

Thursday – January 18, 2024 - 11:00 a.m.

Agenda Briefing Worksession - For January 18, 2024, Council Meeting

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

Absent: Councilwoman S. Antanette Mosley; Councilwoman Sage Turner

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:

- Duke Energy Vanderbilt Substation Project Update
- American Rescue Plan Act next steps

At 12:21 p.m., Mayor Manheimer adjourned the agenda briefing worksession.

Tuesday – January 23, 2024- 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 Maggie Ullman; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Absent: Councilwoman Sage Turner

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**II. CONSENT AGENDA:**

- A. **APPROVAL OF THE COMBINED MINUTES OF THE AGENDA BRIEFING WORKSESSION HELD ON JANUARY 4, 2024, AND THE FORMAL MEETING HELD ON JANUARY 9, 2024**
- B. **RESOLUTION NO. 24-23 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TRY, INC. FOR SUMMER BUS TRANSPORTATION SERVICE NEEDS FOR RECREATION PROGRAMS, AND TO APPROVE TWO ADDITIONAL ONE-YEAR RENEWALS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment with TRY, Inc for summer bus transportation service needs for recreation programs, and to approve two additional one-year renewals.

**Background:**

- Weekly field trips to the pools and other locations are included in youth and teen summer program activities.
- There are approximately 46 trips scheduled during summer programs with up to 45 youth/teens on each trip.
- The Parks and Recreation Department had been contracting with Emma Bus for services.
- In 2022, Emma Bus communicated their inability to meet our transportation needs due to bus driver shortages.

**Vendor Outreach Efforts:**

- In January 2023, an RFP for summer program transportation was issued for a one-year time period with two one-year optional extensions.
- Staff performed outreach to minority and women owned businesses through solicitation processes which include posting on the State's Interactive Purchasing System, internet vendor searches, and direct outreach.
- Three vendors responded to the RFP.
- TRY, Inc (Young Transportation) was the only vendor able to meet our transportation needs and with a completed one-year contract, the City would like to extend for an additional two one-year terms.
- The total contract amount with extensions requires City Council approval.
- The total contract amount is not to exceed \$167,927.70 (which includes the amount paid for the first year's contract).

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- N/A

**Pro(s):**

- The weekly field trips provide an additional opportunity for enrichment activities during summer programs.
- With the affordability of our camps, it allows children to participate in field trip activities they may not be able to outside of Parks and Recreation.
- The cost of a bus and staffing to provide in-house transportation services that could benefit programs in addition to summer programming is expensive and cost prohibitive.

**Con(s):**

- The annual cost of renting bus transportation for summer programs.
- The lack of flexibility if a trip is canceled and the inability to be rescheduled due to a full TRY, Inc schedule.
- Not having this transportation service these enrichment experiences would not be able to be provided in summer programming.

**Fiscal Impact:**

- The cost to provide this service from June to August 2024 is \$54,590.
- The cost is determined by the number of full and half day trips during the summer.
- Funding for this contract is available in the Parks and Recreation Department operating budget. Future years will be planned during the annual budget development process.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a contract amendment with TRY, Inc for summer bus transportation service needs for recreation

programs, and to approve two additional one-year renewals, for a total contract amount not to exceed \$167,927.70 (which includes amount paid for the first year's contract)

Councilwoman Roney expressed concern that the recommendation to go with the lowest bid for this item is a missed opportunity to positively impact the outcomes of our Disparity Study.

**RESOLUTION BOOK NO. 44 - PAGE 360**

**C. RESOLUTION NO. 24-24 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH ASHEVILLE CITY SCHOOLS FOR THE USE OF FACILITIES TO EXPAND PUBLIC RECREATION PROGRAMS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Asheville and Asheville City Schools for the use of facilities to expand public recreation programs.

**Background:**

- Parks and Recreation athletic facilities are limited and in high demand by other user groups.
- Asheville City Schools ("ACS") has multiple athletic complexes.
- The agreement gives Asheville Parks and Rec ("APR") access to outdoor athletic fields, indoor gymnasiums and meeting rooms.
- Asheville City School owns:
  1. Montford North Star Academy property, located at 90 Montford Ave, Asheville, NC 28801 which includes an athletic facility that includes a field and gymnasium;
  2. Claxton Elementary property located at 241 Merrimon Avenue, Asheville, NC, 28801 which includes an athletic facility that includes a gymnasium;
  3. Hall Fletcher Elementary property located at 60 Ridgelawn Rd, Asheville, NC 28806 which includes an athletic facility that includes a baseball field and gymnasium;
  4. Ira B Jones Elementary property located at 544 Kimberly Ave, Asheville, NC 28804 which includes an athletic facility that includes a gymnasium;
  5. Isaac Dickson Elementary property located at 125 Hill St, Asheville, NC 288015 which includes an athletic facility that includes a gymnasium; and
  6. Lucy S. Herring Elementary property, located at 98 Sulphur Springs Rd, Asheville, NC 28806 which includes an athletic facility that includes a field and gymnasium.
- The initial term will be ten (10) years with the option of two (2) extensions of five (5) years each.
- Parties will be responsible for any and all damage, injury or breakage to any buildings, windows, fences, fields or other property owned by the other party as a result of their programming.
- Both parties shall also be responsible for keeping said premises free and clear of trash or litter brought or left on premises by the players or spectators during their programming use.
- The City & ACS shall be responsible for security and staffing during recreation activities, if needed, in connection with its use of the premises.
- The City will furnish and supply expendable materials necessary for carrying on a Community Recreation Program for all ages, in or on the facilities under its supervision and ACS is responsible for and agrees to furnish and supply all materials and equipment necessary for carrying out ACS programs.

**Vendor Outreach Efforts:**

- None

**Council Goal(s):**

- Improve and Expand Core Services

**Committee(s):**

- None

**Pro(s):**

- Opportunity to provide additional community recreation programming and expand accessibility that will address achievement gaps, student wellness, community issues/challenges and facility use agreements.
- Reduces competition with other athletic groups for use of a limited supply of athletic recreation facilities
- Continues partnership with ACS
- Increases recreational athletic programs to more participants
- The agreement will not impact existing user group access to City athletic facilities.

**Con(s):**

- None

**Fiscal Impact:**

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

**Motion:**

- Motion to authorize the City Manager to enter into an Interlocal Agreement between the City of Asheville and Asheville City Schools for the use of facilities to expand public recreation programs.

**RESOLUTION BOOK NO. 44 - PAGE 361**

- D. RESOLUTION NO. 24-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PARKER TECHNOLOGY LLC BACKDATED TO JANUARY 24, 2023 AND EXTENDING TO JUNE 30, 2024, WITH OPTIONS TO RENEW FOR TWO ADDITIONAL THREE-MONTH PERIODS, TO COVER PAST PARKING GARAGE CALL CENTER SERVICES RENDERED AND PROVIDE TEMPORARY CONTINUING SERVICES, AND TO APPROVE THE CONTRACT WITHOUT ENGAGING IN THE NORMAL CITY BIDDING AND OUTREACH REQUIREMENTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Parker Technology, LLC for an amount not to exceed \$110,000, backdated to January 24, 2023 and extending to June 30, 2024 with options to renew for two additional three-month periods, to cover past parking garage call center services rendered and provide temporary continuing services, and to approve the contract without engaging in the normal City bidding and outreach requirements.

**Background:**

- Parker Technology, LLC (Parker) was selected by the City of Asheville in February 2017 to provide 24-7 real-time video-based call center services in the City of Asheville's parking garages.
- Customers experiencing an issue when attempting to enter or exit a garage facility are able to press a button on the entry/exit equipment that automatically connects the customer to a Parker Technology representative via a live video feed to request assistance with using the equipment.

- The previous contract with Parker ended on January 24, 2023. Staff is requesting an additional \$110,000 to pay Parker for services previously rendered and to continue services through June 30, 2024 with two optional three-month renewal periods.
- Staff is initiating a formal solicitation process with a plan to have the new vendor in place by June 30th. The two requested optional three-month renewals will be used to ensure continuous customer service coverage if there is a delay in the vendor selection process.
- The \$110,000 requested would cover the entire life of the contract, including both optional renewal periods.

**Vendor Outreach Efforts:**

- None, Parker Technology, LLC is a current service provider. Parker Technology, LLC is both the manufacturer and technical support provider for the parking garage customer service equipment which has been in place since February 2017. As mentioned above, staff is requesting to enter into this contract without competitive bidding or outreach as exceptions to normal City policy to pay for past services and help ensure that services continue to be provided while staff prepares for competitive bidding and outreach and a potential transition to a new vendor.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- This action will support the continuation of current/existing parking garage call center service levels.

**Con(s):**

- Council would be making an exception to the City's typical competitive bidding and outreach policies.

**Fiscal Impact:**

- Funding for this contract is available in the Parking Services Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Parker Technology, LLC for an amount not to exceed \$110,000, backdated to January 24, 2023 and extending to June 30, 2024 with options to renew for two additional three-month periods, to cover past parking garage call center services rendered and provide temporary continuing services, and to enter into the contract without engaging in the normal City bidding and outreach requirements.

In response to Councilwoman Roney, Interim Transportation Director Jessica Morris explained the reasons for the waiving of bidding and outreach on Consent Agenda Items "D", "E" and "F". Unfortunately, the contracts expired but the companies have continued the services they were contracted for. We had some issues with tracking our expiration dates; however, since then, we have worked to make sure that we have a system in place to alert us well in advance of expirations. Staff is requesting these short extensions in order to allow us to put together a bid in the next couple of months.

**RESOLUTION BOOK NO. 44 - PAGE 364**

**E. RESOLUTION NO. 24-27 - RESOLUTION AUTHORIZING THE CITY**

**MANAGER TO ENTER INTO A CONTRACT WITH PASSPORT LABS INC. BACKDATED TO JANUARY 2, 2023 AND EXTENDING TO JUNE 30, 2024 WITH OPTIONS TO RENEW FOR TWO ADDITIONAL THREE-MONTH PERIODS, TO COVER PAST MOBILE PAYMENT SERVICES RENDERED AND PROVIDE TEMPORARY CONTINUING SERVICES, AND TO APPROVE THE CONTRACT WITHOUT ENGAGING IN NORMALLY REQUIRED COMPETITIVE BIDDING AND VENDOR OUTREACH**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a contract with Passport Labs, Inc. in an amount not to exceed \$161,000, backdated to January 2, 2023 and extending to June 30, 2024 with options to renew for two additional three-month periods, to cover past mobile payment services rendered and provide temporary continuing services, and to approve the contract without engaging in normally required competitive bidding and vendor outreach.

**Background:**

- Passport Labs, Inc. was selected by the City of Asheville in January 2021 to offer mobile pay options for the Parking Services Division using competitive bidding through the National Cooperative Purchasing Alliance/Omnia Partners program.
- Passport Labs, Inc.'s technology allows parking customers to pay using their mobile devices.
- The previous contract with Passport Labs, Inc. ended on January 1, 2023. Staff is requesting \$161,000 to pay Passport Labs, Inc for services previously rendered and to continue services through June 30, 2024.
- Staff is initiating a formal solicitation process with a plan to have the new vendor in place by June 30th. The two requested optional three-month renewals will be used to ensure continuous customer service coverage if there is a delay in the vendor selection process.
- The \$161,000 requested would cover the entire life of the contract, including both optional renewal periods.

**Vendor Outreach Efforts:**

- None, Passport Labs, Inc. is a current service provider. Passport Labs, Inc is both the manufacturer and technical support provider for the services which have been in place since January 1, 2021.
- The current services provided are available through the National Cooperative Purchasing Alliance/Omnia Partners program, which was awarded competitively via a nationwide selection process.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- This action will support the continuation of current/existing mobile payment options for all City-owned parking meters through 2024 if needed to avoid a service interruption.

**Con(s):**

- Council would be making an exception to the City's typical competitive bidding and outreach policies.

**Fiscal Impact:**

- Funding for this contract is available in the Parking Services Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with Passport Labs, Inc. in an amount not to exceed \$161,000, backdated to January 2, 2023 and extending to June 30, 2024 with options to renew for two additional three-month periods, to cover past mobile payment services rendered and provide temporary continuing services, and to enter into the contract without engaging in the City's normal bidding and outreach requirements.

**RESOLUTION BOOK NO. 44 - PAGE 365**

**F. RESOLUTION NO. 24-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH PASSPORT LABS INC. FOR PARKING ENFORCEMENT EQUIPMENT AND SOFTWARE TO EXTEND THE CONTRACT TERM TO JUNE 30, 2024, WITH TWO OPTIONS TO RENEW FOR TWO ADDITIONAL THREE-MONTH PERIODS; AND TO APPROVE THE CONTRACT WITHOUT ENGAGING IN THE NORMAL CITY BIDDING AND OUTREACH REQUIREMENTS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract amendment between the City of Asheville and Passport Labs, Inc. for Parking Enforcement Equipment and Software to extend the contract term to June 30, 2024 with two options to renew for two additional three-month periods, and to add an amount not to exceed \$89,000 to the contract, and to approve the contract without engaging in the normal City bidding and outreach requirements.

**Background:**

- Passport Labs, Inc. was selected by the City of Asheville in May 2021 to provide Parking Services's enforcement equipment and software using competitive bidding through the National Cooperative Purchasing Alliance/Omnia Partners program.
- Passport Labs, Inc's technology allows Parking Enforcement officers to write and issue citations, check citation history, and track citations through the handheld equipment and associated software.
- Passport Labs, Inc's handheld device also automatically uploads data to a cloud server allowing customers instant access to pay or appeal their citations online.
- The current contract with Passport Labs, Inc. expires on March 1, 2024. Staff is requesting \$89,000 to extend the current contract term to June 30, 2024.
- Staff is initiating a formal solicitation process with a plan to have the new vendor in place by June 30th. The two requested optional three-month renewals will be used to ensure continuous customer service coverage if there is a delay in the vendor selection process.
- The \$89,000 requested would cover the entire life of the contract and requested extension to June 30, 2024, along with both optional renewal periods.

**Vendor Outreach Efforts:**

- None, Passport Labs, Inc. is a current service provider. Passport Labs, Inc. is both the manufacturer and technical support provider for the services which have been in place since May 5, 2021.
- The current services provided are available through the National Cooperative Purchasing Alliance/Omnia Partners program, which was awarded competitively via a nationwide selection process.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- This action will support the continuation of current/existing online monthly rental and payments.
- This action will support the continued ability to enforce parking regulations and statutes in compliance with SEC 19-149 of the City Code of Ordinances.

**Con(s):**

- Council would be making an exception to the City's typical competitive bidding and outreach policies.

**Fiscal Impact:**

- Funding for this contract is available in the Parking Services Fund operating budget.

**Motion:**

- Motion to authorize the City Manager to execute a contract amendment between the City of Asheville and Passport Labs, Inc. for Parking Enforcement Equipment and Software to extend the contract term to June 30, 2024 with two options to renew for two additional three-month periods, and to add an amount not to exceed \$89,000 to the contract, and to approve the contract without engaging in the normal City bidding and outreach requirements.

**RESOLUTION BOOK NO. 44 - PAGE 366**

When Mayor Manheimer asked for any public comment on the Consent Agenda, she received none.

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

Councilwoman Roney moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Mosley and carried unanimously.

**III. PRESENTATIONS & REPORTS:**

**A. REALIGNMENT WORKING GROUP**

Elyse Marder, member of the Realignment Working Group (RWG) who gave the following key takeaways: (1) Most members feel their Board is appropriately supported by staff and several offer strong praise for staff. Other comments mention staff turnover as a hindrance to the Board's function; (2) Respondents express dissatisfaction with regard to the impact they have on Council action and policy change. This feeling of "powerlessness" is central to overall negative experience and in some cases leads members to end their terms early; and (3) Clarity of mission and goals was associated with a more positive experience. Many respondents express desire for greater clarity in mission and alignment of goals with Council priorities. Many call for greater communication between Council and the Boards.

She then gave the following brief background of the RWG: (1) Staff proposal in early 2022 to align advisory boards with Council Committees and drastically reduce the number of boards; (2) Survey developed by RWG members; Volunteer group began regular meetings in May 2022; (3) Administered through the City's public engagement hub; (4) Sent to over 350 current and



former Board members serving between 2012 and 2022; Close to 150 responses; (5) Question types: single-selection, multi-selection, Likert scales, and open-ended comments; and (6) Survey-takers responded to questions in the following general categories: Quorum, vacancies, recruitment; Public participation and accessibility; Board member participation; Mission, goals, operation; Communication with staff and Council; and Recommendations.

Regarding the relationship with staff and Council liaison, the key takeaway is most feel their Board is appropriately supported by staff and several offer strong praise for staff. Others mention staff turnover as a hindrance to the Board's function.

Regarding the relationship with Council, the key takeaways are (1) respondents express dissatisfaction with regard to the impact they have on Council action and policy change; and (2) many express desire for greater clarity in mission and alignment of goals with Council priorities; and (3) many call for greater communication between Council and the Boards.

She used charts from four boards regarding their clarity in mission and goals associated with more positive experience.

Regarding clarity in mission and goals, the key takeaway is many respondents express desire for greater clarity in mission and alignment of goals with Council priorities.

Regarding greater communication, the key takeaway is many call for greater communication between Council and the Boards.

Regarding powerlessness, the key takeaway is the feeling of "powerlessness" is central to overall negative experience and in some cases leads members to end their terms early.

She said following community members contributed to the development of the Member Experience Survey, data analysis, and/or report preparation - Working Group Chair Stacy Anderson; Patrick Conant; Alan Escovitz; Ted Figura; Jack Hafeli; Elyse Marder; Barber Melton; Karen Ramshaw; Sharon Sumrall; Nina Tovish; and Dee Williams.

Next steps are (1) staff liaison survey, which will conclude January 31, 2024; (2) analyze and report results; and (3) develop recommendations.

On behalf of City Council, Mayor Manheimer thanked the RGW for their hard work and dedication on this project and looked forward to seeing their recommendations.

In response to Mayor Manheimer, Ms. Marder said that at the beginning of the process, there were approximately 60 interested people but there was a lot of animosity and inter-struggles but not a lot of problem solving. Since then, and after the survey, they have captured the grievances and now we have a dedicated group of community members who are interested in seeing what the data said and using that data to make informed recommendations.

Councilwoman Roney thanked the RGW members and all advisory board members as well. She felt there may be a communication clog between our advisory boards and City Council and recognized there is an opportunity to do better. Had the Urban Forestry Commission not advocated for investment in the Urban Forestry Master Plan and hiring an Urban Forester, we might not have been working on the Master Plan or have an Urban Forester. Council also asked the Neighborhood Advisory Committee to review the Unified Development Ordinance proposed text amendments regarding flag lots and cottage development standards. Council has heard their recommendations which are influencing the decisions that Council will be making on those

proposed amendments. We also hear from the Multimodal Transportation Commission on how to make our roads safe. She said when we do have good communication, it is a good benefit for all and she looked forward to hearing the recommendations from the RGW.

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

##### **A. PUBLIC HEARING TO CONSIDER AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE CONDITIONAL USE PERMIT AND SPECIAL USE PERMIT REVIEW PROCESS**

##### **ORDINANCE NO. 5057 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE CONDITIONAL USE PERMIT AND SPECIAL USE PERMIT REVIEW PROCESS**

Principal Planner Will Palmquist said that this is the consideration of an ordinance to amend sections of Chapter 7 of the Unified Development Ordinance (UDO) regarding special use permits and the special use permit approval process as required or permitted by N.C. Gen. Stat. sec. 160D. This public hearing was advertised on January 12 and 19, 2024.

#### **Background:**

- A collaborative effort between North Carolina land use attorneys, the University of North Carolina - School of Government and North Carolina legislators resulted in Session Law 2019-111 "AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE." adopted July 11, 2019.
- As the law's title states, the purpose of 160D is to clarify and reorganize the land use/development related laws of the State and to consolidate these laws into one chapter in order to provide a uniform set of statutes applicable to both cities and counties.
- Originally, parts of 160D became effective immediately while most of it was not to become effective until January 1, 2021, however, on June 19, 2020, the General Assembly enacted legislation -S.L. 2020-25-making Chapter 160D and associated changes to other statutes effective immediately.
- The law provided flexibility to local governments in the timing for adoption of amendments to conform local development regulations to the new statutes. Local governments may enact their amendments now, but are not required to do so until July 1, 2021.
- The new law contains a number of legislative changes which a local government *must* take action to adopt, but it also contains permissive legislative changes which a local government *may* choose to adopt or not.
- In general, 160D did not make substantial changes to the planning zoning laws and therefore, the City's existing planning and zoning procedures are, for the most part, already compliant with this new law.
- Staff from the City's Planning and Legal Departments have been working since 2020 to amend the City's Unified Development Ordinance (UDO) to bring it into compliance with 160D, as needed.
- To date, four text amendment ordinances have been adopted related to 160D compliance including: Ordinance No. 4836- Historic Preservation Revisions adopted on October 27, 2020; Ordinance No. 4837- Enforcement Provisions and Definition Revisions adopted on October 27, 2020; Ordinance No. 4361- Discretionary Language Revisions adopted on March 23, 2021; and, Ordinance No. 4381- Boards and Commissions Revisions adopted on June 8, 2021.
- Additionally, all planning-related boards and commissions, including the Planning and Zoning Commission, adopted amendments related to a broadened conflict of interest standard in their Rules of Procedures in 2021.

- This proposed ordinance amendment is the final required change to be made to Chapter 7, as required by 160D.
- Proposed amendments include deletion of all references to a “conditional use” or “conditional use permit” and replacement with the required terms of “special use” or “special use permit”.
- Additionally, Planning and Legal Staff propose revising the approval process for Special Use Permits as outlined in UDO section 7-5-5 to make the Planning and Zoning Commission, acting according to quasi-judicial procedures, the final decision-making body for issuance of special use permits instead of the City Council, as permitted by 160D.
- Most of the section amendments are minor, changing “conditional use” to “special use”.
- The sections with the greatest number of revisions are 7-5-5 which outlines the special use permit approval process and includes the proposed amendment regarding Planning and Zoning Commission acting as the final decision maker for the granting of such permits.
- Section 7-16-2 which outlines uses for which a Special Use Permit are required and the seven standards to be met for special use permit approval (Section 7-16-2(c)) is being proposed to be replaced in its entirety- mainly due to the numerous places where the term “special” replaces the term “conditional” and approval by the “planning and zoning commission” replaces approval by “city council”.
- The standards for approval of a special use permit and the uses for which a special use permit is required, are not changing.
- A few additional non-160D related amendments are proposed to section 7-8-27. Airport District of the UDO and Section 7-9-11.
- Adaptive Reuse Overlay District. as “clean up” revisions. Information in 7-8-27 regarding Level III approval was incorrect so that is proposed to be deleted and the Adaptive Overlay District has never been used since its creation in 2007, so that is proposed to be deleted in its entirety.

**Committees:**

- Planning & Zoning Commission (PZC) - January 3, 2024 - Approved, 5:0.

**Staff Recommendation:**

- Staff recommends approval of this zoning text amendment.

Mr. Palmquist reviewed the following background of the UDO amendment: (1) Session Law 2019-111 “AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE.” was adopted on July 11, 2019 to clarify and reorganize land use related statutes relating to cities and counties; (2) Staff from the City’s Planning and Legal Departments have been working since 2020 to amend the City’s Unified Development Ordinance (UDO) to bring it into compliance with 160D, as needed; (3) Four text amendment ordinances have been adopted related to 160D compliance including: (a) Ordinance No. 4836- Historic Preservation Revisions adopted 10/27/20; (b) Ordinance No. 4837- Enforcement Provisions and Definition Revisions adopted 10/27/20; (c) Ordinance No. 4361- Discretionary Language Revisions adopted 3/23/21; and (d) Ordinance No. 4381- Boards and Commissions Revisions adopted 6/8/21; and (4) Additionally, all planning-related boards and commissions, including the Planning and Zoning Commission, adopted amendments related to a broadened conflict of interest standard in their Rules of Procedures in 2021.

He summarized the proposed amendments as follows: (1) This proposed ordinance amendment is the final required change to be made to Chapter 7, as required by 160D, and proposes amendments to 18 sub-sections; (2) Proposed amendments include deletion of all references to a “conditional use” or “conditional use permit” and replacement with the required terms of “special use” or “special use permit”; (3) Planning and Legal Staff propose revising the

approval process for Special Use Permits as outlined in UDO section 7-5-5 to make the Planning and Zoning Commission, acting according to quasi-judicial procedures, the final decision-making body for issuance of special use permits instead of the City Council, as permitted by 160D; (4) The standards for approval of a special use permit and the uses for which a special use permit is required, are not changing; and (5) A few, additional non-160D related amendments are proposed: (a) UDO Sec. 7-8-27. Airport District - outdated information regarding Level III projects; and (b). At their January 3, 2024, meeting, the Planning & Zoning Commission voted unanimously to approve the UDO amendments. He then explained how the amendments are consistent with the Living Asheville Comprehensive Plan. He said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed zoning text amendment.

In response to Councilwoman Roney, City Attorney Branham said that there are two distinct parts of this amendment. The first part is mandatory and purely verbiage changes which standardizes the terminology for conditional use permits and special use permits such that all are now referred to as special use permits. The second part is optional, and would amend the process for reviewing special use permit applications (which City Council has seen very, very few of) to direct final review by the Planning & Zoning Commission in their quasi-judicial capacity. There are only a few types of land uses subject to special use permits, i.e., a group home or a cell tower infrastructure. If City Council does amend its ordinance dictating that final review for these permits be conducted by the Planning & Zoning Commission's, it can be reversed at any time in the future. He also noted that the temporary substation on Patton Avenue for Duke Energy would not require a special use permit.

Mayor Manheimer opened the public hearing at 5:36 p.m.

Nina Tovish felt that anything that comes up to a special use permit status sounds like something City Council should consider.

Mayor Manheimer closed the public hearing at 5:38 p.m.

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

Councilwoman Ullman moved to approve the text amendments to Articles II, III, V, VI, VII, VIII, IX, XI, XVI, and XVII of Chapter 7, Development, of the City Code of Ordinances (the "UDO") and find that the proposed amendments are reasonable, in the public interest and consistent with the city's comprehensive plan in that they promote reasonable growth based on holistic decision making and bring City ordinances into compliance with state law Chapter 160D. This motion was seconded by Vice-Mayor Kilgore and carried on a 5-1 vote, with Councilwoman Roney voting "no".

## **ORDINANCE BOOK NO. 35 – PAGE 162**

### **B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE DEVELOPMENT REGULATIONS RELATED TO COTTAGE DEVELOPMENT**

At the request of the petitioner, Councilwoman Mosley moved to continue this public hearing until February 13, 2024. This motion was seconded by Councilwoman Ullman and carried unanimously.

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

At the request of the petitioner, Councilwoman Mosley moved to continue this public hearing until February 13, 2024. This motion was seconded by Councilwoman Ullman and carried unanimously.

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 23-25 - RESOLUTION REQUESTING THE N.C. DEPT. OF TRANSPORTATION TO CONSIDER REDUCING THE DESIGN SPEED BETWEEN THE INTERSECTION OF PATTON AVENUE WITH THE HILLCREST CONNECTOR AND THE INTERSECTION OF PATTON AVENUE WITH CLINGMAN AVENUE FROM THE CURRENTLY PLANNED DESIGN SPEED OF 40 MILES PER HOUR WITH A POSTED SPEED LIMIT OF 35 MILES PER HOUR TO A DESIGN SPEED OF 30 MILES PER HOUR, AND USE A POSTED SPEED LIMIT OF NO MORE THAN 25 MILES PER HOUR**

Assistant City Manager en Woody said that this is the consideration of a resolution requesting the N.C. Dept. of Transportation to consider reducing the design speed between the intersection of Patton Avenue with the Hillcrest Connector and the intersection of Patton Avenue with Clingman Avenue from the currently planned design speed of 40 miles per hour with a posted speed limit of 35 miles per hour to a design speed of 30 miles per hour, and use a posted speed limit of no more than 25 miles per hour. The I-26 Connector Aesthetics Committee does recommend this resolution.

Susan Loftis provided Council with a sketch comparing the desired current design density of 30 mph and the current design speed of 40 mph. She explained the reasons for the East Patton Avenue design speed reduction from an (1) environmental standpoint (a) implement Urban Forest Master Plan; (b) connect greenways, green space and streets; (c) maximize comfort and safety for all users; and (d) maximize climate resilience; and (2) economic impact (a) maximize redevelopment opportunity - the more easily developable space is immediately adjacent; (b) build it right the first time - avoid spending future local tax money; (c) optimally utilize I-26 landscape budget - \$19,500,000 is estimated landscape budget; and (d) expedite redevelopment - tax revenue could be available sooner. She then showed sketches of preferred multiple connections vs. current plan with a single connection.

Councilwoman Roney felt that if we reduce the design speed to 30 miles per hour, we will have more options for landscaping and tree canopy around the project. In thinking about our neighbors in the Hillcrest neighborhood, historically many times low income neighborhoods have been built very close to highways and other environmental impact areas. If we reduce the speed, we will be able to not only improve health, well-being and quality of life but also mitigate some of the noise for those areas.

Chair of the I-26 Connector Aesthetics Committee Ted Figura and Robert Robinson both spoke in support of reducing the speed limit.

Councilwoman Ullman said that she reviewed the proposed resolution with the N.C. Dept. of Transportation's Division Engineer last week and he is expecting this resolution. Assistant City

Manager Ben Woody said that he would be happy to share the resolution with the District Engineer.

Mayor Manheimer and Councilwoman Mosley also thanked Senator Mayfield for her work with the N.C. Dept. of Transportation on this request, with Councilwoman Mosley noting that the Chair of the Housing Authority also supports the reduction in the speed limit.

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

Councilwoman Roney moved to approve a resolution requesting the N.C. Dept. of Transportation to consider reducing the design speed between the intersection of Patton Avenue with the Hillcrest Connector and the intersection of Patton Avenue with Clingman Avenue from the currently planned design speed of 40 miles per hour with a posted speed limit of 35 miles per hour to a design speed of 30 miles per hour, and use a posted speed limit of no more than 25 miles per hour. This motion was seconded by Councilwoman Ullman and carried unanimously.

**RESOLUTION BOOK NO. 44 - PAGE 362**

**B. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH B. ALLEN CONSTRUCTION INC. FOR THE INSTALLATION OF A PREFABRICATED RESTROOM OUTSIDE OF THE RANKIN AVENUE GARAGE; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE ANY CHANGE ORDERS THAT MAY ARISE DURING THE PROJECT UP TO THE CONTINGENCY AMOUNT**

**RESOLUTION AUTHORIZING THE PURCHASE OF A PREFABRICATED SINGLE OCCUPANT RESTROOM STRUCTURE FROM MADDEN FABRICATION FOR THE DOWNTOWN RESTROOM PROJECT**

Mayor Manheimer said that there is a possibility that these items will not be voted on at this meeting, but will move to a Council date in February in order to have Councilwoman Turner present and possibly have additional information.

Capital Projects Director Jade Dundas said that this is the consideration of adoption of a resolution authorizing the City Manager to enter into a construction contract with B. Allen Construction, Inc., for site enhancements and the installation of a prefabricated restroom unit adjacent to the Rankin Avenue Parking Garage in the amount of \$183,620; further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of \$46,724; and adoption of a resolution authorizing the purchase of a prefabricated single occupant restroom structure from Madden Fabrication in the amount of \$170,760, for the Downtown Restroom project.

**Background:**

- The Downtown Restroom Project is intended to address downtown cleanliness, safety, and public health.
- The planned improvements for the Downtown Restroom Project will be funded through the American Rescue Plan Act (ARPA) and will provide an accessible, durable, safe public restroom downtown that can be open 24 hours a day, seven days per week.
- In February 2023, a request for qualifications was issued for design services related to the installation of a prefabricated restroom structure.
- Four design teams submitted qualifications and Osgood Landscape Architecture, a downtown Asheville firm, was selected as the most qualified firm to perform

design/engineering services, provide public meeting assistance, conduct permitting, and provide construction administration.

- Staff wanted to find new solutions to ensure a durable, safe, clean, and attractive restroom facility option could replace the current portable restroom at the corner of College and Rankin.
- Staff performed research on prefabricated restroom units and contacted multiple municipalities to identify operational “lessons learned,” including Missoula, Montana; Greeley, Colorado; Seattle, Washington; Philadelphia, Pennsylvania; and Eugene, Oregon.
- This outreach helped inform the technical requirements in the request for bids on the restroom structure.
- A formal invitation for bids for a prefabricated restroom structure was released November 9, 2023.
- One responsive bid was received
  - Madden Fabrication, Portland, Oregon, \$170,760.
- Madden Fabrication, the manufacturer of the “Portland Loo,” was the successful bidder for the restroom structure.
- The scope of the construction project includes site work and utility connections required for the installation of a prefabricated restroom, restroom installation, additional site lighting and security cameras, Americans with Disabilities (ADA) accessibility improvements, and updated landscaping around the restroom
- This construction phase of the project is anticipated to begin in spring 2024 with three months of construction.
- Bids were initially advertised on December 4, 2023.
- Responsive bids received are as follows:
  - B. Allen Construction, Inc., Candler, NC, \$183,620.00
  - Cinderella Partners, Inc., Indian Trail, NC, \$243,062.22
  - Providence Construction, Hendersonville, NC, \$279,360.00
  - V. Stewart McKee Construction, Morganton, NC \$379,915.00
- B. Allen Construction, Inc of Candler, NC is the apparent lowest responsive, responsible bidder.

**Vendor Outreach Efforts:**

- This is a federally funded project using American Rescue Plan Act (ARPA) funds.
- Federal terms and conditions apply, and federal MWBE goals for projects with federal funding are required to be documented by any contractor submitting a bid.
- This bid was posted on the City of Asheville’s Purchasing Website and the North Carolina Electronic Vendor Portal (EVP).
- Staff performed a search for any disadvantaged business enterprises (DBE), and none were identified.

**Council Goal(s):**

- A Thriving Local Economy
- A Clean & Healthy Environment

**Committee(s):**

- The project was presented to the Downtown Commission and the Downtown Management Task Force.

**Pro(s):**

- Provides an accessible, durable, safe public restroom downtown that can be open 24 hours a day, seven days per week.
- Replaces the existing portable toilet with a durable, permanent structure with a flushable toilet and exterior handwashing station

- City Staff will provide daily coverage from 7:00 a.m. to 3:00 p.m. 7 days a week to stock and clean the new restroom.

**Con(s):**

- Some downtown business owners have expressed concerns about site conditions including safety.
- May need future financial resources not identified in this budget for maintenance, supplies, and staffing.

**Fiscal Impact:**

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

Mr. Dundas outlined the following key takeaways: (1) The Downtown Restroom Project helps to address downtown cleanliness and safety challenges by providing additional downtown restroom access; (2) The Downtown Restroom Project was supported by local businesses and non-profit agencies and received letters of support from the Asheville Downtown Association (ADA) and BeLoved prior to the submittal of an ARPA funding application; (3) \$650,000 in ARPA funding was approved for the Downtown Restroom Project in spring 2022; (4) The location of the restroom is in close proximity to high traffic areas and replaces a portable restroom that has been in the parklet at the corner of College and Rankin since 2020; (5) The improvements to the parklet and the durability of the prefabricated restroom unit will create a more secure environment and lessen restroom downtime; and (6) The addition of this unit does not preclude the re-opening of restrooms or the installation of other freestanding restrooms. He then outlined the 7 current downtown public restroom locations. He provided a timeline for the project.

Mr. Dundas then outlined the following specific engagement/support (1) 12/2020 - Petition from downtown business owners expressing issue with portalets and requesting other facilities be opened; (2) 03/2021 - On-site public meeting with downtown representatives at proposed site; (3) 11/2021 - Letter of support from BeLoved and ADA for ARPA request; (4) 08/2023 - In-person meeting and online survey to review concepts and collect information about project needs and expectations (a) 225 participants in the online survey, and (b) Limited in-person attendance/staff person located on-site directing people passing by to the meeting; (5) 12/2023 - Presented to the Downtown Commission; and (6) Ongoing - Will notify downtown property owners and residents of construction impacts such as scheduling and disruptions to access

Using a map, he showed the location and design. He then showed the existing conditions. Rankin and College site benefits are (1) Utilities (power, water, sewer) either on site or close to the site; (2) Close proximity to Pritchard Park and Haywood St.; (3) ADA accessible site; (4) Convenience and visibility (proximity to need); (5) Opportunity for improvements to the public space, including aspects of public safety; (6) Not located directly in front of a storefront/business/residential building; (7) Other temporary restrooms (Wall Street, Pritchard Park) resulted in highly negative feedback; and (8) Positive initial feedback received from community members. Design elements are (1) Accessible; (2) Preserve all existing trees (some pruning); (3) Improved security (new lighting and cameras); (4) New landscaping; (5) Baby changing station; (6) Hand washing station; (7) Sharps container (checked daily, disposed of as needed); and (8) Safety features designed to meet CPTED standards

The selected equipment is (1) Portland Loo (competitively bid); (2) Year round operation (with cold weather package); (3) 24/7 availability; (4) Durable construction, finishes, and fixtures; (5) Low tech with common parts; and (6) Louvers maintain privacy but allow ventilation and a way to see if occupant is having a medical emergency. Regarding cleanliness and security, (1) The Portland Loo website suggests that the units be cleaned between 2 to 5 times/day (a) The initial cleaning frequency will start with 2 cleanings per day by Parks Maintenance: (i) Supplies will be



checked; (ii) Surfaces will be wiped down and disinfected; (iii) Trash will be picked up; and (iv) A general maintenance check will be performed; (b) The frequency of cleaning will be adjusted according to the needs; and (c) Responsive cleaning during working hours will be possible; (2) This is the same schedule which is used for monitoring and cleaning of the Pack Square restrooms; (3) Park Maintenance will monitor and be available to clean 7 days/week during posted hours; (4) The cleaning of this facility (in addition to the other public facilities) may require additional resources (a) Initially cleaning will be performed by city staff; and (b) Staff time will be monitored to determine if there is enough capacity; (5) Providing additional (24/7) restroom access is anticipated to improve health and safety conditions downtown - Expectation that this will reduce biological waste on sidewalks and properties; and (6) Supplement security with routine afterhours checks by new garage security contractor.

Councilwoman Roney spoke about the need for a downtown restroom, not just for our workers and residents, but for our visitors as well. If Council chooses not to construct this, she wondered what our other options would be.

Mayor Manheimer said that the City does have restrooms in this area on Haywood Street that are closed. If we reopen the walkway through the Rankin Avenue Parking Garage, the restrooms would be in the walkway. She received a memo stating that staff has had some conversations with the Asheville Downtown Association about a concept of them operating the restrooms since their offices are right on that corridor. She would like to explore that before making any decisions on this action before Council. Also the Library is operating a restroom in the walkway coming from the Civic Center Parking Garage. We also have four restrooms at Pack Square Park. She wanted to look at all the current facilities that are within a block on either side to make sure there isn't a way to open those up and what it would take to open them up. Regarding nights and weekends, she felt we should explore a possible partnership with the Salvation Army to make sure that their facilities are available on nights and weekends since they are open 24/7. That might be an opportunity to fill the gap. This is a big expense and she felt pausing any action until February will give staff time to look at the other opportunities and for her to understand the answers.

### **C. PUBLIC COMMENT ON FISCAL YEAR 2025 BUDGET**

Budget Manager Taylor Floyd, reviewed with Council the following key takeaways: (1) Community priorities, Council priorities and expectations for service delivery are key to budget development process; (2) Seeking public input early and often in the process - including this public comment opportunity; and (3) Utilizing a variety of methods to engage and hear from the community in the process. He then went through the budget development process, outlining the guiding principles and Council priorities for Fiscal Year (FY) 2023-24. Using charts, he reviewed the budget structure (FY 24 adopted) of a net total of \$239,917,942; and the expenses (FY 24 adopted, all funds) of a net total of \$239,917,942. He then explained capital vs. operating expenses. Regarding budget communication goals, (1) Reach diverse platforms and groups that are representative of Asheville residents and stakeholders; (2) Provide meaningful information about the budget process and how it relates to services the City of Asheville provides; and (3) Receive meaningful information from residents and stakeholders to inform the budget development process, especially for the Capital Improvement Plan. Communication tools included City newsletters; City website & project page; Existing neighborhood & civic group meetings; Informal community leaders & neighborhood networking; Online survey; City board and commission meetings; Print media; Local talk radio; TV outlets; City social media platforms; and City Council committee and formal meetings, including Jan 23 public comment. In summary, community and Council priorities and expectations for service delivery are key to budget development process. Most services provided by the City are funded through property and sales taxes. Employees are the City's most valuable asset. And, capital investments are on a longer time horizon and primarily impact future annual budgets. Regarding engagement, the survey

asks residents to prioritize investments in City services. It is available in English, Spanish, Ukrainian and Russian. And, it closes Friday, February 23.

Jonathan Wainscott asked Council to choose practicality over popularity, using the example of electric buses vs. reliability.

Paul Howell felt that Council should not do things that are progressive, noting that progressiveness is not inclusive of the black community. The concerns and needs of black residents are on paper, but when it comes time for action, those papers get shuffled to the bottom.

Mayor Manheimer noted that City Council will be discussing their budget priorities at their annual retreat on February 22 and 23, 2024.

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

Due to the number of speakers, and Council's establishment of a one hour public comment period, she said that all public comment will be reduced from three minutes to two minutes.

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; request for funding for the PEAK Academy; request for Council to eliminate the at-large election system; request support for Realignment Working Group recommendations; proposal for a free grocery store and a music venue to nourish the body and soul of our community while addressing practical needs and promoting local culture and connection; request for funding for Chosen PODS After School Program.

Mayor Manheimer noted that there is a lot of interest in getting Council to do things during public comment, but this is a statutorily required public comment period and we are only to sit and listen. After the meeting, there may be some Council members who are willing to talk more with you.

### **Closed Session**

At 7:49 p.m., Councilwoman Ullman moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(1). The statutory authorization is contained in N.C.G.S. 143-318.10 (e); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, providing the City Attorney with instructions concerning the handling or settlement of a claim or judicial action.. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilwoman Smith and carried unanimously.

At 8:02 p.m., Councilwoman Ullman moved to come out of closed session. This motion was seconded by Councilwoman Smith and carried unanimously.

## **VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:02 p.m.

---

CITY CLERK

---

MAYOR