Thursday – August 17, 2023 - 11:00 a.m.

Agenda Briefing Worksession - For August 22, 2023 Council Meeting

Present: Vice-Mayor Sandra Kilgore, Presiding; 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: Mayor Esther E. Manheimer and 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:

- McCormick Field Zoning Change
- Position Updates
    - Fire Chief
    - Planning Director

Closed Session

At 12:12 p.m. Councilwoman Ullman moved that the Asheville City Council 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 statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1).The law that makes the information privileged and confidential is N.C. Gen. Stat. § 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, the handling or settlement of a claim regarding the following: Zachary Hebb v. City of Asheville, having a case file number of WDNC 1;22-CV-00222. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilwoman Smith and carried 5-0 by a roll call vote.

At 12:39 p.m. Councilwoman Ullman moved to come out of closed session. This motion was seconded by Councilwoman Roney and carried 5-0 by a roll call vote.

At 12:39 p.m., Vice-Mayor Kilgore adjourned the agenda briefing worksession.

Tuesday – August 22, 2023 - 3:00 p.m.

Independent Review Committee Water Outage Report Worksession

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

Assistant City Manager Ben Woody provided the following key takeaways from this presentation: (1) Thee City appreciates the work of the Independent Review Committee (IRC); (2) An interdepartmental team spearheaded by staff in the Asheville Fire Department was formed

to develop responses and action steps to each report recommendation; (3) Many of the action items are already underway to address the recommendations identified in the IRC Report, as well as implementing actions identified in the Water Resources Department Water Outage After Action Report; (4) The update of the Emergency Operations Plan (EOP), which is currently underway, is the framework for both the City organization and community becoming more resilient in how we prepare for, respond to, and recover from a disaster; and (5) Based on the recommendations of the IRC, staff will develop and prioritize resource needs and capital projects through the annual budget process.

Mr. Woody said the IRC report overview is (1) Following a prolonged water outage, City Council appointed an Independent Review Committee (IRC) on January 24, 2023 to review and provide a comprehensive account of the water outage, an assessment of the response, and needed infrastructure and procedural enhancements; (2) The first IRC meeting was February 20, 2023 and the committee divided into three distinct subcommittees: Water System/Operations; Communications; Emergency Response; (3) The final IRC report and presentation were presented to City Council on June 13, 2023; (4) The IRC report included an overview of the water outage incident, an overview of the water production and distribution system, a hydraulic modeling report, and a total of 37 recommendations: 10 - Water System/Operations; 11 - Communications; and 16 - Emergency Response; (5) City staff has also initiated follow-up actions not included in the IRC final report recommendations; and (6) IRC Report implementation added to City Organizational Work Plan - Project manager and interdepartmental team identified. He then reviewed the committee members and the subcommittees of (1) Water System; (2) Communication; and (3) Emergency Response.

Assistant Fire Department Business Manager Beth Bechel said that regarding the project management and approach, (1) IRC Report implementation added to City Organizational Work Plan - project manager and interdepartmental team identified; (2) Project tasks identified: Thoroughly review IRC report and recommendations; Conduct research and gather relevant information; Create a matrix that includes City response and status update for each recommendation; Develop and prioritize resource and budget needs; and Provide regular reporting to City Council and the community; and (3) Citywide approach using FEMA POETEE analysis.

Water Resources Director David Melton said that regarding the key water system recommendations, (1) The Water System/Operations Subcommittee developed a total of 10 recommendations; and (2) Key recommendations include: Begin regular large diameter valve assessment; Expedite implementation of the AMI project; Reevaluate the role of the Water Resources Department Engineering Division; and Evaluate the East Asheville Booster Pump Station.

Mr. Melton said that regarding the large diameter valve assessment, (1) A closed transmission valve contributed to the recovery of the system during the water outage event; (2) The water system includes a total of +/- 20,000 valves. Approximately 500 of these valves are 16” or larger; (3) Valves are commonly used to isolate sections of the water system, direct the flow of water, and control pressure; (4) Valves can often be difficult to locate for a variety of reasons; and (5) Five new positions approved in FY24 Budget to establish a dedicated valve crew. The Water Resources has begun the process to contract for services to begin the valve assessment while new staff is hired and trained. The assessment will access and record valves 16” and larger to determine condition, position, GPS coordinates, and operational observations. The timeline is August 2023 for contractor estimates; and in the fall 2023, onboard new staff for dedicated valve crew.

Mr. Melton said that regarding AMI implementation, (1) City Council approved $28m to move forward with Advanced Metering Infrastructure (AMI) technology; (2) Implementation of the

AMI project began in May, 2023; (3) The project replaces approximately 63,000 water meters; (4) Newly installed AMI meter technology provides customers and Water Resources with information related to customer usage (customer side leaks, usage trends, etc.); (5) The AMI platform is also expandable to accommodate District or Zone Meters, and pressure sensors; (6) AMI implementation is an Organizational Work Plan Project and aligns with the *Improve & Expand Core Services* Council Strategic Priority; and (7) Water Resources and the project contractors are fully committed to prioritizing and implementing AMI technology as quickly as possible. The timeline is that the project is five percent complete and is projected to be substantially complete at the end 2025.

Mr. Melton said that regarding the Water Resources Engineering Division, (1) The Engineering Services Manager is a member of the Water Resources Department (WRD) Leadership Team; (2) The WRD Engineering Division currently has eight employees, three of whom are licensed Professional Engineers (PE); (3) One of the these PEs will begin to take a more active role in Water Production projects/activities. Another PE position will be requested as part of the FY25 Budget; and (4) WRD is researching best practices across the Water industry to improve the department's knowledge retention strategies. The Engineering Division will be involved with this process. The timeline is Fall 2023 existing PE more active in Water Production; FY25 budget request for Water Production PE.

Bill Hart, Water Production Division Manager, said that regarding the East Asheville Booster Pump Station (EABPS), (1) The EABPS was <u>not</u> available during the water outage; (2) The EABPS was taken offline in 2010 due to a failure in the Programmable Logic Controllers (PLC) that control the Variable Frequency Drives (VFD) that control pump operations; (3) The City supports the IRC recommendation for a Preliminary Engineering Report (PER) of the EABPS by a consulting engineer; (4) WRD will evaluate available budget and develop a Request For Qualifications for consulting engineers. It may require up to 18-months to complete the PER; and (5) The PER evaluation will include an assessment of the facility (location, operational structure and equipment sizing), and potential impacts or benefits of returning it to service. The timeline is to select a firm and award a contract first quarter 2024; up to 18 months; following results provide an update to Council.

Mr. Hart said that regarding additional Water Resource actions, (1) Conducted a root cause analysis of the water outage event and implemented actions for improvement; (2) Continued evaluation and improvements to water treatment plant infrastructure (redundancies, additional insulation, enclosing components, etc.); (3) EPA required Emergency Response Plan (ERP) updated (a) Supervisory and support level staff have all completed FEMA's Incident Command System training for levels 100 & 200; (b) The WRD maintains an annual training calendar that provides for table top exercises; and (c)) The department's ERP aligns with the city's Emergency Operations Plan (EOP);and (4) ) Water Resources reviewed and updated its equipment lists supplied through contracted vendors (a) Verify any necessary equipment is listed, including specifications; and (b) Determine which vendors have specified available equipment.

Division Chief of Emergency Manager Jeremy Knighton said that regarding key emergency response recommendations, the Emergency Response Subcommittee developed a total of 16 recommendations. Key recommendations include: Updating the Emergency Operations Plan; Integrated Preparedness Workshop/Plan; and Development of a Complexity Analysis.

Deputy Chief Knighton provided the following emergency plans history (1) As a part of the Fiscal Year 2023 Budget process City Council prioritized and budgeted for the creation of new citywide Emergency Operations and Continuity of Operations Plans; (2) These plans were funded to support the City Council goal to build neighborhood resilience; and (3) The previous version of these plans were outdated as the last version was created in 2008. Deputy Chief Knighton

provided a project recap from January through July 2023. The integrated preparedness workshop/plan is (1) Every City Department will participate in a workshop to create a citywide Integrated Preparedness Plan (IPP); and (2) The IPP will document all of the City of Asheville's preparedness priorities, activities and expectations relating to training - Training and exercise calendar; Elected officials guide and trainings; Emergency Operations Center training; and Position specific training. The complexity analysis is (1) Incident Complexity is the combination of involved factors that affect the probability of control of an incident; (2) Staff has developed a tool that is specific to the City of Asheville and Western North Carolina; (3) This assessment of incident complexity will: Enhance decision making process; Evaluate impact to the whole Community; Determine appropriate management structure; and Provide necessary and appropriate structure for response coordination. Deputy Chief Knighton then reviewed the EOC activation levels.

Director of Communication & Public Engagement Dawa Hitch said that regarding key communication recommendations, the Communications Subcommittee developed a total of 11 recommendations. Key recommendations include: Hire a Public Information Officer (PIO) for the Water Resources Department; Emergency Management Protocol for Communication; Training; and Bolster Media Relations. Recommendations are (1) Hire a Public Information Officer (PIO) for the Water Resources; (a) Water Resources Department is in the process of hiring a PIO; (b) Position will be integrated into the cross-departmental CAPE Team which will ensure coverage during a prolonged emergency; (c) Position will have the full backing of CAPE staff to manage all channels of communication during a crisis. Team cohesion is critical; and (d) Water Resources Director and CAPE Director have agreed the new PIO's work plan will prioritize 1) communicating lessons learned from the water outage and 2) proactive winter weather outreach, including tips to prepare for winter weather and timely manner. Timeline is November 2023; (2) Emergency Management Protocol for Communication - Communication roles and protocol are a critical component of the CoA Emergency Operations Plan and will be the standard used to communicate in an effective and timely manner. Timeline is for plan completion and in action in Fall 2023; (3) Training - ICS training for CAPE, Water Resources staff, and elected officials will be coordinated and tracked through the Integrated Preparedness Plan (IPP). The Timeline is that CAPE staff members currently have ICS training certificates at various levels. All recommended trainings identified in the IPP will be complete in Fall 2023; and (4) Bolster Media Relations - monthly "coffee with CAPE", with a timeline of the first event held on August 2, 2023.

Mr. Woody said the next steps are (1) Continued implementation and evaluation of the IRC Report recommendations; (2) Implement and train on the soon to be completed updated Emergency Operations Plan (EOP); (3) Develop and prioritize resource needs and capital projects through the annual budget process; and (4) Establish regular reporting to City Council and the community.

Throughout the presentation there was considerable discussion and City Manager Campbell, along with various staff, responded to various questions/comments from Council, some being, but are not limited to: what could have been done differently with the Mills River Water Treatment Plant (WTP) and what is being done to address any problems; is staff limited from proceeding with improvements at Mills River WTP due to funding; what responsibilities will the new Professional Engineer take on and will they be included in the decision-making team; explanation of the actions City staff took after Hazen let them know that there was a valve closed and how was the closed valve located; had the valve been open, would it have help south Asheville residents; confirmation that the IRC report was for a study of the EABPS by a consulting engineer; what is the reason staff is waiting until November for some action steps; confirmation that the Policy, Finance & Human Resources Committee will hear a report on the water rates at their September, 2023, meeting; roles and responsibilities of City Council during emergency situations; need to have exercises with our partners so when an incident occurs, we are all

operating off the same sheet; how are we circling back to make sure we are reaching our non-English speaking residents; “mutual aid” vs. “governmental response”; and make sure we are not missing communication with renters.

At 4:45 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – August 22, 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

Mayor Manheimer said that Councilwoman Ullman experienced an incident recently, as well as many other incidents she has experienced. She said that City Council must have difficult discussions and there are strong opinions; however, please keep in mind that we all have to live and work together today and everyday and we all try to do our jobs to the best of our ability.

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING SEPTEMBER 2023 AS “EMERGENCY PREPAREDNESS MONTH”**

Mayor Manheimer read the proclamation proclaiming September, 2023, as "Emergency Preparedness Month " in the City of Asheville. She presented the proclamation to Division Chief of Emergency Management Jeremy Knighton, who briefed City Council on some activities taking place during the month..

**II. CONSENT AGENDA:**

Mayor Manheimer said that Consent Agenda Items “I 1 and 2” and “J” were removed from the Consent Agenda for discussion and/or individual votes.

**A. APPROVAL OF THE MINUTES OF THE AGENDA BRIEFING WORKSESSION HELD ON JULY 20, 2023, AND THE FORMAL MEETING HELD ON JULY 25, 2023**

**B. RESOLUTION NO. 23-174 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MCADAMS FOR THE DOWNTOWN PATTON AVENUE CORRIDOR AND FEASIBILITY STUDY**

**ORDINANCE NO. 5029 - BUDGET AMENDMENT FOR THE DOWNTOWN PATTON AVENUE CORRIDOR AND FEASIBILITY STUDY**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with McAdams in the amount of $220,000 for the Downtown Patton Avenue Corridor & Feasibility study; and an associated budget amendment incorporating the awarded grant amount for this purpose.

**Background**:

- On January 11, 2022, the City Council approved Resolution 22-1, authorizing staff to submit an application requesting $350,000 in grant funds with a 20% match ($70,000). The FBRMPO awarded $176,000 for a project total of $220,000, with a 20% City match ($44,000).
- The purpose of the study is to create a vision for how the City can best develop the Patton Avenue corridor east of the Captain Bowen Bridge given the current I-26 design for the area and using the context of adopted City goals and best practices in planning and urban design to identify opportunities for multimodal transportation and placemaking improvements, such as sidewalks, bike lanes, greenways, public spaces, and transit.
- The City conducted a Request for Letters of Interest process that followed state guidelines for procurement. The consulting firm McAdams was selected from this process.

**Vendor Outreach Efforts:**

- Staff performed a solicitation process, including advertising Requests for Letters of Interest for Planning Services on the State's Historically Underutilized Businesses (HUB) website.
- An ad-hoc Selection Committee composed of members from internal City departments, the French Broad River MPO, and North Carolina Department of Transportation (NCDOT) was formed to select the most qualified firm.
- McAdams firm is a pre-qualified vendor with the NCDOT.

**Comprehensive Plan Consistency**

- Goal #1: Encourage Responsible Growth
- Goal #2: Increase Mixed-Use Development Along Transit Corridors
- Goal #3: Promote Great Architecture and Urban Design to Enhance Placemaking
- Goal #5: Make Street More Walkable, Comfortable, and Connected
- Goal #6: Increase Access to Safe Bicycling
- Goal #11: Build Out the Greenway Network

**Council Goal:**

- Improve / Expand Core Services

**Committee(s)**:

- N/A

**Pro(s):**

- To develop thoughtful planning of a corridor and associated land that functions as a gateway to downtown, which is undergoing significant reinvestment and alteration as part of the NCDOT I-26 Connector project.

**Con(s):**

- None

**Fiscal Impact**:

- A previous budget amendment, adopted by City Council on September 27, 2022, established a budget for this project in excess of the awarded amount and required match. Budget authority for this project will be reduced to reflect the proper total ($220,000).
- Funding for the required $44,000 local match was identified within the previous fiscal year (FY 2022-23) General Fund operating budget.

**Motion:**

- Motion to authorize the City Manager to enter into and execute a contract with McAdams, in the amount of $220,000, for planning services to prepare the Downtown Patton Avenue Corridor and Feasibility Study; and an associated budget amendment incorporating the awarded grant amount for this purpose.

**RESOLUTION BOOK NO. 44 - PAGE 173**
**ORDINANCE BOOK NO. 35 - PAGE 37**

**C. RESOLUTION NO. 23-175 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH B.H. GRANING LANDSCAPES LLC FOR THE BENT TREE AND CRESTWOOD ROADS SLIDE REPAIRS PROJECT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute a contract with B.H. Graning Landscapes, Inc. in the amount of $819,124.65 plus a 20% contingency of $163,825.35 for a project total of $982,950.00 for the Bent Tree and Crestwood Road Slide Repair contract.

**Background:**
- Heavy rains in July 2022 caused slope failures on Bent Tree and Crestwood Roads.
- Public Works staff performed temporary repairs to the slides, but a permanent solution will be required.
- ECS Southeast, LLP was selected by the City to produce repair designs for the slides.
- Plans were provided on May 30, 2023 and the contract was advertised on June 6, 2023.
- Four responses were received:

| | |
|---|---|
| B.H. Graning Landscapes, Inc. of Sylva, NC | $819,124.65 |
| Tennoca Construction Company of Candler, NC | $842,394.00 |
| TAG Contracting Inc. of Old Fort, NC | $892,007.00 |
| Southeast Select Civil Construction, LLC of Raleigh, NC | $963,380.00 |

**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.
- Staff also checked the City of Asheville list of certified MWBE businesses, the NC Historically Underutilized Business database, and the NCDOT MWBE database for potential contractors.
- No companies from an identified disparity group were found in the ten-county search area.
- Four woman-owned companies were found in the search area. All were directly contacted, but none of the firms submitted bids.
- The lowest responsive bid included two subcontractors. The asphalt milling and paving subcontractor is a woman-owned business (JLS Company, LLC of Arden, NC). The prime contractor plans to expend 3.3% of the total dollar amount of the contract with this company. The second subcontractor is not a member of an identified disparity group.

**Council Goal(s):**
- A Well-Planned Livable Community

**Committee(s):**
- None

**Pro(s):**

- This contract will provide repairs to landslides on Bent Tree and Crestwood Roads.
- Successful completion of the project will assure the continuation of emergency response access and core service delivery to the community.

**Con(s):**
- This work is required to maintain safe use of these roads, but was not a planned improvement or maintenance project.

**Fiscal Impact:**
- This contract will utilize savings from planned streets resurfacing work and remaining FY23 Capital Improvement Program (CIP) contingency in the General Capital Projects Fund.

**Motion:**
- Adoption of a resolution authorizing the City Manager to execute a contract with B.H. Graning Landscapes, Inc. in the amount of $819,124.65 plus a 20% contingency of $163,825.35 for a project total of $982,950.00 for the Bent Tree and Crestwood Road Slide Repair contract.

**RESOLUTION BOOK NO. 44 - PAGE 174**

**D. RESOLUTION NO. 23-176 - RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF LABRIE OEM PARTS FOR SANITATION VEHICLES FROM JOE JOHNSON EQUIPMENT**

**Action Requested:** Adoption of a resolution supporting the sole source procurement of Labrie truck parts from Joe Johnson Equipment.

**Background:**
- The City owns and operates two Labrie automated side loading garbage trucks to provide trash collection by the Sanitation Division.
- Labrie parts are only available through authorized dealers, and Joe Johnson Equipment is the only OEM distributor authorized to sell new equipment and parts, and provide warranty and repair services for Labrie brand refuse trucks in our geographic area.
- Use of OEM (original equipment manufacturer) parts is recommended to maintain the equipment up to the manufacturer's standards.

**Vendor Outreach Efforts:**
- Labrie parts are only available through authorized dealers, and Joe Johnson Equipment is the only OEM distributor authorized to sell new equipment and parts, and provide warranty and repair services for Labrie brand refuse trucks in our geographic area.

**Council Goal(s):**
- A Well-Planned and Livable Community
- A Clean and Healthy Environment

**Committee(s):**
- None

**Pro(s):**

- This resolution will allow the Fleet Division to efficiently purchase the needed parts required to repair and maintain the City's two Labrie refuse trucks.

**Con(s):**
- None

**Fiscal Impact:**
- Staff estimates that $60,000 will be spent in the current fiscal year.
- Funding for these purchases is available in the Public Works Department operating budget.
- Purchases go through the Purchase Order process that the Purchasing Manager is delegated authority for and per policy/procedure and statute we should get competitive pricing and when we can't then sole source authorization must be approved by Council

**Motion:**
- Motion to adopt a resolution approving the sole source procurement of Labrie truck parts from Joe Johnson Equipment

**RESOLUTION BOOK NO. 44 - PAGE 175**

**E. RESOLUTION NO. 23-177 - ADOPTION OF BOND RESOLUTION THAT PROVIDES FOR THE ISSUANCE OF (1) GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES 2023b IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $9,925,000; AND (2) TAXABLE GENERAL OBLIGATION HOUSING BONDS, SERIES 2023C IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $16,895,000**

**Actions Requested:** Adoption of the Bond Resolution that provides for the issuance of: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

**Background**:
- On November 8, 2016, Asheville voters approved a $74 million General Obligation (GO) Bond Referendum which included $32 million for Transportation improvements, $25 million for Affordable Housing initiatives and $17 million for Parks and Recreation improvements.
- To date the City has already issued approximately $39.1 million of the $49 million approved for Transportation and Parks and Recreation improvements (Public Improvement Bonds), and approximately $8.1 million of the $25 million for Affordable Housing.
- As prescribed in NC State Statute 159-64, Bonds may be issued under a bond order at any time within seven years after the bond order takes effect.
- In order to meet this seven-year statutory requirement, the City has requested that the Local Government Commission sell the 2023 Bonds through a competitive sale on September 26, 2023.
- In order to facilitate this sale, staff is seeking Council approval of the Bond Resolution that provides for the issuance of: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

**Council Goal(s):**

- A Financially Resilient City

**Pro(s):**

- Approves the issuance of all of the remaining General Obligation Bond debt approved by voters in November 2016 within the seven-year time period prescribed in state statutes.
- Utilizing long-term debt spreads capital costs over a longer term to better match assets' lives.

**Con(s):**

- None

**Fiscal Impact**:

- In June 2017, City Council approved a 3.5 cent increase to the property tax rate to fund future debt service associated with voter passage of the GO Bond referendum.
- The debt service payments for this bond refunding are already included in the multi-year Capital Improvement Program (CIP)/Debt Financial Model.

**Motions:**

- Motion to adopt the Bond Resolution that provides for the issuance of the City of Asheville, North Carolina: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

**RESOLUTION BOOK NO. 44 - PAGE 177**

**F. RESOLUTION NO. 23-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ADDENDUM TO THE 2019 TAX COLLECTION AGREEMENT WITH BUNCOMBE COUNTY TO CONFORM TO THE PROVISIONS OF CHAPTER 105 OF THE N. C. GEN. STATUTES, ENTITLED THE REVENUE ACT**

**RESOLUTION NO. 23-179 RESOLUTION APPROVING THE FISCAL YEAR 2023 ANNUAL TAX SETTLEMENT REPORT; AUTHORIZING THE MAYOR TO EXECUTE AN ORDER OF COLLECTION FOR FISCAL YEAR 2024; AND APPOINTING CITY FINANCE DIRECTOR TONY MCDOWELL AS THE MUNICIPAL TAX COLLECTOR**

**Action Requested:** Adoption of (1) a resolution authorizing the City Manager to sign an addendum to the 2019 tax collection agreement with Buncombe County to conform to the provisions of Chapter 105 of the N.C. Gen. Statutes, entitled The Revenue Act; and (2) a resolution approving the fiscal year 2023 Annual Tax Settlement; adopting the Order of Collection for fiscal year 2024; and appointing City Finance Director Tony McDowell as the Municipal Tax Collector.

**Background**:

- Buncombe County has billed and collected City property taxes, including the City's fee charged for motor vehicles licenses, for many years.
- In 2019, Buncombe County and the City of Asheville entered into an updated agreement for the County to continue billing and collecting property taxes under a revised fee structure.

- The 2019 agreement is currently valid through June 30, 2025.
- Legal staff at the University of North Carolina School of Government recently encouraged local governments across the State to review tax collection agreements to ensure that they fully conform to the provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.
- Upon this review, City and County staff recommended adoption of the addendum to the 2019 agreement.
- In addition, pursuant to NCGS § 105-373, the Tax Collector must provide to City Council an annual settlement of property tax collected in the previous fiscal year for approval; and pursuant to NCGS § 105-321, following approval of the Tax Collector's Annual Settlement for the preceding year an Order of Collection to the Tax Collector must be adopted authorizing the collection of the current fiscal year property taxes.
- Staff is recommending approval of both the Annual Settlement and the new year Order of Collection.
- Finally, the resolution includes the appointment of the Finance Director as the Municipal Tax Collector.

**Council Goal(s):**
- A Financially Resilient City

**Pro(s):**
- Allows the City to continue receiving tax revenue proceeds from the County while ensuring compliance with provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.

**Con(s):**
- None

**Fiscal Impact**:
- There is no direct fiscal impact to approving this resolution. Under the terms of the agreement, the City will pay the County a flat fee of approximately $899,000 in fiscal year 2024 for tax collection services.
- The fee for these services increases annually with an automatic annual escalation rate of 2.5% for each successive fiscal year of the agreement.

**Motion:**
- Motion to adopt a resolution authorizing the City Manager to sign an addendum to the 2019 tax collection agreement with Buncombe County to conform to the provisions of Chapter 105 of the N.C. Gen. Statutes, entitled The Revenue Act.
- Motion to adopt a resolution approving the fiscal year 2023 Annual Tax Settlement; adopting the Order of Collection for fiscal year 2024; and appointing City Finance Director Tony McDowell as the Municipal Tax Collector.

Order of Collection reads: "Order of Collection - State of North Carolina, City of Asheville. To the Tax Collector of City of Asheville and by delegated authority, the Tax Collector for Buncombe County: You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Buncombe County Tax Department and the Information Technology Office and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the City of Asheville, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law. Tax records for the City of Asheville are delivered to you for collection. You are further authorized to

call upon the Sheriff to levy upon and sell personal property under execution for the payment of taxes. Witness my hand and official seal, this 22nd day of August, 2023. Signed by Mayor Esther E. Manheimer, and attested by City Clerk Magdalen Burleson."

**RESOLUTION NO. 23-178 - RESOLUTION BOOK NO. 44 - PAGE 197**
**RESOLUTION NO. 23-179 - RESOLUTION BOOK NO. 44 - PAGE 199**

**G. RESOLUTION NO. 23-180 - RESOLUTION DENYING GENERAL ELECTRIC COMPANY'S REQUESTED TANGIBLE PERSONAL PROPERTY TAX REFUND DATED JULY 19, 2023**

**Action Requested:** Adoption of a Resolution denying General Electric Company's requested tangible personal property tax refund.

**Background**:

- General Electric Company ("GE") owns taxable tangible personal property located at 401 Sweeten Creek Industrial Park.
- In December of 2019, GE and affiliate entities, GE Capital and GE Industrial, each paid taxes on the tangible personal property which each filed for taxation purposes with Buncombe County.
- In December of 2020, all three entities once again paid taxes on the tangible personal property each had identified to Buncombe County as taxable.
- In July of 2023, a separate entity, GE Healthcare Finance Services, LLC, made a request to the City of Asheville and Buncombe County for a tax refund on the personal property taxes paid by GE Capital and GE Industrial for the tax years 2019 and 2020.
- The requester argues that the collected taxes should have only been paid once instead of three separate times by the three entities described above.
- Pursuant to NCGS 105-381, the City can only grant a tax refund due to clerical error, an illegal tax, or a tax levied for an illegal purpose.
- An illegal tax is one imposed without authority or taxing a property with a valid exemption.
- A clerical error must be apparent on the face of the record and capable of being corrected by reference to the record only.
- None of the statutory allowances for granting a refund apply to the present request, therefore, it is the recommendation of the City Attorney's Office, in consultation with the County Attorney's Office and the County Tax Collector, that the City Council must deny the request.

**Council Goal(s):**

- A Financially Resilient City

**Pro(s):**

- Potentially resolves a pending dispute against Buncombe County and the City of Asheville for improperly collected taxes.

**Con(s):**

- Granting the requested refund is likely beyond the statutory authority of the City Council.

**Fiscal Impact**:

- The 2 years of requested refund amount to $227,007 in taxes collected by the City

**Motions:**

- Motion to adopt the Resolution denying GE's tax refund request, because the City is permitted to assess a tax on tangible personal property located within the City, any potential tax listing errors by GE or its affiliates do not equate to the collection of an illegal tax pursuant to NC General Statute 105-381, and the City has no statutory basis for issuing a refund.

**RESOLUTION BOOK NO. 44 - PAGE 200**

**H. RESOLUTION NO. 23-181 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT SYMPHONY IN THE PARK ON AUGUST 27, 2023 (OR RAIN DATE AUGUST 28, 2023)**

**RESOLUTION NO. 23-182 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE CHOW CHOW FOOD & CULTURE FESTIVAL ON SEPTEMBER 8, 9 AND 10, 2023**

**RESOLUTION NO. 23-183 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BLUE RIDGE PRIDE FESTIVAL ON SEPTEMBER 30, 2023**

**RESOLUTION NO. 23-184 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE OKTOBERFEST ON OCTOBER 7, 2023**

**RESOLUTION NO. 23-185 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE VEGANFEST ON OCTOBER 8, 2023**

**RESOLUTION NO. 23-186 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE LOVELY ASHEVILLE FALL FESTIVAL ON OCTOBER 14 AND 15, 2023**

**RESOLUTION NO. 23-187 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE SURREAL SIRKUS ARTS FESTIVAL ON OCTOBER 28, 2023**

**Action Requested:** Adoption of resolutions to permit the possession and consumption of malt beverages and/or unfortified wine at Symphony in the Park, Chow Chow Food & Culture Festival, Blue Ridge Pride Festival, Asheville Oktoberfest, Asheville Veganfest, Lovely Asheville Fall Festival, and the Surreal Sirkus Arts Festival.

**Background**:

- N. C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on the public streets and on property owned, occupied or controlled by the City and to regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events.
- The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority; and that ordinance, codified as Section 11-11 in the Code of Ordinances of the City of Asheville, provides that the City Council may adopt a resolution

making other provisions for the possession of malt beverages and/or unfortified wine at a special event or community festival.

- The following organizations have requested that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at the events:

    - Asheville Symphony Society for Symphony in the Park, to occur at Pack Square Park on Sunday, August 27 & 28, 2023, from 4:00 p.m. - 10:00 p.m.
    - Chow Chow for the Chow Chow Food & Culture Festival to occur at Pack Square Park on Friday & Saturday, September 8 & 9, 2023, from 10:30 a.m. - 8:00 p.m. and Sunday, September 10, 2023, from 10:30 a.m. - 4:00 p.m.
    - Blue Ridge Pride Center for the Blue Ridge Pride Festival to occur at Pack Square Park on Saturday, September 30, 2023, from 11:00 a.m. - 7:00 p.m.
    - Asheville Downtown Association for Asheville Oktoberfest to occur at Pack Square Park on Saturday, October 7, 2023, from 1:00 p.m. - 6:00 p.m.
    - Triangle Vegfest for Asheville Veganfest to occur at Pack Square Park on Sunday, October 8, 2023, from 11:00 a.m - 6:00 p.m.
    - Asheville Creative Arts for the Lovely Asheville Fall Festival to occur at Pack Square Park on Saturday, October 14, 2023, from 10:00 a.m. - 9:00 p.m. and Sunday, October 15, 2023, from 12:00 p.m. - 7:00 p.m.
    - Arts2People for the Surreal Sirkus Arts Festival to occur at Pack Square Park on Saturday, October 28, 2023, from 12:00 p.m. - 10:00 p.m.

- Alcohol boundaries are defined for each request as per the accompanying event site maps.

**Council Goal(s):**

- These actions have no direct connection with the City Council 2036 Vision.

**Committee(s)**:

- None

**Pro(s):**

- Allows fundraising opportunities for the sponsoring nonprofit organizations

**Con(s):**

- None

**Fiscal Impact**:

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

**Motion:**

- Motion to adopt a resolution to permit the possession and consumption of malt beverages and/or unfortified wine at Symphony in the Park, Chow Chow Food & Culture Festival, Blue Ridge Pride Festival, Asheville Oktoberfest, Asheville Veganfest, Lovely Asheville Fall Festival, and the Surreal Sirkus Arts Festival.

**RESOLUTION NO. 23-181 - RESOLUTION BOOK NO. 44 - PAGE 201**
**RESOLUTION NO. 23-182 - RESOLUTION BOOK NO. 44 - PAGE 204**
**RESOLUTION NO. 23-183 - RESOLUTION BOOK NO. 44 - PAGE 207**
**RESOLUTION NO. 23-184 - RESOLUTION BOOK NO. 44 - PAGE 210**
**RESOLUTION NO. 23-185 - RESOLUTION BOOK NO. 44 - PAGE 213**
**RESOLUTION NO. 23-186 - RESOLUTION BOOK NO. 44 - PAGE 216**
**RESOLUTION NO. 23-187 - RESOLUTION BOOK NO. 44 - PAGE 219**

**I. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE OFFICE OF THE NATIONAL DRUG CONTROL POLICY FOR THE 2023 HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA) GRANT ON BEHALF OF THE ASHEVILLE HIDTA BRANCH**

**BUDGET AMENDMENT FOR THE 2023 HIGH INTENSITY DRUG TRAFFICKING AREAS GRANT**

These items were removed from the Consent Agenda for discussion and/or individual votes.

**J. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE OFFICE OF THE NATIONAL DRUG CONTROL POLICY FOR THE 2024 HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA) GRANT ON BEHALF OF THE ASHEVILLE HIDTA BRANCH**

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

**K. RESOLUTION NO. 23-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR THE 2024 BIKESAFE GRANT**

**ORDINANCE NO. 5031 - BUDGET AMENDMENT FOR THE 2024 BIKESAFE GRANT**

**Action Requested:** Adoption of a resolution authorizing the City Manager to apply for and accept a grant, in the amount of $5,000, for the North Carolina Governor's Highway Safety Program (GHSP) 2024 BikeSafe Grant, and adopt the associated budget amendment in the Special Revenue Fund in the amount of $5,000.

**Background**:

- The Bike/Safe NC program is a partnership with the Governor's Highway Safety Program and the North Carolina State Highway Patrol that is aimed at reducing motorcycle fatalities.
- Grant funds will be used to promote awareness by contacting motorcycle dealers, clubs and associations to discuss current highway safety activities and attend and/or host training opportunities.
- The Asheville Police Department will act as fiduciary for the program.
- The total of the grant is $5,000 and does not require local matching funds.

**Vendor Outreach Efforts:**

- None. Funding for this grant is provided by North Carolina Governor's Highway Safety Program.

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s)**:

- Environment & Safety Committee - 07/25/2023; 3-0 approved to move forward to City Council

**Pro(s):**

- Grant funds are used to pay for travel and training.
- Potential reduction of statewide and regional motorcycle fatalities.

**Con(s):**
- Funding is evaluated annually and is only available for a one-year period.

**Fiscal Impact**:
- Matching funds are not required for this grant.

**Motion:**
- Motion to adopt a resolution approving the application and acceptance of the grant; and a budget amendment to appropriate the funding.

**RESOLUTION BOOK NO. 44 - PAGE 224**
**ORDINANCE BOOK NO. 35 - PAGE 39**

**L. RESOLUTION NO. 23-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE DONATION OF SURPLUS USED ASHEVILLE POLICE DEPARTMENT RADIOS TO THE MADISON COUNTY SHERIFF'S OFFICE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to donate used police radios to the Madison County Sheriff's Office.

**Background**:
- Equipment to be donated consists of 18 Motorola APX Radios.
- The radios have been removed from deadlined Asheville Police Department cars.
- The radios are not compatible with the Asheville Police Department's radio management system.
- While they could be sold as surplus property, donating this equipment will enhance the capacity of a nearby local law enforcement agency.

**Council Goal(s):**
- Connected and Engaged Community

**Committee(s)**:
- None

**Pro(s):**
- Build partnership with a local agency who has expressed a need for the radios.

**Con(s):**
- None

**Fiscal Impact**:
- The radios might have nominal resale value as surplus property (estimated at $300 each for a total of $5,400).

**Motion:**
- Motion to authorize the City of Asheville to donate used police radios to the Madison County Sheriff's Office.

**RESOLUTION BOOK NO. 44 - PAGE 225**

**M. RESOLUTION NO. 23-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A STATEWIDE MUTUAL AID AND ASSISTANCE AGREEMENT WITH THE N.C. DIVISION OF EMERGENCY MANAGEMENT TO SHARE RESOURCES DURING A DISASTER**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into a mutual aid agreement with the North Carolina Department of Public Safety.

**Background**:

- North Carolina's Mutual Aid System is based on the premise that it makes sound economic and logistic sense to share some types of emergency response equipment and resources since no community can own and maintain all of the resources that might be needed to respond to any given event.
- The Mutual Aid System is a voluntary agreement among North Carolina local governments to share resources during a disaster.
- All 100 counties, the Eastern Band of Cherokee Indians and nearly three-fourths of the 650 municipalities have signed the mutual aid agreement.
- The Mutual Aid System was developed following Hurricane Fran in 1996. At that time there was no uniform agreement among North Carolina's cities and counties so they could help one another during and after disasters.
- The N. C. League of Municipalities and the N.C. Association of County Commissioners developed the statewide mutual aid agreement and distributed it to county governments and municipalities. The N.C. Division of Emergency Management serves as the repository for the agreement.

**Council Goal(s):**

- Improve/Expand Core Services
- Neighborhood & Climate Resilience

**Committee(s)**:

- Environment & Safety Committee - Will be reviewed on August 22, 2023

**Pro(s):**

- Joining the Mutual Aid System gives access to all of the State's response capabilities without incurring the costs to purchase, maintain, and insure an inventory of underused resources.
- Participating in the system provides efficient and effective assistance among governments, as well as faster reimbursement from the Federal Emergency Management Agency

**Con(s):**

- None

**Fiscal Impact**:

- This action requires no City resources and has no fiscal impact.
- Activation of this agreement may result in the use of city personnel and other resources for emergency response, costs that are generally reimbursed.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to enter into a mutual aid agreement with the North Carolina Department of Public Safety.

**RESOLUTION BOOK NO. 44 - PAGE 226**

**N. RESOLUTION NO. 23-193 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND A CONTRACT WITH RESPONDER SUPPORT SERVICES LLC FOR EMBEDDED BEHAVIORAL HEALTH SERVICES FOR PUBLIC SAFETY EMPLOYEES AND THEIR DEPENDENTS**

**Action Requested:** Adoption of a resolution amending a contract with Responder Support Services, LLC for embedded behavioral health services for public safety employees and their dependents.

**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 contract.
- 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 is issuing a Request for Proposals to continue these services, but the process will not be complete by the current contract's end.
- Staff is requesting to amend the current contract to extend it through October 31, 2023, and to add an additional $60,000 to provide ongoing embedded behavioral health support to Fire and Police Departments 4 days per week for each department.

**Vendor Outreach Efforts:**

- The current vendor for embedded behavioral health support is Responder Support Services, LLC. This vendor provides specialized support for Fire and Police employees.
- 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:**

- Additional $60,000 added to the contract for a total investment of $516,000 over the three-year contract.
- Funding for this contract is available in the FY 2024 Health Insurance Fund operating budget.

**Motion:**

- Motion to authorize the City Manager to execute a contract amendment with Responder Support Services, LLC to continue providing behavioral health services to Police and Fire employees.

**RESOLUTION BOOK NO. 44 - PAGE 227**

**O. RESOLUTION NO. 23-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT AND A SERVICE LEVEL AGREEMENT WITH BUNCOMBE COUNTY TO PROVIDE APPROPRIATE ACCESS TO PUBLIC SAFETY TECHNOLOGY SYSTEMS**

**Action Requested:** Adoption of a resolution authorizing the City Manager to enter into 1) an intergovernmental agreement and 2) service level agreement between Buncombe County and the City of Asheville to provide appropriate access to public safety technology systems.

**Background**:
- The City of Asheville and Buncombe County have long-standing interlocal agreements regarding the provision of certain joint public safety-related technology and data services.
- A cross-departmental team of City staff worked with Buncombe County to develop a new intergovernmental agreement (IGA), cost allocation model for the Public Safety Interoperability Partnership (PSIP), and defined Service Level Agreements.
- The agreement allows the City and County to leverage technology systems in a cost-effective manner to improve public safety operations.
- The agreement creates a Public Safety Executive Committee (PEC) that includes City staff representation from Police, Fire, and Information Technology Services.
- The agreement has an initial term of one year and automatically renews for one year, unless terminated.
- The service level agreement (SLA) establishes expectations and service norms from the County Information Technology Department in support of PSIP applications.

**Vendor Outreach Efforts:** N/A

**Council Goal(s):**
- A Financially Resilient City

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

**Pro(s):**
- Provides authorization for the City to formally continue

**Con(s):**
- None

**Fiscal Impact**:
- Funding for this contract is budgeted annually and is available in the Police Department operating budget.
- For Fiscal Year 2023-24, the County estimates that the City's share of the PSIP and Centralized Data Entry (CDE) costs will be $947,470. This contract amendment is being presented in a separate consent agenda item.

**Motion:**
- Motion to adopt a resolution authorizing the City Manager to enter into 1) an intergovernmental agreement and 2) service level agreement between Buncombe County and the City of Asheville to provide appropriate access to public safety technology systems.

**RESOLUTION BOOK NO. 44 - PAGE 228**

**P. RESOLUTION NO. 23-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACT CHANGE ORDERS WITH BUNCOMBE COUNTY FOR THE ANNUAL PAYMENTS FOR THE ONGOING**

**EXISTING PUBLIC SAFETY INTEROPERABILITY SYSTEM/CENTRALIZED DATA ENTRY AND COUNTY IDENTIFICATION BUREAU**

**Action Requested:** Adoption of a resolution authorizing the City Manager to execute 1) a contract change order in the amount of $947,470 for the annual payments to Buncombe County for the Public Safety Interoperability System and Centralized Data Entry (PSIP/CDE) interlocal agreements, and 2) a contract change order in the amount of $582,280 for the annual payments to Buncombe County for the County Identification (ID) Bureau interlocal agreement.

**Background**:

- The City of Asheville and Buncombe County have interlocal agreements regarding the provision of certain joint public safety-related services.
- The Public Safety Interoperability System/Centralized Data Entry information system and the Identification (ID) Bureau are both operated as County services.
- Based on the interlocal agreements, the City pays 50% of the cost of the County Identification (ID) Bureau program and 45% of the cost of the Centralized Data Entry (CDE) program.
- City Council is also taking action at this same meeting to adopt an updated version of the PSIP agreement.
- A cross-departmental team of City staff coordinated with Buncombe County to develop this new intergovernmental agreement, which includes a new cost allocation model.
- For fiscal year 2023-24, the City will pay approximately 31% of the cost for the PSIP program.
- Each year during the annual budget process, the County provides the City with estimates for the City's share of each program's cost.
- For fiscal year 2023-24, the County estimates that the City's share of the PSIP/CDE costs will be $947,470 and the City's share of the ID Bureau will be $582,280.
- The requested contract change orders will allow staff to encumber those amounts in the City's financial system.
- The County bills the City quarterly based on actual expenses.

**Council Goal(s):**

- A Financially Resilient City

**Pro(s):**

- Provides authorization for the City to formally encumber annual amounts to pay existing interlocal agreements.

**Con(s):**

- None

**Fiscal Impact**:

- Funding for these contracts is available in the Non-Departmental and Police Department operating budgets.

**Motion:**

- Motion to authorize the City Manager to execute (1) a contract change order in the amount of $947,470 for the annual payments to Buncombe County for the Public Safety Interoperability System/Centralized Data Entry (PSIP/CDE) interlocal agreements, and 2) a contract change order in the amount of $582,280 for the annual payments to Buncombe County for the County Identification (ID) Bureau interlocal agreement.

**RESOLUTION BOOK NO. 44 - PAGE 229**

**Q. RESOLUTION NO. 23-196 - RESOLUTION APPROVING THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE OF UP TO $18,000,000 OF MULTIFAMILY HOUSING REVENUE BONDS TO PROVIDE FINANCING FOR VANDERBILT APARTMENTS AND TO SATISFY SECTION 147(f) OF THE INTERNAL REVENUE CODE**

**Action Requested:** Adoption of a resolution approving the issuance of bonds by the Housing Authority of the City of Asheville for Vanderbilt Apartments.

**Background:**

- The Asheville Housing Authority was created by the City of Asheville in 1940 in accordance with Chapter 157 of the NC General Statutes.
- It is a public body and is independent from the City with its own powers as outlined in North Carolina General Statute Chapter 157.
- The Housing Authority is governed by a Board of Commissioners, consisting of 7 members, who serve for a 4 year term and are appointed by the Mayor of the City of Asheville.
- The Internal Revenue Service requires that any bonds issued by the Housing Authority for developments such as the one described herein, have the financing plan approved by the City Council, following a public hearing with respect to such plan.
- Vanderbilt (TC2) Senior Housing Limited Partnership, a North Carolina limited partnership (the “Borrower”) has requested that the Asheville Housing Authority (the “Issuer”) issue up to $18,000,000 in multifamily housing revenue bonds for the acquisition and rehabilitation of a 123-unit affordable rental development for seniors known as Vanderbilt Apartments located at 75 Haywood Street in Asheville, a 0.5 acre parcel identified as PIN 9649313184 in the Buncombe County Registry.
- Vanderbilt Park consists of one 9-story building, with 123 units (42 studios and 81 one-bedroom units). In addition the building includes offices for supportive services and on-site management, as well as a community room and laundry facility.
- The building was originally constructed in the early 1920s as the George Vanderbilt Hotel. The property was converted to housing in 1969 and last underwent a substantial renovation in 2006. The building does not have an historic designation.
- The renovations to be completed with this financing include kitchen upgrades and replacement of appliances, bathroom upgrades, replacement of HVAC systems, replacement of windows as needed, upgrades to common areas, repair of parking areas, and accessibility improvements.
- 62 units will continue to be restricted to households earning 50% or less of Area Median Income (“AMI”) and the remaining 61 units will continue to be restricted to households earning 60% or less of AMI.
- The new affordability period will be at least 30 years.
- National Church Residences is the developer and manager of this project and is an affiliate of the owner.
- Construction is scheduled to commence in November 2023 and has an expected completion date of November 2024.
- Staff notes that approval does not obligate the City in any way to issue or pay for the bonds, or for any debt taken on by the developer.

**Council Goals:**

- Quality Affordable Housing

**Pro(s):**

- 123 units of affordable senior housing will be preserved and renovated.
- The new affordability period will be at least 30 years.

**Con(s):**

- None.

**Fiscal Impact:**

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

**Motion:**

- Motion to adopt a resolution approving the issuance by the Housing Authority of the City of Asheville of up to $18,000,000 of multifamily housing revenue bonds to provide financing for Vanderbilt Apartments and to satisfy Section 147(f) of the Internal Revenue Code.

**RESOLUTION BOOK NO. 44 - PAGE 230**

**R. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICY ADOPTED JANUARY 26, 2016**

Each year the N.C. ABC Commission, in compliance with Chapter 18-B700, Article 7, g (2), requires its 167 ABC boards to get annual approval of board travel policies from their appointing authorities. Section g (2) of 18B-700 states, "The local board shall annually provide the appointing authority's written confirmation of such approval…". The ABC Board approved the current policy on January 26, 2016. In 2022, the ABC Board incorporated all the elements to changes in the City's Travel Policy, and made no changes to the current policy.

The ABC Board formally requests the City of Asheville's written confirmation of the Asheville Board of Alcoholic Control Travel Policy.

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

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

Councilwoman Turner moved for the adoption of the Consent Agenda, minus Consent Agenda Items "I 1 and 2" and "J". This motion was seconded by Councilwoman Ullman and carried unanimously.

**ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION AND/OR INDIVIDUAL VOTES**

**I. RESOLUTION NO. 23-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE OFFICE OF THE NATIONAL DRUG CONTROL POLICY FOR THE 2023 HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA) GRANT ON BEHALF OF THE ASHEVILLE HIDTA BRANCH**

**ORDINANCE NO. 5030 - BUDGET AMENDMENT FOR THE 2023 HIGH INTENSITY DRUG TRAFFICKING AREAS GRANT**

**Action Requested:** Adoption of a resolution to apply for and accept the 2023 High Intensity Drug Trafficking Areas (HIDTA) Grant on behalf of the Asheville HIDTA branch; and adopt a budget amendment in the City's Special Revenue Fund in the amount of $154,638.00.

**Background**:

- The purpose of the HIDTA program is to reduce drug trafficking and especially production in the United States, specifically in areas where drug-related activities are having a significant harmful impact.
- This unit does not focus on, or adopt cases, that are for simple possession, but focuses only on cases that deal in trafficking, manufacturing, and distribution of illegal drugs.
- The Asheville Police Department acts only as the fiduciary for the grant.
- When expenses are incurred, the fiduciary settles the claims using appropriated City of Asheville funds and then requests a 100% reimbursement from the federal government.
- The Asheville HIDTA is the direct beneficiary of the grant funds and not the Asheville Police Department.
- The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration, one officer from the Asheville Police Department, and various individuals from the Sheriff Offices of several Western North Carolina Counties.
- A United States Drug Enforcement Administration supervisor, who is the Asheville HIDTA manager, determines how grant funds will be expended.
- All members of the Asheville HIDTA receive reimbursement when they incur qualified expenses conducting Asheville HIDTA business.
- The Office of National Drug Control Policy has determined that the City of Asheville is eligible to manage this grant totaling $154,638.00.
- Grant funds are used for overtime, travel, services and supplies.
- All expenses are tracked and audited by local and federal authorities.

**Vendor Outreach Efforts:**
- None. Funding for this grant is provided by the Office of National Drug Control Policy (ONDCP).

**Council Goal(s):**
- A Connected and Engaged Community

**Committee(s)**:
- Environment & Safety Committee - 07/25/2023; 3-0 approved to move forward to City Council

**Pro(s):**
- Fosters partnerships with federal and local law enforcement agencies.

**Con(s):**
- None

**Fiscal Impact**:
- Matching funds are not required for this grant.

Regarding these items, as well as Consent Agenda Item “J”, Councilwoman Roney felt strongly that we need to be doing preventative measures and not just response measures.

Councilwoman Turner moved to adopt a resolution approving the application and acceptance of the grant; and a budget amendment to appropriate the funding. This motion was seconded by Vice-Mayor Kilgore and carried on a 6-1 vote, with Councilwoman Roney voting “no”.

**RESOLUTION BOOK NO. 44 - PAGE 222**
**ORDINANCE BOOK NO. 35 - PAGE 38**

**J. RESOLUTION NO. 23-189 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE OFFICE OF THE NATIONAL DRUG CONTROL POLICY FOR THE 2024 HIGH INTENSITY DRUG TRAFFICKING AREAS (HIDTA) GRANT ON BEHALF OF THE ASHEVILLE HIDTA BRANCH**

**Action Requested:** Adoption of a resolution to apply for the 2024 High Intensity Drug Trafficking Areas (HIDTA) Grant on behalf of the Asheville HIDTA branch in the amount of $154,638.00.

**Background**:

- The purpose of the HIDTA program is to reduce drug trafficking and especially production in the United States, specifically in areas where drug-related activities are having a significant harmful impact.
- This unit does not focus on, or adopt cases, that are for simple possession, but focuses only on cases that deal in trafficking, manufacturing, and distribution of illegal drugs.
- The Asheville Police Department acts only as the fiduciary for the grant.
- When expenses are incurred, the fiduciary settles the claims using appropriated City of Asheville funds and then requests a 100% reimbursement from the federal government.
- The Asheville HIDTA is the direct beneficiary of the grant funds and not the Asheville Police Department.
- The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration, one officer from the Asheville Police Department, and various individuals from the Sheriff Offices of several Western North Carolina Counties.
- A United States Drug Enforcement Administration supervisor, who is the Asheville HIDTA manager, determines how grant funds will be expended.
- All members of the Asheville HIDTA receive reimbursement when they incur qualified expenses conducting Asheville HIDTA business.
- The Office of National Drug Control Policy has determined that the City of Asheville is eligible to manage this grant totaling $154,638.00.
- Grant funds are used for overtime, travel, services and supplies.
- All expenses are tracked and audited by local and federal authorities.

**Vendor Outreach Efforts:**

- None. Funding for this grant is provided by the Office of National Drug Control Policy (ONDCP).

**Council Goal(s):**

- A Connected and Engaged Community

**Committee(s)**:

- Environment & Safety Committee - 07/25/2023; 3-0 approved to move forward to City Council

**Pro(s):**

- Fosters partnerships with federal and local law enforcement agencies.

**Con(s):**

- None

**Fiscal Impact**:

- Matching funds are not required for this grant.

Councilwoman Turner moved to adopt a resolution approving the application of the grant. This motion was seconded by Vice-Mayor Kilgore and carried on a 6-1 vote, with Councilwoman

Roney voting “no”.

**RESOLUTION BOOK NO. 44 - PAGE 223**

**III. PRESENTATIONS & REPORTS:**

**A. MANAGER’S REPORT**

**Capital Projects Update**

Capital Projects Director Jade Dundas provided the following key takeaways from his presentation: (1) Significant infrastructure investments have been made over the last 7 years, this includes a combination of projects funded from the 2016 Bond and other sources; (2) The majority of the November 2016 Bond projects are complete or under construction; (3) Limited contractor capacity and availability is resulting in fewer bidders, impacting project schedules and budgets; and (4) The City will remain in compliance with the 2016 Bond issuance deadline as the remaining projects are bid and completed.

He provided the infrastructure investment summary on the project progress since 2016. He said all projects have been spent or under contract - $150.6 M ($21.5 M/year); and 56 projects are completed or under construction. The 2016 Bond Projects: (These projects are a subset of “All Projects”) have been spent or under contract - $72.8 M ($10.4 M/year); and 30 projects completed or under construction. He then reviewed the capital projects dashboard on the City’s website.

Projects include (1) Velodrome in West Asheville - completed in 2017 - $1,264,118; (2) Martin Luther King Jr. Drive in the East End Valley Neighborhood - completed in 2018 - $2,687,798; (3) Tempie Avery Montford Center in the Montford Neighborhood - completed in 2019 - $1,615,597; (4) Elsie’s Bridge in the Southside United Neighborhood - completed in 2020 - $193,207; (5) Haywood Streetscape in the Central Business District - completed in 2021 - $4,403,165; (6) Fire Station 4 Renovations in South asheville - completed in 2022 - $882,312; (7) Downtown Skatepark in Montford Neighborhood - completed in 2023 - $225,387; and (8) Linwood Crump Shiloh Community Center & Park in the Shiloh Neighborhood - multiple projects since 2019 - total spent $2,038,130; (a) Community Center Projects ($1.15M) - Center roof and entrance canopy, solar boiler and HVAC; and (b) Shiloh Park Projects ($888,130) - 10 separate park projects including new electric playground equipment, new playground, sports court, trail improvements, new parking lot, sidewalk, etc.

Parks & Recreation projects include (1) Jake Rusher Park Improvements - completed in 2021 - total cost $1,520,720; and (2) Grant Center Improvements - completed in 2023 - total cost $8,288,538.

Transportation projects include (1) Bond Traffic Calming - completed in 2023 - total cost $405,173; (2) Fulton Street Sidewalk - completed in 2021 - total cost $453,504; and (3) Reed Creek Greenway Expansion - completed in 2020 - total cost $321,823.

Facility projects include (1) City Hall Belfry Restoration - completed in 2023 - total cost $544,924; (2) City Hall Elevator Automation - completed in 2023 - total cost $2,564,857; and (3) Harrah’s Envelope Restoration - completed in 2022 - total cost $1,266,782.

Regarding bond project updates for sidewalks (1) Remaining Sidewalk Projects (not yet advertised to select contractor) include New Haw Creek and Johnston Blvd (a) Current Challenges (i) DOT Review - Lengthy process; and (ii) Right-of-Way Acquisition; (b) Potential Challenges (i) Bidder turnout; and (ii) Pricing; (c) Anticipated bid timeframe - January/February;

and (d) Construction - Spring 2024; (2) Postponed Projects (bid but not awarded) include (a) Patton Ave Sidewalk (i) Reason for postponement - No bidders on two separate bid postings; and (ii) Anticipated rebid date - February/March 2024; and (b) Airport Rd Sidewalk (i) Reasons for postponement - Only one bidder; and Pricing double the engineers estimate; and (ii) Anticipated rebid date - February/March 2024.

Remaining Greenway Projects are (1) Swannanoa River Greenway (and Sidewalk) - (a) Potential Challenges - Bidder turnout and pricing; and (b) Anticipated bid timeframe - September; and (2) Greenway Connector Project (a) Current Challenges - DOT Review and ROW; (b) Potential Challenges - Bidder turnout and pricing; and (c. ) Anticipated bid timeframe - October/November.

At the request of Councilwoman Roney, Mr. Dundas responded to what does our inventory of bus shelters look like today since we installed them in 2016 with the bond funds; do we have a back-up plan for projects if for some reason bids do not come in; and could pull-down seats at transit stops be part of a back-up plan.

**College & Patton Complete Streets Project - Added separated bike lanes to College and Patton downtown.**

Assistant Transportation Director Jessica Morriss, provided Council with the following key takeaways from her presentation: (1) Existing City plans directly call for more bike facilities in the Central Business District and across the City; (2) The College/Patton project will connect existing bike lanes and future facilities, including greenways; (3) Community and stakeholder engagement for the College/Patton Project began in February 2022; (4) Following a September 2022 update to the City Council, staff was asked to enhance engagement activities, which occurred from October 2022 through summer 2023; (5) Revisions to the design have taken place throughout the process, based on stakeholder feedback; (6) The project is currently budgeted in the approved Capital Improvement Program; and (7) Staff is seeking input from Council prior to the next stage of the project: issuing a BID in October 2023. She then went through the supporting plans and policies of the 2009 Downtown Master Plan, the 2012 Complete Streets Police, the 2016 Asheville in Motion Mobility Plan, and the 2018 Living Asheville Comprehensive Plan. The broader vision is existing and planned bike facilities and greenways.

The College & Patton Complete Streets Project (1) left-side separated bike lanes - recommended best practice for one-way streets; and (2) removes one through lane, but keeps right turn lanes at signals. This project is being proposed because (1) College and Patton are the main and only east-west streets through downtown and connect to east and west Asheville; (2) these bike lanes will connect to existing bike lanes and future bike lanes in downtown and beyond; and (3) this project is a “quick” build, low-cost, high-value bicycle facility. She then reviewed the public engagement completed in 2022 and 2023.

A few highlights from the survey results are (1) 642 participants - 12,650 responses and 1,029 comments; (2) Approx. 30% of participants use College/Patton daily/multiple times per day and 50% only use it weekly; (3) Primary modes of survey participants on these corridors are: 1. car (77%), 2. walk (37%), 3. bike (35%); (4) Top 3 reasons given for using the corridors: 1. Visit shops/businesses (74%), 2. East-west connection to get around downtown (52%), 3. East-west connection to get outside of downtown; (5) Top 3 challenges: 1. No bike facilities (54%), 2. Too much traffic (38%), 3. Hard to cross the street as a pedestrian (34%); and (6) Top 3 most important: 1. Pedestrian accommodation (86%), 2. Bicycle facilities (82%), 3. Traffic calming to slow vehicle speed (78%).

Top concerns are noted in the chart below:

| Concerns: | Responses: |
|---|---|
| Not enough loading areas, delivery trucks block lanes | ● Approximately 130' of new loading area is proposed to be added by the project.<br>● No loading zones are being removed |
| Parking loss, parking is unavailable | ● 17 metered parking spaces are proposed to be removed<br>○ 9 of these to be converted to loading zone area<br>● No ADA parking spaces are being removed<br>● Rankin, Harrah's, and Coxe Ave. garages are within 0.1 miles |
| Traffic congestion will increase | ● Existing volumes average 4,000 - 6,000 vehicles per day.<br>● These daily volumes are well within thresholds for single lane streets.<br>● Comparisons to volumes on other single-lane roadways:<br>○ Haywood Rd. volumes are approx. 2 x greater<br>○ Biltmore Ave. volumes are approx. 2 x greater<br>○ Charlotte St. volumes are approx. 2-3 x greater |

Ms. Morriss then reviewed the College/Patton project timeline being August 2023 - design is finalized (includes design changes based on public input); October 2023 - prepare and issue BID; and January 2024 - City Council approval of installation contract.

There was considerable discussion, with Ms. Morriss responding to various questions/comments from Council, some being, but are not limited to: how will the traffic pattern look when a service vehicle stops in the bike lane; has this project been vetted through the Police & Fire Departments and do they have any safety concerns; do we have a demographic breakdown of the respondents to the College/Patton Bike Lanes Project Survey including an understanding of the priorities of each individual and their zip codes; concern that survey was presented as a "done deal" and not wanting input; concern there is already a shortage of handicapped parking; suggestion that bike lanes be placed on side streets downtown and not on main thoroughfares; concern of traffic backups; data shows that there is a reduction in accidents when speeds are reduced; discussion about future bike lanes; will traffic staff or police officers respond quickly if a service vehicle is blocking traffic; request for statistics about accidents in the proposed project area;

Councilwoman Mosley, as well as Vice-Mayor Kilgore and Councilwoman Smith, explained their reasons why they could not support bike lanes for the College/Patton Project.

Councilwoman Turner wants to make sure that the bike lanes won't stop or impede any of our more dire needs around cleanliness and safety downtown.

Councilwoman Smith wondered if the voices of the businesses that this would impact have been taken into consideration, and felt their voices should be heard above all others.

Mayor Manheimer said that based on this conversation, Council might need to re-group and look at the broader context and figure out next steps.

## IV. PUBLIC HEARINGS:

### A. PUBLIC HEARING TO CONDITIONALLY ZONE 1 OAK STREET FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS EXPANSION DISTRICT/CONDITIONAL ZONE

At the request of the applicant, Councilwoman Turner moved to continue this public hearing until September 12, 2023. This motion was seconded by Councilwoman Ullman and carried unanimously.

### B. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING AMENDMENT FOR PROPERTY AT 339, 343 AND 357 HAYWOOD STREET TO MAKE CHANGES TO THE SITE PLAN, NUMBER OF DWELLING UNITS AND THE EXTENT OF THE CONDITIONAL ZONING

**ORDINANCE NO. 5032- ORDINANCE TO AMEND THE CONDITIONAL ZONING FOR 339, 343 AND 357 HAYWOOD STREET TO MAKE CHANGES TO THE SITE PLAN, NUMBER OF DWELLING UNITS AND THE EXTENT OF THE CONDITIONAL ZONING**

Principal Planner Will Palmquist said that this is the consideration of a conditional zoning amendment for property at 339, 343 and 357 Haywood Street to make changes to the site plan, number of dwelling units and the extent of the conditional zoning. This public hearing was advertised on August 11 and 18, 2023.

**Project Location and Contacts:**

- The project site totals 1.23 acres located at 339, 343, and 357 W. Haywood St. (PINs 9648-09-4109, 9648-09-3101, & 9648-09-1095)
- Owners: West Haywood Street Apartments LLC and BHH Asheville LLC

**Summary of Petition**:

Project Site

- The project area consists of three properties totalling 1.23 acres known as 339, 343, and 357 W. Haywood St, and is currently vacant.
- The project site is located within the West End Clingman Avenue Neighborhood (WECAN)
- The properties are currently zoned Community Business II - Conditional Zone (CBII-CZ) and Community Business I (CBI).
- The project received a conditional zoning (Ord. No. 4935, adopted February 22, 2022) for two of these properties in order to modify structure size, height and density requirements.
- The zoning of abutting and nearby properties include Community Business I (CBI) to the northeast along W. Haywood St, Neighborhood Business (NB) to the east, Residential Multi-Family Medium Density (RM-8) to the south and Institutional (INST) to the southwest.
- The site is designated “Downtown" on the city’s Future Land Use (FLU) Map. A change in the FLU designation will not be required.

Overall Project Proposal

- New construction includes 41 dwelling units located in one building, as well as off-street parking, new sidewalks, and a playground.
- The project is seeking an amendment to the previously approved conditional zoning (Ord. No. 4935) with the inclusion of the additional property at 339 W. Haywood St.
- Changes to the project include a reduction in the number of units from 46 to 41 units and

a reduction in the overall height of the proposed building from 4-to-5 stories to 3-to-4 stories.

- The City of Asheville is providing financial support for this project:
    - A grant of $1.3M for the purchase of 0.857 acres of land at 343 & 357 W. Haywood Street (Affordable Housing Bond funds)
    - A loan of $904,000 from the City's Housing Trust Fund (HTF)
- The project proposes affordable housing:
    - 100% of the units (41 units) will be affordable to those earning at or below 80% Area Median Income (AMI).
    - 50% of the units (21 units) will be reserved for Housing Choice Vouchers.

Site Layout and Design

- The maximum residential density in the CBII district is 25 units/acre or 50 units/acre if 20% of the dwelling units are designated affordable. The proposed project density is 33.3 units/acre.
- The maximum height in the CBII district is 40' as measured from the ceiling of the highest occupied floor to the primary level of fire department access. The proposed building height is approximately 32'. Overall building height to the total of the roof parapet is approximately 45'.
- The maximum structure size in the CBII district is 45,000 s.f. The project proposes a new structure at 49,418 s.f.
    - The project received a technical modification for maximum structure size through Ord. No. 4935 to 51,000 s.f., which applied to two of three subject properties.
- The CBII district requires a front yard setback of 15', but may be reduced to 0' in pedestrian-oriented areas where road widening is not anticipated provided that all parking is located to the side or rear and not closer to the street than the façade of the principal structure, and where pedestrian-oriented design features are incorporated in building and site design. The project proposes a front yard setback of 10' and incorporates pedestrian-oriented design features such as a wider sidewalk and benches.
- No side or rear yard setbacks are required in the CBII district.
- Maximum impervious surface in the CBII district is 80%. The proposed project would result in a total impervious surface area of approximately 75%.
- Retaining walls are proposed around the site, varying in height between 4' and 11'.

Landscaping and Open Space

- Landscape requirements apply, including street tree, street buffer, building impact, retaining wall, and parking lot landscaping.
- Street trees are required as one large maturing tree per 40 linear feet as no overhead utility lines are present. The project proposes 11 street trees along 422 linear feet of frontage on W. Haywood St, located in tree grates in the sidewalk and in planted areas.
- Building impact landscaping is proposed as required, resulting in a total of 15 trees and 180 shrubs proposed, which is more than the required 14 trees and 27 shrubs.
- Parking lot landscaping is proposed as required, resulting in a total of 12 trees and 48 shrubs proposed, which is more than the required 12 trees and 45 shrubs.
- Street buffer landscaping is proposed as required, resulting in a total of 29 shrubs, which is more than the required 24 shrubs.
- The project is classified as "Downtown" under the Tree Canopy Preservation standards and has a classification of "Class A". The existing canopy coverage (2018) is 16.05%. The project proposes new tree plantings at 5,600 s.f. (10.4%) to achieve compliance.
- Open Space is required at a rate of 50% of the site, or a rate of 15% of the site if the project meets the incentive requirements for either enhanced stormwater or affordable housing. The project proposes 19% open space.

Access, Sidewalks and Parking

- Access to the site and the two separate parking lots will be provided by two driveways off of W. Haywood St.
- A total of 33 parking spaces are proposed, where 33 parking spaces are required after applying the 20% reduction in required parking in the CBII zoning district.
- A total of 2 bike parking spaces are required, with 12 bicycle parking spaces proposed.
- New sidewalks along W. Haywood St are proposed as required: 5'-wide sidewalk with 5'-wide planting strip.

Technical Modifications

- The project is seeking technical modifications to development standards through the conditional zoning process including:
    - A total building square footage of approximately 50,000 s.f. where the maximum is 45,000 s.f. under the CBII zoning.
    - No loading berths provided where two would be 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 (pp. 179 & 183) in proximity to schools, transit and parks.
    - **Promote the Development and Availability of Affordable and Workforce Housing** - by leveraging city resources for the development and maintenance of subsidized housing.
- The proposed development is compatible with the Future Land Use designation of "Downtown", which is proposed, in part, that "Downtown is also an important residential area and it benefits from having year-round full time residents. Opportunities for growing this sector of the downtown population through new development is important for the future including market rate and affordable residential housing".

**Compatibility Analysis:**

- The proposed multi-family residential project is compatible with the surrounding land uses, including the small commercial services/offices located to the east and west of the property, the multi-family residential and institutional uses to the south, and the single-family residential uses in the remainder of the WECAN neighborhood.

**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) - July 17, 2023 - approved with conditions.
- Planning & Zoning Commission (PZC) - August 2, 2023 - approved (Vote 4-0) with the following condition: That the Exhibit E - Project Condition #12 regarding the maximum post-impervious area be deleted.

**Staff Recommendation:**

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

Mr. Palmquist reviewed the existing and proposed zoning, the aerial imagery and the future land use map. About the site plan, new 3/4 story multi-family building; 41 residential dwelling units; All affordable at 80% AMI in perpetuity; 21 units (50%) reserved for Housing Choice vouchers; 33 parking spaces; 5'-wide sidewalks and 5'-wide planting strips; Crosswalk on W. Haywood St at Hilliard Ave; shared community space to support the tenants; and permanent offices for property management staff, a social worker and a director of housing will also be maintained on site. Regarding the landscape plan, (1) Landscaping standards: street tree, street buffer, building impact, retaining wall, and parking lot landscaping; (2) Open space at 19% of site (15% required); and (3) Tree Canopy Preservation standards met through new tree plantings. He then showed building elevations. Conditions are: 41 units (100%) will be designated affordable at 80% Area Median Income (AMI) in perpetuity - 21 of these affordable units (50%) will be reserved for housing choice vouchers. Technical modifications are (1) A maximum building square footage of 50,000 s.f. where the maximum is 45,000 s.f. under the CBII zoning; and (2) No loading berths where two would be required. He said the Technical Review Committee approved the project with conditions. The Planning & Zoning Commission voted to approve the project with conditions. He then explained how the project was consistent with the Living Asheville Comprehensive Plan.

Mayor Manheimer opened the public hearing at 6:40 p.m., and when no one spoke, she closed the public hearing at 6:40 p.m.

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 339, 343, and 357 W. Haywood St from Community Business I (CBI) & Community Business II - Conditional Zone (CBII-CZ) to Community Business II - Conditional Zone (CBII) for the modifications to the site plan, number of dwelling units, and extent of the conditional zoning, 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 Councilwoman Roney and carried unanimously.

**ORDINANCE BOOK NO. 35 – PAGE 40**

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 23-198 - RESOLUTION APPROVING REVISED UNIT COUNT AND AFFORDABILITY LEVELS FOR THE HOUSING TRUST FUND LOAN FOR HAYWOOD STREET COMMUNITY DEVELOPMENT PROJECT ON WEST HAYWOOD STREET**

Affordable Housing Officer Sasha Vrtunski said that this is the consideration of a resolution approving revised unit count and affordability levels for the Housing Trust Fund loan for Haywood Street Community Development project on West Haywood Street.

**Background:**

- In October 2021, City Council approved a grant of $296,000 to Haywood Street Community Development (HSCD) for pre-development expenses related to developing affordable housing on West Haywood Street.

- In February 2022, City Council approved funding to develop approximately 45 affordable apartments with community space at 343 & 357 West Haywood Street.

**Funding partners for the West Haywood Street Project**

| Organization | Type | Use | Amount |
|---|---|---|---|
| City of Asheville | Grant<br>Grant<br>HTF Loan | Pre-Development<br>Purchase of Land<br>Construction<br><br>Total | $ 296,000<br>$ 1,300,000<br>$ 904,000<br><br>**$ 2,500,000** |
| Buncombe County | Grant | Construction | **$ 749,000** |
| Dogwood Health Trust | Grant | Construction | **$ 2,000,000** |

- The two grants from the City have been disbursed and the property has been purchased.
- Earlier this calendar year, HSCD redesigned the project and assembled a third parcel into the development (339 West Haywood Street), which allowed for a reduction in building height. The reduced building height lowered project construction costs and impacted the number of units (decreasing from 45 to 41).
- The new project area measures approximately 1.23 acres.
- Due to project design revisions, HSCD seeks to revise the affordability requirements of the project (see below for details).

**Proposal:**

- With the redesign of the building, there are changes to the number of units, bedroom mix, and affordability levels in the project (see table below).
- These changes require approval by the City Council as the affordability levels and numbers of units differ from the original resolution passed by Council in February 2022.
- HSCD would like more flexibility in income levels to accommodate households as they stabilize and their incomes potentially increase.
- Residents would still have vouchers but would not be restricted to the 30% AMI level.
- All units will be restricted to households with 80% AMI and below.
- Fifty percent (50%) of all units would be reserved for voucher holders.
- Haywood Street Community Development ***intends*** to exceed this goal and lease 90% of the units to voucher holders, but this will not be reflected in the permanent deed restriction.

Proposal for the Redesigned Project:

| | Original Proposal | Revised Proposal |
|---|---|---|
| **Total Units** | 45 units | 41 units |
| **Income Restrictions** | 23 units at 30% AMI<br>9 units at 60% AMI<br>13 units at 80% AMI | 41 units at 80% AMI |
| **Units reserved for Voucher** | 23 units (30% and below) | 21 units (50% AMI and below) |

| | | |
|---|---|---|
| **holders (Deed Restricted)** | = 56% of total units | = 50% of total units, with the intent to exceed this goal and lease 90% of units (37) to voucher holders |
| **Total Units by Bedrooms** | 24 - 1 bedroom units<br>18 - 2 bedroom units<br>3 - 3 bedrooms units | 20 - 1 bedroom units<br>17 - 2 bedroom units<br>4 - 3 bedroom units |

- HSCD's total updated proposed project budget is $12,042,715, including due diligence and soft costs, with $7,818,520 estimated for construction.
- HSCD was approved for a loan of $904,000 from the City's Housing Trust Fund (HTF) under the following terms: no interest and deferred payments for the first 10 years; interest only at a rate of 1% for the next 10 years; at year 20, the loan will either (1) convert to an amortizing loan, paying principal and interest, on a 30-year amortization at a 1% interest rate, or (2) the HTF principal will be repaid in full as part of a refinance of the total debt stack at the time.
    - No changes are being requested to the loan terms.

**Council Goal(s):**
- Quality Affordable Housing
- An Equitable and Diverse Community

**Committee(s):**
- The Housing and Community Development (HCD) Committee will review this item at their meeting on Monday, August 21, 2023.

**Pro(s):**
- The project produces 41 apartment homes for individuals and families at or below 80% AMI.
- Fifty percent (50%) of the units will be reserved for voucher holders.
- HSCD ***intends*** to lease thirty-seven (37) of the units (90% of the total units) to voucher holders who have incomes at or below 50% AMI.
- This project leverages partnership funding from both Buncombe County and Dogwood Health Trust.
- This project is deed restricted to permanent affordability, ensuring a long-term supply of affordable rental units in Asheville at this location.
- The reduced height profile of the building will have a less visual impact on the WECAN neighborhood.

**Con(s):**
- The new proposal decreases the number of affordable units from 45 to 41.
- There is an increase in the subsidy per unit with the reduced number of total units in the project. The subsidy per unit will increase from $55,556 to $60,976. Based on the benchmark of $80,000 per unit, the $60,976 per unit subsidy is reasonable for permanently affordable units.

**Fiscal Impact:**
- No additional resources are required, the amount of the Housing Trust Fund loan ($904,000) would remain the same as originally approved.

**Staff Recommendation:**

- Staff recommends approving the revised affordability levels and unit count for the project.

Ms. Vrtunski provided the following key takeaways from her presentation: (1) In February 2022, Asheville City Council authorized a land purchase agreement and Housing Trust Fund loan with Haywood Street Community Development for 45 affordable rental homes; (2) Since that time, Haywood Street Community Development incorporated additional land into the development site and redesigned the building in order to address rising construction costs; and (3) The redesign of the development has resulted in changes to the affordability composition that require Council approval. Revisions include: (a) A reduction in the number of units from 45 to 41 (100% affordable); and (b) Changes to AMI thresholds and bedroom mix. She then reviewed a background chart of project funding. Regarding the background, (1) Haywood Street Community Development (HSCD) redesigned the project and assembled a third parcel into the development, which allowed the building to be lower in height (a) Site reconfiguration reduced overall construction costs and reduced the total number of units; and (b) HSCD is also requesting revisions to the affordability and bedroom composition; (2) Given those changes, HSCD seeks to revise the affordability levels in the previously approved $904,000 Housing Trust Fund Loan.; and (3) Housing Trust Fund loan terms will remain the same: (a) No interest and deferred payments for the first 10 years; (b) Interest only at a rate of 1% for the next 10 years; and (c) At year 20, the loan will either: (i) (1) Convert to an amortizing loan, paying principal and interest, on a 30 year amortization at a 1% interest rate, or (ii) (2) The HTF principal will be repaid in full as part of a refinance of the total debt stack at the time. She then reviewed the revised unit and income mix. Staff recommends approval based on the following: (1) The project produces 41 apartment homes for individuals and families at or below 80% AMI and provides the ability for families to improve their income while remaining in the project; (2) Fifty percent (50%), or 21 of the units will be reserved for voucher holders; (3) HSCD intends to lease thirty-seven (37) of the units (90% of the total units) to voucher holders who have incomes at or below 50% AMI; (4) Based on the benchmark of $80,000 per unit, the $60,976 per unit subsidy is reasonable for permanently affordable units; and (5) This project is deed restricted to permanent affordability, ensuring a long-term supply of affordable rental units at this location. This request was considered by the Housing and Community Development Committee of Council on Monday, August 21, 2023. The recommended motion is to approve the revised affordability levels and unit count for the $904,000 Housing Trust Fund Loan for the Haywood Street Community Development project at 339, 343 & 357 West Haywood Street.

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 Mosley moved to approve the revised affordability levels and unit count for the Housing Trust Fund Loan for the Haywood Street Community Development project at 339, 343 & 357 West Haywood Street. This motion was seconded by Vice-Mayor Kilgore and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 233**

**B. STRATEGIC EVENT PARTNERSHIP PROGRAM**

**RESOLUTION NO. 23-199 - RESOLUTION AUTHORIZING CITY MANAGER TO DISCONTINUE THE CITY OF ASHEVILLE'S STRATEGIC EVENT PARTNERSHIP PROGRAM**

**RESOLUTION NO. 23-200 - RESOLUTION AUTHORIZING CITY MANAGER**

**TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE AREA ARTS COUNCIL TO ADMINISTER A GRANT PROGRAM TO REIMBURSE CULTURAL AND ARTS-RELATED NON-PROFIT EVENTS FOR CERTAIN CITY FEES AND CHARGES, FOR UP TO A THREE YEAR PERIOD**

**RESOLUTION NO. 23-201 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGRICULTURAL DEVELOPMENT AGREEMENT WITH THE APPALACHIAN SUSTAINABLE AGRICULTURE PROJECT FOR THE PRODUCTION OF THE ASHEVILLE CITY MARKET IN YEARS 2024 - 2026**

Director of Community & Regional Entertainment Facilities Chris Corl said that this is the consideration of (1) a resolution authorizing City Manager to discontinue the City of Asheville's Strategic Event Partnership Program; (2) a resolution authorizing the City Manager to enter into an agreement with the Asheville Area Arts Council to administer a grant program to reimburse cultural and arts-related non-profit events for certain City fees and charges, for up to a three year period; and (3) a resolution authorizing the City Manager to enter into an Agricultural Development Agreement with the Appalachian Sustainable Agriculture Project for the production of the Asheville City Market in years 2024-2026.

**Background:**

- The last performance period for events conducted under the City's Strategic Event Partnership program was Jan 1, 2017 - Dec 31, 2019.
- This program provided additional in-kind support and fee waivers beyond the 75% non-profit discount provided for in the City's fees and charges manual.
- While the program was expected to continue for another 3-year period and proposals were invited in 2019 for performance period: 2020 - 2022, staff recommendations on the selection of partners and distribution of resources were never brought forward to City Council due to legal limitations for such a program.
- As a result of the COVID-19 pandemic, no events were conducted in 2020.
- In 2021, 2022, and 2023, the City only offered fee waivers but not labor services (Police, Fire, Sanitation) to former partners' events while future options were considered.
- Five events have since been preserved under contract as official City of Asheville holiday productions with the city's full support behind them:
    - Juneteenth Celebration
    - Independence Day Celebration
    - Asheville Holiday Parade
    - Memorial Day Ceremony
    - Veterans Day Ceremony
- One event, the Asheville City Market produced by the Appalachian Sustainable Agriculture Project, is eligible for City support (limited in-kind support valued at $30,000) as authorized by N.C.G.S. 106-736(b) and support for the Asheville City Market is consistent with the City's adopted **Food Policy Action Plan** (Resolution No. 17-257) and **Municipal Climate Action Plan** (Resolution No. 23-70).
- For all other events that are not official City of Asheville holiday productions, the City will contract with the Asheville Area Arts Council to administer a City-funded grant program that will reimburse eligible non-profit community events for a variety of their city fees and charges as authorized by N.C.G.S. 160A-488 (Arts Programs).
- Non-profit events that receive funding from Asheville Area Arts Council will still be eligible for the City's 75% non-profit discount afforded to all applicable non-profit events.
- Reviewed and approved by the Office of Equity & Inclusion This isn't an official committee. Perhaps include it as part of the staff review.

**Recommendations:**

- City Council approval to formally enter into a three-year Agricultural Development Agreement for the Asheville City Market for 2024-2026 at a limited value of $30,000 in-kind per year.

- Continued funding and in-kind support for federal holiday celebrations, executed under agreements with non-profit organizations - Holiday Parade, Juneteenth Celebration, Independence Day Celebration, Memorial Day Ceremony, Veterans Day Ceremony.

- City Council approval to formally enter into a three-year contract with the Asheville Area Arts Council to administer a city-funded grant program to support cultural and arts-related events in outdoor public spaces with a base amount of $69,104/year with a 10% contingency in the amount of $6,910 (total not to exceed $76,014 annually, $228,042 over a three year contract period).

- Former partner events including Downtown After 5 and Pritchard Park Programs, Shindig on the Green, Goombay Festival, and LEAF Downtown would be eligible to apply for support through the Asheville Area Arts Council program.

- Through the Asheville Area Arts Council program, additional event producers will be eligible for event support, increasing the overall equity of the program.

**Council Goal(s):**
- Well-planned and livable community
- Thriving local economy
- Connected and engaged community

**Committee(s)**:
- June 12, 2023
    - Presentation to Planning & Economic Development Council Committee
        - No action taken
- June 27, 2023
    - Presentation to Policy, Finance, & Human Resources Council Committee
        - Action: Unanimous recommendation to City Council
- July 10, 2023
    - Second presentation to Planning & Economic Development Council Committee
        - Action: Unanimous recommendation to City Council

**Pro(s):**
- Allows the City to leverage resources for programming and events that serve a wide and diverse audience
- Continues support for nonprofits in a manner that overcomes legal hurdles.
- Creates partnerships that employ events as a tool to stimulate the local economy while providing exposure to the arts, agricultural development, and opportunities for community engagement
- Supports local non-profit organizations

**Con(s):**
- Overtime for Police, Fire, and Public Works staff for the Juneteenth Celebration, Independence Day Celebration, and Asheville Holiday Parade would need to be paid.
- In-kind support requires departments to absorb staffing costs and creates additional wear and tear of equipment without rental income.
- Special support once provided exclusively to selected partners at no cost will no longer be available to any independent event (at cost or reimbursement) including traffic control signs, medical staff, and sanitation support.

**Fiscal Impact (included in FY 23-24 Department Budget)**

- **$56,500 + In-Kind Support per Year:**
    - Juneteenth Celebration ($20,000 + broad in-kind support as agreed)
    - Independence Day Celebration ($30,000 + broad in-kind support as agreed)
    - Asheville Holiday Parade ($5,000 + broad in-kind support as agreed)
    - Memorial Day Ceremony ($500 + limited in-kind support)
    - Veterans Day Ceremony ($1,000 with no in-kind support requested/expected)
    - Asheville City Market (limited in-kind support only)

- **$76,014 pear Year:**
    - A three-year agreement with the Asheville Area Arts Council, not to exceed $228,042 including contingency, will have a year-over-year net-zero budget impact with the exception of an administrative fee levied by the Asheville Area Arts Council.

**Total Fiscal Impact**: **$132,514 per Year**

Mr. Corl said the key takeaways from his presentation are (1) To address Legal concerns in continuing with a preferential program involving public space, staff is recommending phasing out Asheville's Strategic Event Partnership Program; (2) Replace it with a new three year agreement with Asheville Area Arts Council to administer a grant fund to reimburse arts-related non-profit events conducted on City property; (3) Continuation of the existing 75% non-profit discount for events by non-profit organizations; (4) Continued support for the Asheville City Market on Market Street via an Agricultural Development Partnership Agreement; and (5) Continued support for contracting the production of several federal holiday commemorations on the City's behalf: Memorial Day Ceremony; Juneteenth Celebration; Independence Day; Celebration; Veterans Day Ceremony; and Asheville Holiday Parade. He said the Government support of independent events held in public space must not be based on content. A Preferential Program" is when the City elects to support certain independent events based on alignment with or potential to advance City Council strategic goals and priorities, the City is essentially making a decision to motivate some messages in the public realm while inadvertently not supporting what equates to alternate messages that are not selected. He explained the past to present event support overview. The 2024 event support classification is (1) City Events $61,500 - Produced by Contractors (Holiday Events) - All hands effort; (2) City Events - Produced by Staff - Commonly all personnel needs are managed by producing department; (3) City-Assisted Events - Services limited to what is routinely available in City fees and charges (typically at no charge.); and (4) Community Event Grant $76,014 - Services limited to what is routinely available in City fees and charges. Grant recipients are responsible for payment.He then reviewed (1) 2024 resource impact - contracted (heavy) - City Events - Produced by Contractor. *Produced **for** the city under contract.*

- Memorial Day Ceremony…….……$500 + In-Kind
- Juneteenth Celebration……...$20,000 + In-Kind
- Independence Day Celebration…….$35,000 + In-Kind
- Asheville Holiday Parade……..$5,000 + In-Kind
- Veterans Day Ceremony……$1,000

Total $61,500 + In-Kind

(2) 2024 resource impact - internal (moderate) - City Events - Produced by Staff. *Examples of events produced by the City within existing budgets. (A)* Parks & Recreation: Movies in the Park, Tiny Tykes Day, Burton Street Agricultural Fair; (B) Communications & Public Engagement: National Night Out, Neighborhood Festival; (C) Asheville Fire Department: 9/11 Remembrance Ceremony, Tunnel 2 Towers 5K; (4) Human Resources: Employee Picnic; (5) CREF/WNC Nature Center: Running of the Goats 5K, Brews & Bears Series; and (6) CREF/Aston Park Tennis Center: Asheville Open Tennis Championships; (3) 2024 Resource Impact - agreement (light) - . City-Assisted Events. **In-kind investments for independently-operated events of interest to the CMO & Council, and authorized by NC General Statutes.*

- Asheville City Market…….In-Kind Only
    - via Agricultural Development Agreement

- Festival & Gospel in the Park……...In-Kind Only
    - via Parks & Recreation Agreement
    -

*Excludes labor support including Law Enforcement, Public Works, Medical, Traffic Signs & Installation; and (4) 2024 Resource Impact - Grants (routine). Community Event Grant ($76,014 per year). **A source of funds dedicated to help non-profit events pay for City fees and charges.* Includes: (A) Application & Administrative Fees; (B) Permit Fees; (C) Property Use & Facility Reservation Fees (i) Spider Box and Light Use Fees; and (ii) Onsite Operations Fee; (D) Traffic Control Barricade/Cone Rentals; (E) Parking Meter Closures; and (F) Transit Impact Fees. Examples of Potential Recipients are Downtown After 5; Shindig on the Green; LEAF Downtown; Goombay Festival; Blue Ridge Pride; Asheville Drum Circle; Pritchard Park Programs; and more… *Excludes labor support including Law Enforcement, Public Works, Medical, Transportation Signs/ Installation. The Committee recommendations are as follows: (1) June 12: Planning & Economic Development Committee - Committee suggested fund maximum be in alignment with fees & charges; (2) June 27: Policy, Finance & Human Resources Committee - Program revised to include + 10% contingency; and Unanimous recommendation to City Council; (3) July 10: Planning & Economic Development Committee - Unanimous recommendation to City Council; and (4) August 7: Approved - Equity & Inclusion Program Review. Suggested motions are (1) Motion to adopt a resolution authorizing the City Manager to phase out the City's Strategic Event Partnership program, eliminating in-kind support and fee waivers beyond the 75% non-profit discount afforded to all applicable events as per the City's current Fees & Charges Manual; (2) Motion to adopt a resolution authorizing the City Manager to enter into a three (3) year contract with the Asheville Area Arts Council to administer a grant fund to reimburse arts-related non-profit events conducted within outdoor public spaces for certain city fees and charges in an amount not to exceed $228,042 over the term; and (3) Motion to adopt a resolution authorizing the City Manager to enter into a three (3) year Agricultural Development Agreement with the Appalachian Sustainable Agriculture Project for the production of the Asheville City Market.

In response to Councilwoman Roney, Mr. Corl said that the Arts Council has been administering a similar project for Buncombe County.

Mayor Manheimer said that members of Council have previously received copies of the resolutions and they would not be read.

Councilwoman Turner moved to authorize the City Council to discontinue the City of Asheville's Strategic Event Partnership Program. This motion was seconded by Councilwoman Ullman and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 235**

Councilwoman Turner moved to authorize the City Manager to enter into a three (3) year contract with the Asheville Area Arts Council to administer a grant program to reimburse arts-related non-profit events conducted within outdoor public spaces for certain city fees and charges in an amount not to exceed $228,042 over the term. This motion was seconded by Councilwoman Roney and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 236**

Councilwoman Turner moved to authorize the City Manager to enter into a three (3) year Agricultural Development Agreement with the Appalachian Sustainable Agriculture Project for the production of the Asheville City Market. This motion was seconded by Councilwoman Ullman and carried unanimously.

**RESOLUTION BOOK NO. 44 – PAGE 237**

**C. INTRODUCTION OF AN ORDINANCE - ORDINANCE NO. 5033 - ORDINANCE AMENDING SECTIONS 11-4 AND 11-15 OF THE CODE OF ORDINANCES RELATING TO SOLICITATION, IN ORDER TO REMAIN COMPLIANT WITH EXISTING FEDERAL AND STATE LAW; TO REMOVE AMBIGUITIES; AND INCLUDE MORE DETAILED DESCRIPTIONS OF PROHIBITIONS**

City Attorney Branham said that this is the consideration of ordinance amendments regarding public solicitation.

**Background**:

- The City currently regulates public solicitation in Sec. 11-5 and 11-14 of the Asheville City Code of Ordinances.
- Recent Federal Court decisions have refined the legal framework which municipalities may utilize to regulate this activity.
- In order to remain compliant with existing Federal law, amendments to the City's existing ordinances are necessary.
- The proposed "Technical" amendments are also intended to remove ambiguities and include more detailed descriptions of existing prohibitions in order to enhance public clarity and legal enforceability.
- These proposed amendments do not include any new or enhanced regulation or penalties.

**Vendor Outreach Efforts:**

- Not Applicable

**Council Goal(s):**

- A Well Planned and Livable Community
- Clean, Safe, and Healthy Environment

**Committee(s)**:

- Environment and Safety Committee - July 25, 2023 - 3-0 to move forward to Council, with adjustments to define ordinance distance prohibitions at 10 feet, as well as other recommendations which will be analyzed and brought back to Council at a later date.

**Pro(s):**

- Brings existing City ordinances into compliance with recent Federal Court decisions and replaces ambiguous sections with greater specificity.

**Con(s):**

- None

**Fiscal Impact**:

- None

City Attorney Branham outlined the following key takeaways as follows: (1) Restrictions and limitations against Begging, Solicitation, and Panhandling have been part of the City's Code for decades; (2) Recent Court decisions (Notably City of Austin v. Reagan, and Reed v. Town of Gilbert) necessitate an update the City's existing ordinance language; (3) The majority of the City Ordinances on this subject have not been updated in over two decades; and (4) These technical updates remove ambiguity without adding new regulation or penalties. The timeline for the (1) Technical Amendments are Environment and Safety Review - July 25th; City Council first reading - Aug. 22nd; and City Council Second reading - Sept. 12th; and (2) Substantive Amendments ( "High Traffic Zones"; Vehicular Donations) are Environment and Safety Review - Sept. 26th; and City Council Oct. 10th. Highlights of Proposed Technical Amendments are (1) Bring ordinances into compliance with latest court decisions; (2) Remove current ambiguity in language; (3) Increase specificity to clarify existing rules; and (4) Provides immediate response to solidify existing rules while additional substantive amendments are analyzed for future proposed changes. Local authority is (1) NCGS 160A-179 provides the City with authority to regulate solicitation; (2) NCGS 20-175 provides specific authority to regulate roadside solicitation; and (3) Court decisions, including from the U.S. Supreme Court, further define how these regulations may be constructed and enforced. Proposed technical amendments to City Code Section 11-5 are (1) Clarified the Who, What, When and Where of solicitation rules (a) Removed word "Immediately"; (b) Added family and acquaintances exception; and (c) Defined solicitation distance restrictions (8 ft.); (2) Added language to clarify restriction on solicitation at outdoor dining areas. *Code Sec. 11-5 (b)(1)(c):* (3) Updated wording restricting "*obscene or threatening*" language. *Code Sec. 11-5 (b)(1)(h))*; and (4) Standardized terminology on solicitation requests (Now includes a request "of any type"). *Multiple Sections.* Proposed technical amendments to City Code Sec. 11-14 include (1) Language has been taken directly from NCGS 20-175; and (2) Broken up into separate provisions to clearly define what can and cannot be done regarding roadside solicitation; (a) CAN: Solicit from street, shoulder, or median with a permit; (b) CANNOT: Solicit from street, shoulder, or median without permit; and (c) CAN: Solicit from sidewalks, if not violating other laws. The legal analysis is (1) These *TECHNICAL* amendments are necessary to ensure the legal compliance and defensibility of existing City ordinances; (2) Provide greater clarity for the public, as well as for City staff; (3) Consistent with the statutory authority prescribed by the State; and (4) Do not expand any existing regulations, or increase penalties. Requested Council action is to adopt the proposed amendments to the City's public solicitation ordinances, specifically Sections 11-5 and 11-14, in accordance with the changes represented in the accompanying staff report.

Councilwoman Roney felt strongly that the 8 foot addition is an expansion of the language that was not existing in the ordinance. She hoped that we might have a conversation about our priorities. She felt very strongly that expanding this ordinance not only distracts us from the very important work that we need to do addressing the issues at hand, but it creates new problems.

In response to Councilwoman Turner, Mr. Branham said that it's important to remember that in order for the Police Department or City staff to enforce our ordinances, we need clear and defensible ordinances.

Councilwoman Smith said that the intention of the laws on our books is to redirect people to resources and partners to get them the resources they need.

Councilwoman Ullman sensed that our community is in agreement that we need to ban together to address the root causes, and the root causes are part of what is putting people in the path of poverty and criminal behavior. The other thing is clear is that we don't all agree on the methods or short term approaches. She would support moving forward with the technical amendments; however, she did not think she would support moving forward with more substantial changes to the ordinance.

Councilwoman Smith moved to adopt the proposed amendments to the City's public solicitation ordinances, specifically Sections 11-5 and 11-14, in accordance with the changes represented in the accompanying staff report, on its first reading. This motion was seconded by Vice-Mayor Kilgore.

Nineteen individuals spoke against the proposed ordinance amendments, for various reasons.

Seven individuals spoke in favor of the proposed ordinance amendments, for various reasons.

Councilwoman Roney said he heard from one of her students that she has worked with since kindergarten who is a voter now and they said if you care about public safety for the youth, you would address the opportunity gap in our schools, you would build affordable housing and you would engage the community health workers. She felt ashamed. It took one of them to remind me that we made commitments to address the opportunity gap in our schools, and our concern about paying teachers. While she hears concerns from people who either agree or disagree with her, she hears the bucket of concerns around a deep sadness about not having access to health care and housing as human rights. She felt that we are all really tired of seeing the suffering that our systems fail all of us. She's had the privilege of serving on the first and now second all female Council, and we are having hard conversations and our community is having hard conversations. She has to say no to this ordinance as drafted, but we are going to keep having conversations in September and not having this conversation in isolation because at our last meeting, we made it against the law to store your bike in the same place for 7 days. She was really worried about the distractions and we need to be doing the agreed-upon strategies to get to the heart of the issues we are facing in our community. That said, she thought this was the wrong tool and creates more problems.

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

The motion made by Councilwoman Smith and seconded by Vice-Mayor Kilgore passed on a 6-1 vote, with Councilwoman Roney voting "no."

City Attorney Branham said the second and final reading of this ordinance will be held on September 12, 2023.

**ORDINANCE BOOK NO. 35 – PAGE 50**

**D. ORDINANCE NO. 5034 - ORDINANCE AMENDING SECTIONS 10-82 AND 10-85 OF THE CITY CODE TO CLARIFY THE APPLICATION AND SCOPE OF SUBSECTION 10-85(2) OF THE CITY CODE.**

Development Services Department Director Mark Matheny said that this is the consideration of adoption of an ordinance amending sections of the City Code regulating noise in order to remove possible ambiguities.

**Background**:

- By Ordinance number 4390, passed on July 27th, 2021, City Council adopted a set of comprehensive revisions to its ordinances regulating noise within the City.
- A minor feature of the revised Noise Ordinance, contained at Section 10-85(2) of the City Code, prohibited the use of amplified sound in the immediate vicinity of schools and medical providers.
- The constitutionality of Section 10-85(2) of the City Code has been challenged in federal court by an individual who contends it violates his First Amendment rights to protest outside of a reproductive healthcare provider within the City.
- The District Court for the Western District of North Carolina has found that several aspects of the City's noise ordinance are ambiguous and could be more narrowly tailored.
- The amendments to the City's Noise Ordinance proposed here would not modify any of the substantive standards contained therein, but would clarify the existing standards under the Noise Ordinance.

**Council Goal(s):**

- A clean and healthy environment.

**Committee(s)**:

- None

**Pro(s):**

- Clarifies the standards found in the City's noise ordinance.

**Con(s):**

- None.

**Fiscal Impact**:

- None.

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 ordinance and it would not be read.

Councilwoman Mosley moved to adopt an ordinance amending Sections 10-82 and 10-85 of the Code of Ordinances. This motion was seconded by Councilwoman Ullman and carried unanimously.

**ORDINANCE BOOK NO. 35 – PAGE 56**

**E. BOARDS & COMMISSIONS**

**RESOLUTION NO. 23-201 - RESOLUTION APPOINTING MEMBERS TO THE**

**PLANNING & ZONING COMMISSION**

Vice-Mayor Kilgore, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Planning & Zoning Commission.

The terms of Joe Archinbald, Kimberly Levi and Robert Frances Hoke, as members of the Planning & Zoning Commission, will expire on August 14, 2023. In addition, Kelsey Simmons has resigned, thus leaving an unexpired term until August 14, 2024.

The following individuals applied for the vacancy: Paul Zay, Scott Lewandowski, Trent Hall, Susan Bean, David Moritz, Bryon Greiner and Andrew Fletcher. Mr. Hall withdrew his name from consideration.

On August 22, 2022, the Boards & Commissions Committee interviewed Paul Tay, Scott Lewandowski, Susan Bean, David Moritz, Byron Greiner and Andrew Fletcher. The Committee recommended Council hold one or two seats open and re-advertise in order to reach a more diverse applicant pool.

Councilwoman Mosley moved to reappoint Kimberly Levi to serve a three-year term, term to expire August 14, 2026, or until Kimberly Levi's successor has been appointed. This motion was seconded by Councilwoman Turner and carried unanimously.

Councilwoman Roney said that a request has been received from the current Chair of the Planning & Zoning Commission requesting the seats be filled by a person with professional lived experience and the professional lived experience of renters.

After thanking all applicants for their time, a vote was taken by Council as follows: Paul Tay received no votes; Scott Lewandowski received no votes; Susan Bean received 4 votes; David Moriz received no votes; Byron Greiner received 2 votes; and Andrew Fletcher received 1 vote. Therefore, Susan Bean was appointed to the Planning & Zoning Commission to serve the unexpired term of Kelsey Simmons, term to expire August 14, 2024, or until Susan Bean's successor has been appointed.

After a brief discussion, it was the consensus of Council to hold two positions open and re-advertise. Council asked that the Clerk reach out to all applicants and let them know the process will be reopened, and they will still be considered for the seats when those appointments are made in October.

**RESOLUTION BOOK NO. 44 – PAGE 239**

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

Several individuals spoke to City Council about various matters, some being, but are not limited to: problems with parking on Annandale Avenue; several concerns that the Civic Center Parking Garage is not accessible to the handicapped; request for the City to adopt a medicare for all resolution; panhandling is a safety problem on the buses; opposition to bike lanes on College/Patton Avenue; need for swimming pool at the Grant Center; request the City provide single-use bus tickets to nonprofits working with the unhoused community as a measure to address panhandling in Asheville; concern that a case is pending in the court system for over 4 years; and request that City Council announce ahead of time if they limit public comments to two minutes.

Councilwoman Roney said that with the passing of Nikita Smart, our community has lost a brilliant doula and leader in addressing racial disparities in health care systems. Nikita stood in

the gap for Black women, families, and babies as co-founder of Sistas Caring for Sistas, and her legacy will be remembered through the changes she demanded in Black maternal health outcomes and through the lives of the babies she helped bring into the world.

**Closed Session**

At 9:53 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);l and (2) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6). This motion was seconded by Councilwoman Turner and carried unanimously.

At 10:26 p.m., Councilwoman Turner moved to come out of closed session. This motion was seconded by Councilwoman Ullman and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 10:26 p.m.

_____ _____

CITY CLERK MAYOR