership and rental projects
  - Set a minimum score requirement for receiving special loan terms
- Clarifying language and organization of content to help with the policy's clarity

#### **Staff Recommended Policy Changes**

- Staff generally agrees with most of AHAC’s suggested revisions, with some exceptions. Staff have also revised the funding cap from 10% of total development costs to 10% of total development costs per affordable unit. This effectively leverages City funds in mixed-income projects. A summary of the recommended revisions is below:

**Substantive Recommendations for HTF Policy Changes**

Section	AHAC	Staff Recommendation	Implication
<b>Priorities</b>	Changed the wording for the priorities to make them general priorities, and eliminated a few priorities.	Agree with AHAC’s recommendation	Longer list of priorities, but captures the city’s goals in multiple areas.
<b>Eligible Uses</b>	Allow offsite infrastructure improvements as an eligible expense (e.g. water or sewer lines in the public right-of-way, etc).	Allow offsite infrastructure improvements only if shown that they only benefit the affordable development.	Ensures that City funds go directly to the development and not other unrelated projects.
<b>Affordability</b>	Added definition of affordability period for Downpayment Assistance programs.	Agree with AHAC’s recommendation	Adds clarity to the policy
<b>Loan Terms</b>	No recommendation	Changing maximum loan amount from 10% of Total Development Cost to 10% of total development cost <b>per affordable unit</b> .	No change for 100% affordable projects, but reduces loans for mixed-income developments. Also aligns with Buncombe County’s policy.
<b>Underwriting &amp; Post Closing</b>	None	Relocating these sections to a procedure document that will be shared with applicants and the public. These are operational items, not Council-approved policy items.	A cleaner, more concise policy that is aligned with Council goals, plus allows staff flexibility to update procedures.
<b>Affirmative Marketing/Fair Housing</b>	Renamed the Affirmative Marketing section “Fair Housing”. Added anti-discrimination language and additional language about the marketing of units.	Agree with AHAC’s recommendation	Clearer, more detailed language about the City’s expectations around marketing and non-discrimination of unit leasing.
<b>Scoring</b>	General recommendations about increasing the importance of affordability levels, voucher set-asides, and affordability periods. AHAC did not make full	Overall, staff recommends amending in the spirit of AHAC’s recommendations; however, more time is needed to assess the recommendations.	Scoring is one tool used to evaluate applications and will be more important if there are more requests than funding available. For now, staff recommends thoroughly

	recommendations for the entire scoring rubric.		assessing how changes to the scoring rubric would incentivize different development types. No further changes are recommended to the rubric at this time.
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**Committee(s):**

- The Affordable Housing Advisory Committee voted 8-0 on their recommendations at their November 2, 2023 meeting.
- The Housing and Community Development Committee voted 3-0 in favor of the amendments at their November 27, 2023 meeting.

**Pro(s):**

- Clarifications to the policy will help applicants and decision-makers with applications and decision-making.
- Changing the loan term to funding only affordable units ensures good use of City funds.

**Con(s):**

- More time is needed to assess changes to the scoring rubric.

**Fiscal Impact:**

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

**Staff Recommendation**

- Staff recommends adopting the Housing Trust Fund Policy as outlined in the revised policy document.

Ms. Vrtunski outlined her key takeaways from her presentation as follows: (1) The Affordable Housing Advisory Committee (AHAC) has made recommendations to revise the Housing Trust Fund (HTF) Policy; (2) Staff have evaluated these recommendations and have made revised recommendations; (3) HTF Policy revisions include a few substantive changes along with a number of updates to clarify language; and (4) AHAC made recommendations for changes to the scoring rubric, but staff have not yet had enough time to test and evaluate those potential revisions. She provided the HTF background as follows: (1) Housing Trust Fund was established by City Council in 2000; (2) City Council last updated the HTF Policy in December 2022; (3) Annual City allocation of \$500,000 for the past 5-10 years; (4) Between 2001 - 2019, the HTF has loaned approximately \$15 million and produced 1,300 units; and (5) In the last cycle, City Council allocated \$4,387,850 towards the construction of 239 units. She then provided the following upcoming schedule for HTF applications (1) December 15, 2023 - Call for Applications; (2) January 31, 2024 - Applications Deadline; (3) March - Initial review by HCD Committee; (4) April - Final recommendations from HCD; and (5) April - Council makes final funding decisions. There is approximately \$4.1 Million available in the Housing Trust Fund for allocation in the next cycle.

The AHAC met on November 2, 2023, and voted unanimously (8-0) to recommend the policy changes to the HCD Committee. In summary, those changes included: (1) Revised priorities for the use of the Housing Trust Fund Dollars - More units, deeper affordability, accepting vouchers, and longer affordability periods are the highest priorities; (2) A recommendation to realign the HTF scoring with the priorities (a) Develop separate scoring for ownership and rental projects; and (b) Set a minimum score requirement for receiving special loan terms; and (3) Updating language and organization of content to help with the policy's clarity.

Using the charts below, she explained the substantive policy recommendations:

Section	AHAC	Staff Recommendation	Implication
<b>Priorities</b>	Changed the wording for the priorities to make them general priorities, and eliminated a few priorities.	Agree with AHAC's recommendation	Longer list of priorities, but captures the City's goals in multiple areas.
<b>Eligible Uses</b>	Allow offsite infrastructure improvements as an eligible expense.	Allow offsite infrastructure improvements if demonstrate that they only benefit the affordable development.	Ensures that City funds go directly to the development, and not other unrelated projects.
<b>Affordability</b>	Added definition of affordability period for Downpayment Assistance	Agree with AHAC's recommendation	Adds clarity to the policy
<b>Loan Terms</b>	No recommendation	Changing maximum loan amount from 10% of Total Development Cost to 10% of total development cost <b>per affordable unit.</b>	No change for 100% affordable projects, but reduces loans for mixed income developments. Also aligns with Buncombe County's policy.

Section	AHAC	Staff Recommendation	Implication
<b>Underwriting &amp; Post Closing</b>	None	Removing these sections to a procedure document that will be shared with applicants and the public. These are operational items, not council-approved policy items.	A cleaner, more concise policy that is aligned with Council goals.

<b>Scoring</b>	General recommendations about increasing the importance of affordability levels, voucher set-asides, and affordability periods. Did not make full recommendations for the entire scoring rubric.	Overall, staff recommends amending in the spirit of AHAC's recommendations, however, more time is needed to assess the recommendations.	Scoring is one tool used to evaluate applications and will be more important if there are more requests than funding available. For now, staff recommends a thorough assessment of how changes to the scoring rubric would incentivize different development types. No further changes are recommended to the rubric at this time.
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The pros are (1) Clarifications to the policy will help applicants and decision-makers with applications and decision-making; and (2) Change to the loan term to funding only affordable units ensures good use of City funds. A con is that more time is needed to assess AHAC's recommended changes to the scoring rubric.

The Affordable Housing Advisory Committee (AHAC) voted 8-0 to approve the revisions at their November 2 meeting. The Housing & Community Development met on November 27 and voted 3-0 to recommend approval. Staff recommends approval to adopt the Housing Trust Fund Policy as outlined in the revised policy document.

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

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

Councilwoman Smith moved to adopt the revised Housing Trust Fund Policy. This motion was seconded by Councilwoman Roney and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 317**

**B. RESOLUTION NO. 23-269 - RESOLUTION AMENDING A HOUSING TRUST FUND LOAN AWARD REQUESTED BY COMMONWEALTH DEVELOPMENT CORPORATION TO ALLOW THEM TO DEVELOP MULTI-FAMILY APARTMENTS AT 3124/3130 SWEETEN CREEK ROAD (FAIRHAVEN SUMMIT)**

Affordable Housing Officer Sasha Vrtunski said that this is the consideration of approval of Commonwealth Development's request for an additional \$475,000 in Housing Trust Fund (HTF) loan funds to support the Fairhaven Summit development with 2% interest, deferred payments for a period of 20 years for the purpose of developing affordable housing.

**Background**

- Commonwealth Development Corporation is developing Fairhaven Summit, a Low Income Housing Tax Credit (LIHTC) project that was awarded 9% tax credits in 2022.
- Project is located at 3124/3130 Sweeten Creek Road, PIN 9655-33-2749 and 9655-33-0929.
- The project will have 77 total units affordable to families at 30%, 50%, 70%, and 80% of area median income (AMI), with a 30-year affordability period.

- The City Council funded the project as a part of the Fiscal Year 2023-24 Housing Trust Fund cycle and approved \$500,000 on April 25, 2023.
- The Commonwealth Development Corporation is requesting an additional \$475,000 to cover a funding gap created by increased interest rates.
- HOME funds were approved in 2022 to support Fair Haven Summit totaling \$400,000.
- This project was approved by the City Council as a Conditional Zoning project in June 2022.

**Proposal**

- Commonwealth Development Corporation (CDC) of Middleton, WI, has requested an additional \$475,000 in HTF financing for Fairhaven Summit, for a total loan amount of \$975,000.
- The total loan will have a 20-year term; payments are deferred, but 2% interest compounds annually. The City will be in third lien position; \$1,232,778 due at maturity.
- This request can be reduced to \$375,000 if the US Treasury 10-Year Yield is below its current 4.9% rate at the time of rate lock.

**Units by Income and Bedrooms**

Income Served	No. of Units	Bedroom Counts	Notes
30% AMI	20	3 - 1 bdrm; 7- 2-bdrm; 10 - 3 bdrm	Project Based Vouchers
50% AMI	11	2 - 1 bdrm; 3 - 2-bdrm; 6 - 3 bdrm	KEY program - serving low income residents with disabilities
60% AMI	14	2 - 1 bdrm; 4- 2-bdrm; 8 - 3 bdrm	
80% AMI	32	5 - 1 bdrm; 11- 2-bdrm; 16 - 3 bdrm	

**Project Financing**

Source	Amount	Percentage of Total Development Costs	Per unit
1st Permanent Mortgage	\$9,393,000	41.06%	\$121,987
Buncombe County	1,235,000	5.40%	16,039
Asheville HTF	975,000	4.26%	12,662
HOME funds	400,000	1.75%	5,195
LIHTC Equity	10,181,552	44.51%	132,228
Refund Rate Lock Deposit	201,950	.88%	2,623
Deferred Developer Fee	488,690	2.14%	6,347
<b>Total</b>	<b>\$22,875,192</b>	<b>100%</b>	

### **Housing Trust Fund Policy Compliance**

- The total request of \$975,000 equals 4.26% of the total development cost, which is under the policy cap of 10% of total development costs.
- Both subordinate lenders are providing more funding than HTF.

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

- The Housing and Community Development Committee reviewed this item on November 27, 2023 and voted 3-0 in support of the request.

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

- This funding will support the construction of 77 affordable apartments for families with an affordability period of 30 years.
- The subsidy per unit for this request is \$12,662 per unit, based on the full \$975,000 request.
- This project aligns with the City of Asheville's Consolidated Plan goals of prioritizing rental housing affordable to 60% AMI and below.

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

- This request is out of cycle with other Housing Trust Fund requests. A new HTF cycle is set to open in mid-December 2023.

### **Fiscal Impact:**

- Approval of this request will reduce the amount available in the Housing Trust Fund for the next funding cycle by \$475,000.

### **Staff Recommendation:**

- Staff recommends approval of the loan of \$975,000 with a 20-year maturity; payments deferred, but 2% interest compounds annually; based on the following:
  - Construction of 77 new affordable units for a range of incomes - 30% AMI to 80% AMI.
  - Twenty units will be set aside for project-based vouchers and eleven (11) units will utilize the KEY program for low-income residents with disabilities who are in need of supportive services.
  - The requested City of Asheville HTF loan will comprise 4.26% of total development cost, well below the 10% cap.

Ms. Vrtunski said the following are the key takeaways from her presentation: (1) Council funded this project as a part of the FY23-24 Housing Trust Fund cycle and approved \$500,000 on April 25, 2023; (2) The project is 100% affordable and includes 77 units, with a mix of incomes (30%, 50%, 60% and 80% AMI), averaging 60% AMI and below; (3) Commonwealth Development Corp is requesting an additional \$475,000 for their Low Income Housing Tax Credit (LIHTC) project on Sweeten Creek Rd; (4) The additional funds are need to cover the gap created by increased interest rates; and (5) Staff recommends approval by HCD and City Council.

Fairhaven Summit is 77 units serving families on Sweeten Creek Road. They are rental apartments, 9% LIHTC development (NCHFA 2021 award). The developer is Commonwealth Development Corporation. The request is \$475,000 in additional HTF financing for a total HTF contribution of **\$975,000**. This request can be reduced to **\$375,000 (total of \$875,000)** if the US Treasury 10-Year Yield is below its current 4.9% rate at the time of rate lock. The loan terms are 20-year maturity; payments deferred, but 2% interest compounds annually; 3rd lien position; \$1,232,778 due at maturity. She then explained the unit mix with projected 2023-24 rents and AMI levels. She also outlined the Fairhaven Summit financing sources.

The Housing and Community Development Committee reviewed this request on November 27, and voted 3-0 to recommend approval. The pros are (1) 77 affordable units for families, 30 years of affordability; (2) The requested HTF subsidy is \$12,662 per unit, based on the full \$975,000 request; (3) The loan will be less than 5% of the total development cost, leveraging several other funding sources; (4) The 20-year term will allow for the initial LIHTC compliance period to expire while motivating the developer to apply for new LIHTCs to update the property and refinance the debt; and (5) Aligns with an Asheville Consolidated Plan goal of prioritizing rental housing affordable to 60% of AMI and below. A concern is that this request is out of cycle with other HTF requests.

Staff recommends approval based on the following: (1) Construction of 77 new affordable units for a range of incomes - from 30% AMI to 80% AMI; (2) Supports families with a mix of one, two, and three-bedroom units; (3) Twenty units will be set aside for project-based vouchers and eleven (11) units will utilize the KEY program for low income residents with disabilities who are in need of supportive services; and (4) The requested City of Asheville HTF loan will comprise 4.26% of total development cost, well below the 10% cap.

When Councilwoman Roney asked if there has been any discussion about renewable energy at this location, Mr. Sean Brady with Commonwealth Development, said that the final design of the roof will support solar panels. However, they found that the cost of the system was too expensive; however, he personally believed there is an opportunity for that and after the site work is complete and if there is any money left in that pot, their current plan is to revisit that.

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

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

Councilwoman Turner moved to approve Commonwealth Development's request for an additional \$475,000 in funds, for a total Housing Trust Fund loan of \$975,000, to construct 77 new affordable apartments, with the amendment "acknowledging that the total amount can be reduced to a total loan amount of \$875,000 if the US Treasury 10-Year Yield is below its current 4.9% rate at the time of rate lock." This motion was seconded by Councilwoman Roney and carried unanimously.

#### **RESOLUTION BOOK NO. 44 – PAGE 328**

**C. ORDINANCE NO. 5050 - ORDINANCE AMENDING THE (1) DEFINITION OF PUBLIC ART TO INCLUDE PERFORMANCES AND FESTIVALS; (2) MEMBERSHIP TO INCLUDE SEATS FOR KEY PARTNERS; (3) STAFF SUPPORT; (4) NAME OF THE PUBLIC ART AND CULTURAL COMMISSION; AND ROLE OF THE COMMISSION TO INCLUDE OUTDOOR SPECIAL EVENTS**

Urban Designer Karli Stephenson said this is the consideration of an ordinance to revise Article III, Chapter 2, Division 11 of the Code of Ordinances regarding the Public Art and Cultural Commission.

#### **Background:**

- The Public Art and Cultural Commission (PACC), an advisory board, was established by City Ordinance as the Public Art Board on September 14, 1999.
- On September 27, 2011, over 12 years ago, the ordinance was revised to expand the roles and responsibilities of the Board and change the name of the Public Art Board to the Public Art & Cultural Commission.

- In the PACC’s 2022 Annual Report, the commission recommended to City Council that the PACC ordinance be updated to: create standing seats on the commission for arts organizations; to expand the role of PACC to include advising on festivals and special events; and resolve” housekeeping” issues, such as updating which department administers the program.
- Including these changes will help the PACC to increase membership engagement, encourage strategic partnerships, rectify administrative discrepancies, and create a balanced membership.
- The above desire resulted in the following proposed specific changes to the ordinance text:
  - a. Revised definition of public art to include performances and festivals.
  - b. Composition:
    - Six members to be appointed by the city council from the private sector.
    - 3 members to be appointed by directors/chairs of the following organizations:
      - One staff member of ArtsAVL, or a designated arts agency in Buncombe County, appointed by the director of the arts agency.
      - One staff member from Explore Asheville, to be appointed by the director of Explore Asheville.
      - One faculty or administrative staff member from a local, higher-education institution within Buncombe County with a designated arts program, appointed by the art program’s chair.
  - c. Updating text to read as gender-neutral and including intentional language about equity and inclusion.
  - d. Changing staff support from the director of parks, recreation and cultural arts to the planning and urban design director, or their designee. Changing the Commission’s name to the Public Art and Culture Commission, and other changes to assist with clarity and intent of text.

**Council Goal(s):**

- An Equitable and Diverse Community
- A Connected and Engaged Community
- A Thriving Local Economy
- A Well-planned and Livable Community

**Committee(s):**

- Public Art and Cultural Commission - 9/21/23 - voted unanimously to move ordinance to City Council
- Boards and Commissions Committee - 11/16/23 - voted 2 to 1 to move ordinance to City Council

**Pro(s):**

- Updates the PACC’s ordinance to better define the scope of public art in the Asheville community; gives Council and staff a method of engaging the public on special events.
- Expands partnership opportunities by adding new, standing members.
- Addresses and cleans up outdated language.

**Con(s):**

- None.

**Fiscal Impact:**

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

Ms. Stephenson outlined PACC's mission statement per their current ordinance. PACC wants to update for the following reasons (1) Ordinance last reviewed in 2011 - housekeeping items; (2) Expand scope to include events - festivals and performances added to public art definition; and (3) Increase membership engagement, encourage partnerships and create a balanced membership - through standing seats for arts organizations and intentional language about equity and inclusion. She then introduced the current members of PACC. She outlined PACC's milestones from 1983 - 2023. Proposed ordinance revisions include (1) Change Commission name to Public Art and ~~Cultural~~ Culture Commission; (2) Update the name of the department that provides staff support; (3) Broaden the definition of public art: ... "can include, but is not limited to, murals, sculpture, memorials, community art, digital new media, and performances and festivals as long as it is located in a public space and open to the public; and (4) Update board membership composition. The following is the proposed composition: The commission shall consist of nine voting members appointed by various community organizations or the City of Asheville. The appointing bodies and current members should act in partnership to identify and appoint members that help create a balance on the commission between diverse perspectives, skills, experiences and interests, and shall ensure their appointments are made to advance equity and inclusion - Six members to be appointed by City Council; Three members to be appointed by the Directors/Chairs of the following: One member to be appointed by ArtsAVL; One member to be appointed by Explore Asheville; and One member to be appointed from a local, higher-education institution with a designated arts program. She explained why they created a seat for ArtsAVL as follows: (1) ArtsAVL's Mission: *Strong local government and community support, where the arts are valued for their contributions to Buncombe County*; (2) Official lead arts organization for Buncombe County; (3) Proven partner for City public art projects; (4) Alignment with City's Events Support Grant; (5) Arts admin and grant expertise; (6) Artist inventory; and (7) Artist opportunities. She then explained why they created a seat for Explore Asheville as follows: (1) Explore Asheville's Strategic Imperative: *Promote and support Asheville's creative spirit* - More focus on community investments moving forward; (2) Alignment with Festivals & Cultural Events Support Fund - local focus; (3) Better coordination on related programs and events; (4) Arts and tourism are interconnected; and (5) Help with marketing and promotion of events - current host of the Urban Trail website. She then explained why they created a seat for a local, higher-education institution with a designated arts program as follows: (1) Connecting young artists with resources and the local creative network; (2) Marketing and promotion of Asheville events and public art opportunities with students; (3) Build partnerships for projects and program; and (4) Eligible Institutions: UNCA Art & Art History; STEAM studio; Warren Wilson Arts & Humanities; and AB Tech Associate Degrees in Arts and Sciences. She then said that on September 21, 2023, the proposed ordinance updates were approved by PACC unanimously; and on November 14, 2023, the Boards & Commissions Committee approved the proposed revisions on a 2-1 vote.

When Councilwoman Ullman asked how the decision of who gets the seat by the local higher-education institution, Ms. Stephenson said that they will discuss that when they develop their by-laws.

Councilwoman Roney understood there may be some benefits for having organizationally-appointed members; however, she felt that the seat for Explore Asheville is a conflict of interest and power dynamic having the Tourism Development Authority (TDA) at the table because they host fee and at-cost events. She was worried about the competition with local promoters, especially small businesses and entrepreneurs, especially when anyone can apply. She suggested an artist having a designated seat.

Councilwoman Roney moved to adopt the revisions except replace the Explore Asheville seat with a seat for a local artist. This motion failed for lack of a second.

Ms. Nina Tovish did not support designated seats.

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

Councilwoman Mosley moved to adopt revisions to Article III, Chapter 2, Division 11 of the Code of Ordinances regarding the Public Art and Cultural Commission. This motion was seconded by Vice-Mayor Kilgore and carried on a 6-1 vote, with Councilwoman Roney voting "no."

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: request for Council to adopt a resolution for ceasefire, peace, and international law; support for the Reparations Project timeline extension; raise awareness around excessive and unnecessary car noise, and the measures that may be employed to reduce it; and Asheville voter registration from 1896 - 1900.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 9:34 p.m.

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CITY CLERK

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MAYOR