Tuesday – December 14, 2021 - 5:00 p.m.

Regular Meeting

This formal meeting was conducted by use of simultaneous communication in which the following participated by simultaneous communication: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Sheneika Smith; Councilwoman Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sage Turner; Councilwoman Gwen C. Wisler; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson

Mayor Manheimer said that the City Council wants the public to still have the opportunity to participate in the decisions of your government. She then explained the 3 options for providing public comment - voicemail; email; and advanced live sign-ins.

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

PASSING OF CITY EMPLOYEE BARB MEE

City Manager Campbell said that Barb Mee passed away on December 3, 2021 after battling a major illness. She was hired as a Transportation Planner II in the Transportation & Engineering Department on November 7, 2005. During her career with the City of Asheville, she developed a very solid and consistent reputation as a strong advocate for bicycle and pedestrian modes of travel as well as ADA compliance. She was the City's Bicycle and Pedestrian Coordinator and she provided staff support for the Bicycle and Pedestrian Task Force. Barb was instrumental in the establishment of the first round of dedicated bicycle lanes in the central business district and the establishment of the neighborhood sidewalk program. She was heavily involved in project development review and she coordinated and facilitated ongoing monthly meetings with the City and the local NCDOT to discuss ways to enhance pedestrian and bicycle safety throughout the city. Barb approached all of her responsibilities in a highly professional manner and continually looked for ways to improve and increase her technical knowledge base.

She expressed our sincerest sympathies to Barb Mee's family.

II. CONSENT AGENDA:

At the request of Councilwoman Roney, Consent Agenda Items "J", "K", and "N" were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 9, 2021

B. MOTION ADOPTING THE 2022-23 BUDGET CALENDAR

Action Requested: Motion to adopt the Fiscal Year 2022-2023 (FY23) Budget Calendar.

Background:

- As a part of the Fiscal Year 2022-2023 Operating and Capital Budget development process staff is proposing the budget schedule.

- In addition to meeting the statutory requirement that City Council adopt a balanced budget before July 1, 2022, the FY23 budget process is intended to more clearly identify the links between service, program and project investments and community interests.
- Staff have already begun work to develop estimates for ongoing cost to deliver existing programs and services, needed capital infrastructure and facility investments, and major revenue sources.
- As in prior years, the process will include community engagement and consultations with City Council beginning at a retreat and continuing through work sessions with a focus on
    - Integrating with ongoing public engagement efforts and previously identified priorities.
    - Reviewing key services to identify customer impact.
- The process culminates with the following actions as required by state law:
    - Formal presentation of the City Manager's Proposed Budget on May 10, 2022.
    - A Public Hearing on the Proposed Budget on May 24, 2022.
    - Budget adoption on June 14, 2022.

Council Goal(s):
- A Financially Resilient City
- A Connected and Engaged Community

Committee(s):
- None

Pro(s):
- Provides City Council, staff, and the community with a calendar of upcoming dates related to development of the FY23 budget.

Con(s):
- None.

Fiscal Impact:
- None.

Motion:
- Motion to adopt the Fiscal Year 2022-2023 Budget Calendar.

C. RESOLUTION NO. 21-246 - RESOLUTION ADOPTING THE 2022 CITY COUNCIL MEETING SCHEDULE

City Council will hold regular meetings beginning at 5:00 p.m. on the 2nd and 4th Tuesday of each month in the Council Chamber, located on the 2nd floor of City Hall. The following meetings are hereby canceled: Tuesday, July 12, 2022; Tuesday, August 9, 2022; Tuesday, November 22, 2022; and Tuesday, December 27, 2022.

RESOLUTION BOOK NO. 42 - PAGE 427

D. RESOLUTION NO. 21-247 - RESOLUTION APPROVING THE 2021 RECORDS RETENTION AND DISPOSITION SCHEDULE FOR GENERAL RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES AND PROGRAM RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES ISSUED ON OCTOBER 1, 2021, BY THE N.C. DEPT. OF NATURAL & CULTURAL RESOURCES

Action Requested: Adoption of a resolution approving the 2021 Records Retention & Disposition Schedules for General Records Schedule for Local Government Agencies and Program Records Schedule for Local Government Agencies

Background:

- N.C. Gen. Stat. sec. 121-5 mandates that records defined under Chapter 132 may be disposed of only in accordance with an official retention schedule.
- In an effort to promote good municipal records management, the N.C. Dept. of Natural & Cultural Resources (NCDNCR) has updated their 2012 schedule.
- In addition to the 2021 General Records Schedule for Local Government Agencies Schedule, the NCDNCR has also created a new retention schedule called the 2021 Program Records Schedule for Local Government Agencies which contains specific functions of government at the county and municipal levels, in particular a standard for Law Enforcement records.
- These schedules provide a list of records that may be destroyed after the specific retention periods without further approval from the City or the NCDNCR, provided, the governing body has authorized the records listed for destruction to be destroyed through its blanket approval of the Retention & Disposition Schedule.
- The NCDNCR adopted the new schedule on October 1, 2021.

Council Goal(s):

- None

Committee(s):

- None

Pro(s):

- Promotes municipal records management

Con(s):

- None

Fiscal Impact:

- None

Motion:

- Motion to adopt a resolution approving the 2021 Records Retention & Disposition Schedules for General Records Schedule for Local Government Agencies and Program Records Schedule for Local Government Agencies issued on October 1, 2021, by the NCDNCR.

RESOLUTION BOOK NO. 42 - PAGE 428

E. RESOLUTION NO. 21-248 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT ADDITIONAL FUNDS FROM THE SHUTTERED VENUE OPERATORS GRANT FROM THE SMALL BUSINESS ASSOCIATION AND DELEGATING THE RESPONSIBILITY TO EXECUTE ANY NECESSARY AGREEMENTS RELATED TO THIS GRANT TO THE CITY MANAGER

Action Requested: Adoption of a resolution authorizing receipt of Shuttered Venue Operators (SVO) grant funding and delegating the responsibility to execute any necessary agreements related to SVO funding to the City Manager

Background:

- The COVID Relief Bill of December 2020, in part, created the Shuttered Venue Operators Grant system, administered by the Small Business Administration.
- This system included a total of over $15 billion of available assistance funds to be awarded after approved application.
- On August 24, 2021, City staff initially applied for and were awarded a total of $1,627,336.57.
- The Harrah's Cherokee Center - Asheville was invited to apply for additional funding in the second phase of grant funding.
- City staff applied for and has been awarded an additional grant with a value of $813,638.00
- A total Phase 1 & 2 grant award value of $2,440,974.57
- These funds will specifically be used to cover utility and salary costs incurred by the enterprise fund between March 1, 2020 and December 31, 2021

Council Goal(s):
- A Financially Resilient City

Committee(s):
- None

Pro(s):
- Provides authorization for the City of Asheville to receive SVO Grant funding

Con(s):
- None.

Fiscal Impact:
- These grant funds will offset revenue losses at the Harrah's Cherokee Center of Asheville (HCCA) in prior fiscal years, specifically as noted above, for salary and utility costs normally covered by HCCA operating revenue.

Motion:
- Motion to adopt a resolution authorizing receipt of Shuttered Venue Operators (SVO) grant funding and delegating the responsibility to execute any necessary agreements related to SVO funding to the City Manager

RESOLUTION BOOK NO. 42 - PAGE 439

F. RESOLUTION NO. 21-249 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH T.P. HOWARD PLUMBING COMPANY INC TO DEMOLISH AND REPLACE EXISTING LARGE CUSTOMER METER VAULTS WITH NEW INSTALLATION SITES

Action Requested: Adoption of a resolution authorizing the City Manager to execute an agreement with T.P. Howard's Plumbing Company, Inc. in the amount of $193,000.00 to demolish and replace existing large customer meter vaults with new installation sites, plus a contingency of 15% ($28,950.00) for a total project budget of $221,950.

Background:
- The current list of large customer meter vaults located within the water system planned for replacement include: Beaverdam Run Condos, Lucy S. Herring Elementary, (2) Woods Townhomes, Holiday Inn Smokey Park, and Day International.
- This project will include the replacement of the existing vaults and meters with new infrastructure at these sites.

- The existing installations have fulfilled their useful life.
- Given the condition of the equipment and design and installation constraints of these sites, the vaults are unsafe and present a hazard to City infrastructure, City staff, and private property due to impending failure.
- In the event the meters fail completely, the City would lose significant revenue.
- In 2020, Water Resources Operations began working in collaboration with engineering firm Cavanaugh and Associates, administrative management staff, and internal engineering staff to develop a plan to implement new installations at the noted sites.
- The outcome of this plan was the recommendation of a full replacement of the current meter vault applications.
- 0000000The recommended mechanism for installation was utilization of a third-party contract installer, procured through a formal bid process.
- Five firms submitted bids for this project:
    - T.P. Howard's Plumbing Company, Inc Fairview, NC - $193,000.00
    - Buckeye Bridge, LLC Canton, NC - $203,144.00
    - Appalachian Site Work, Inc. Waynesville, NC - $412,297.00
    - Patton Construction Group, Inc. Arden, NC - $261,215.00
    - Chatham Civil Contracting, LLC Siler City, NC - $220,781.00
- T.P. Howard's Plumbing Company, Inc. was deemed the lowest responsive, responsible bidder.
- The bid was deemed qualified by acceptable minority business outreach efforts.

Vendor Outreach Efforts:
- Staff performed outreach to minority- and women-owned businesses through the 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.
- No Minority & Women-Owned Business Enterprise (MWBE) firms submitted bids.

Council Goal(s):
- This project is aligned with the City and the Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service (H1).

Committee(s):
- None

Pro(s):
- Sustains the integrity and reliability of the water system.
- Progresses the City toward updating its aging infrastructure, which will ultimately result in higher confidence by customers and stakeholders.

Con(s):
- None

Fiscal Impact:
- The funding needed for the contractual agreement is currently allocated within the Water Resources Capital Improvement Project Fund in the Meter/Vault Repair budget.

Motion:
- Motion to adopt a resolution authorizing the City Manager to execute an agreement with T.P. Howard's Plumbing Company, Inc. in the amount of $193,000.00 to demolish and replace the existing customer meter vault locations stations with new installations for the

locations identified, plus a contingency of 15% ($28,950.00) for a total project budget of $221,950.00.

RESOLUTION BOOK NO. 42 - PAGE 440

G. RESOLUTION NO. 21-250 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AMENDMENT WITH THE GRIND LLC FOR CITY-OWNED PROPERTY LOCATED AT 8 RIVER ARTS PLACE

Action Requested: Approve a resolution authorizing the City Manager to sign a lease amendment with The Grind, LLC for City-owned property located at 8 River Arts Place.

Background:

- On October 26, 2021, the City Council approved a lease agreement between the City of Asheville and The Grind, LLC to enable them to operate Black Wall Street Asheville out of this location.
- The fair market value quoted to The Grind, LLC was $1,500 per month with an applied escalation rate of 2%.
- The term is four years with one renewal of four years.
- At the October 26 meeting, City Council directed staff to reduce the rent to $1 per year and prepare an amendment for Council's approval.

Council Goal(s):

- An Equitable and Diverse Community
- Thriving Local Economy

Committee(s):

- The Planning and Economic Development Committee recommended approval at their meeting on October 11, 2021.

Pro(s):

- The tenants' program will act as an economic development engine for the River Arts District
- Black owned businesses will have an opportunity to partner with Black Wall Street AVL and sell their products at this location.
- The building will provide event space for cultural and educational events.

Con(s):

- Under the original terms of the lease the City would have received approximately $18,000 per year but under the revised terms the City will not receive this revenue.

Fiscal Impact:

- As noted above, the City will not be receiving fair market rent for the duration of the four year lease.

Motion:

- Motion to approve a resolution authorizing the City Manager to sign a lease agreement amendment with The Grind, LLC at 8 River Arts Place to establish the rent at $1 per year.

RESOLUTION BOOK NO. 42 - PAGE 441

H. RESOLUTION NO. 21-251 - RESOLUTION AUTHORIZING THE SALE OF ONE 2015 FREIGHTLINER KNUCKLEBOOM AND ONE 2005 FREIGHTLINER ASPHALT PATCH TRUCK DEEMED SURPLUS CITY PERSONAL PROPERTY

Action Requested: Approval of a resolution authorizing the sale of one (1) 2015 Freightliner Knuckleboom and one (1) 2005 Freightliner Asphalt Patch Truck deemed surplus City personal property.

Background:

- The City's Public Works Department identified a 2015 Freightliner Knuckleboom (used for pick up and hauling of debris) and a 2005 Freightliner Asphalt Patch Truck (used for patching asphalt roadways) as surplus personal property, with no anticipation of future utilization by the City.
- The estimated wholesale value of the 2015 Freightliner Knuckleboom & 2005 Freightliner Asphalt Patch Truck is listed at approximately $30,000 or more each, depending on condition.
- Bids will be solicited through GovDeals online auction.
- Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at $30,000 or more must be approved by the City Council.
- The City's Purchasing Manager has authority to dispose of personal property valued at less than $30,000 by private negotiation and sale.

Vendor Outreach Efforts:

- None

Council Goal(s):

- A Financially Resilient City

Committee(s):

- None

Pro(s):

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

Con(s):

- None

Fiscal Impact:

- The knuckleboom and the patch truck are fully depreciated and the General Fund will recognize the entire amount as revenue from the sale of the asset.

Motion:

- Move to adopt a resolution authorizing the sale of one (1) 2015 Freightliner Knuckleboom and one (1) 2005 Freightliner Asphalt Patch Truck deemed surplus City personal property.

RESOLUTION BOOK NO. 42 - PAGE 442

I. RESOLUTION NO. 21-252 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND ACCEPT THE 2022 BIKESAFE GRANT FROM THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM

ORDINANCE NO. 4913 - BUDGET AMENDMENT FOR THE 2022 BIKESAFE GRANT

Action Requested: Adoption of a resolution authorizing the Mayor to apply for and accept a grant, in the amount of $5,000, for the North Carolina Governor's Highway Safety Program (GHSP) 2022 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.

Council Goal(s):

- A Connected and Engaged Community

Committee(s):

- Public Safety Committee - November 17, 2021 - adopted unanimously

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:

- There is no local match required.

Motion:

- Motion to adopt a resolution approving the application and acceptance of the grant and a budget amendment in the Special Revenue Fund in the amount of $5,000.

RESOLUTION BOOK NO. 42 - PAGE 443
ORDINANCE BOOK NO. 33 - PAGE 16

J. RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND ACCEPT THE U.S. DEPT. OF JUSTICE 2021 EDWARD BYRNE JUSTICE GRANT

BUDGET AMENDMENT FOR THE 2021 EDWARD BYRNE JUSTICE GRANT

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

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT THE 2021 BULLETPROOF VEST GRANT FROM THE U.S. DEPT. OF JUSTICE

BUDGET AMENDMENT FOR THE BULLETPROOF VEST GRANT

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

L. RESOLUTION NO. 21-255 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO PURCHASE THREE NEW BUSES FOR THE ASHEVILLE RIDES TRANSIT SYSTEM THAT INCLUDES TRANSIT ACCESSORIES AND FEATURES

Action Requested: Adoption of a resolution authorizing the Purchasing Division to purchase a total of three (3) new buses for the Asheville Rides Transit System that includes transit accessories and features totaling $1,649,192. This includes authorization to:

1. Execute purchase orders in the amount of $1,399,1922 for three (3) 30-foot diesel Gillig buses utilizing the Washington State Department of Enterprise Services Cooperative Purchasing Agreement approved by the Washington State Department of Enterprise on October 20, 2021.

2. Waive the bidding requirements per NCGS 143-129(g) allowing the City of Asheville to utilize the existing Washington State Cooperative Purchasing Agreement for Transit Buses Master Contract No. 06719.

3. Execute purchase orders not to exceed $250,000 to purchase a variety of transit features and accessories in order to outfit the buses with the equipment necessary for buses in the Asheville Rides Transit System fleet. This includes fareboxes, security cameras, and bike racks.

Background:

- The City of Asheville has been approved by the Washington State Department of Enterprise to participate in the State's Cooperative Purchasing Agreement for Transit Buses Master Contract No. 06719 for the purchase of buses from Gillig.
- The North Carolina Department of Transportation Integrated Mobility Division has approved the City's use of the Washington State Department of Enterprise Services Cooperative Purchasing Agreement to purchase the buses.
- The City wishes to purchase a total of three (3) buses 30-ft. Gillig diesel buses at this time from the total number of bus assignments allotted to the City of Asheville by Washington State.
- The City expects to receive these buses in 12-18 months.
- Diesel buses are to be purchased due to the lack of alternative options at this time.
- Appropriately sized electric buses are not currently being manufactured and Gillig does not have hybrid buses available for purchase at this time.
- Funding to purchase the buses and associated accessories will be provided from two grants sources previously received by the City, including one received from the MPO in 2018 for the purpose of purchasing buses, and one from FTA (5339).
- A sole source procurement through GenFare, SportWorks, and SEON is necessary to ensure that staff is able to purchase the transit accessories and features from the approved providers for the fareboxes, bike racks, and safety and security cameras.
- The 20% required local match is already programmed in the City's Adopted Capital Improvement Program (CIP).

Vendor Outreach Efforts:

- N/A

Council Goal(s):

- Transportation and Accessibility

Committee(s):

- None.

Pro(s):

- This action will enable staff to purchase additional buses needed to continue to provide transit services.
- This action ensures compliance with the Federal Transit Administration and the City of Asheville's procurement policy.

Con(s):

- The City is required to provide the required 20% match, or approximately $329,838.

Fiscal Impact:

- Funding to purchase the buses and associated accessories will be provided from two grants sources previously received by the City, including one received from the MPO in 2018 for the purpose of purchasing buses, and one from FTA (5339).
- The City will provide the required 20% ($329,838) matching funds.
- The grant and the City match are already budgeted in the approved Capital Improvement Program (CIP).

Suggested :

- Motion to adopt a resolution authorizing the City Manager to purchase a total of three (3) new buses for the Asheville Rides Transit System including transit accessories and features totaling $1,649,192. This includes authorization to:

1. Execute purchase orders in the amount of $1,399,192 for three (3) 30-foot diesel Gillig buses utilizing the Washington State Department of Enterprise Services Transit Buses Master Agreement No. 06719;

2. Waive the bidding requirements per NCGS 143-129(g) allowing the City of Asheville to utilize Washington State Department of Enterprise Services Transit Buses Master Agreement No. 06719 to purchase three (3) Gillig diesel buses, assigned by the Washington State Department of Enterprise to the City of Asheville through its Cooperative Purchasing Agreement;

3. Execute purchase orders not to exceed $250,000 to purchase transit features and accessories in order to outfit the necessary equipment on buses in the Asheville Rides Transit System. This includes fareboxes, security cameras, and bike racks.

4. Adopt a resolution authorizing the City Manager to purchase the fareboxes, bike racks, safety, and security cameras using sole source procurement from GenFare, SportWorks, and SEON for installation in the new buses in Asheville Rides Transit (ART) fleet.

RESOLUTION BOOK NO. 42 - PAGE 446

M. RESOLUTION NO. 21-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO ACCEPT FUNDING FOR CODE PURPLE EMERGENCY SHELTER

RESOLUTION NO. 21-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO THE AGREEMENT WITH ASHEVILLE-BUNCOMBE COMMUNITY CHRISTIAN MINISTRY INC. TO PROVIDE CODE PURPLE EMERGENCY SHELTER

ORDINANCE NO. 4916 - BUDGET AMENDMENT TO FUND CHANGE ORDER

Action Requested: 1) Resolution authorizing the City Manager to enter into an agreement with Buncombe County to accept funding for Code Purple Emergency Shelter 2) Resolution authorizing a change order in the amount of $80,000 to the agreement with Asheville Buncombe Community Christian Ministry, Inc. and 3) Approval of a budget amendment in the City's Special Revenue Fund in the amount of $80,000 to fund the change order, utilizing $40,000 in funding from Buncombe County and $40,000 from pay-go capital funding previously approved for affordable housing.

Background:

- Code Purple is a longstanding community initiative whereby shelters exceed capacity and flex requirements in order to provide additional emergency shelter to people experiencing homelessness on nights at or below 32 degrees.
- COVID-19 has created operational complications preventing shelters from operating Code Purple in their regular facilities.
- Western Carolina Rescue Ministries and The Salvation Army have agreed to provide Code Purple shelter for women in dedicated spaces onsite at their agencies.
- Asheville Buncombe Community Christian Ministry, Inc. (ABCCM) has agreed to provide Code Purple shelter for men in an alternate location.
- The City has a current contract for $20,000 with ABCCM for that purpose using remaining funds previously authorized for the 2020-2021 Code Purple season.
- The requested action will amend that contract to add $80,000, composed of $40,000 of pay-go funding for affordable housing and $40,000 from Buncombe County for this initiative, for a total contract amount of $100,000.

Vendor Outreach Efforts:

- City staff have worked with all agencies currently providing shelter in Buncombe County to develop the 2021-2022 Code Purple operational plan.

Council Goal(s):

- Quality affordable housing

Committee(s):

- None

Pro(s):

- Provides essential emergency shelter to ensure survival for people experiencing homelessness

Con(s):

- None

Fiscal Impact:

- Existing $20,000 agreement is funded by previously authorized funding carried forward from the 2020-2021 Code Purple season.

- Requested action will amend that agreement to add $80,000 composed of revenue from Buncombe County ($40,000) and City pay-go funding for affordable housing ($40,000), for a total contract amount of $100,000.

Motions:
- Motion to approve a resolution authorizing the City Manager to enter into an agreement with Buncombe County to accept funding for Code Purple.
- Motion to approve a resolution authorizing a change order in the amount of $80,000 to the agreement with Asheville Buncombe Community Christian Ministry, Inc. for a total contract amount of $100,000.
- Motion to approve a budget amendment in the City's Special Revenue Fund in the amount of $80,000 to fund the change order, utilizing $40,000 in funding from Buncombe County and $40,000 from pay-go capital funding previously approved for affordable housing.

Patrick Conant felt Council should hold a public discussion around whether Code Purple has adequate resources for all members of our community.

RESOLUTION NO. 21-256 - RESOLUTION BOOK NO. 42 - PAGE 448
RESOLUTION NO. 21-257 - RESOLUTION BOOK NO. 42 - PAGE 449
ORDINANCE BOOK NO. 34 - PAGE 19

N. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EPIC RECRUITING TO CREATE RECRUITING MEDIA, CREATE A RECRUITMENT WEBSITE, AND STRATEGIZE AND MARKET THE CITY OF ASHEVILLE AND THE ASHEVILLE POLICE DEPARTMENT TO RECRUIT EXCEPTIONAL POLICE APPLICANTS

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

O. RESOLUTION NO. 21-259 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A (1) CONTRACT RENEWAL OR THE ANNUAL PAYMENTS TO BUNCOMBE COUNTY FOR THE CRIMINAL JUSTICE INFORMATION SYSTEM/CENTRALIZED DATA ENTRY INTERLOCAL AGREEMENT; AND (2) A CONTRACT RENEWAL FOR THE ANNUAL PAYMENTS TO BUNCOMBE COUNTY FOR THE COUNTY IDENTIFICATION BUREAU INTERLOCAL AGREEMENT

Action Requested: Adoption of a resolution authorizing the City Manager to execute 1) contract renewal in the amount of $990,419 for the annual payment to Buncombe County for the Criminal Justice Information System/Centralized Data Entry (CJIS/CDE), and 2) a contract renewal in the amount of $516,743 for the annual payment to Buncombe County for the County Identification (ID) Bureau programs.

Background:
- The City of Asheville and Buncombe County previously entered into interlocal agreements regarding the provision of certain joint public safety-related services.
- The Criminal Justice Information /Centralized Data Entry information system and the Identification (ID) Bureau are both operated as County services, and were created by a 2002 Interlocal Agreement between the City of Asheville and Buncombe County.
- The CJIS agreement governs the operations of digital infrastructure and software that serves Police, Fire, EMS, the Buncombe County DA and the Buncombe County Sheriff.
- While this agreement covers some of the continuing technical operations within the 911 center, it is not otherwise related to the 911 consolidation.

- The CDE agreement relates to centralized criminal data storage, lookup, and governance.
- Based on the interlocal agreements, the City is responsible for 45% of the cost of the Criminal Justice Information System/Centralized Data Entry program and for 50% of the cost of the County Identification (ID) Bureau 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 2021-22, the County estimates that the City's share of the CJIS/CDE costs will be $990,419 and the City's share of the ID Bureau will be $516,743.
- The requested contract renewal 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 continue funding these agreements with Buncombe County.

Con(s):
- None

Fiscal Impact:
- The contract renewal expenditures noted above are already included in the fiscal year 2021-22 adopted General Fund budget.

Motion:
- Motion to authorize the City Manager to execute (1) a contract renewal in the amount of $990,419 for the annual payment to Buncombe County for the Criminal Justice Information System/Centralized Data Entry (CJIS/CDE), and 2) a contract renewal in the amount of $516,743 for the annual payments to Buncombe County for the County Identification (ID) Bureau programs.

RESOLUTION BOOK NO. 42 - PAGE 451

P. RESOLUTION NO. 21-260 - RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO CONDEMN NINE WATERLINE EASEMENTS ALONG PATTON AVENUE

Action Requested: Adopt a resolution authorizing the City Attorney's Office to condemn easements needed for a water main replacement project on Patton Avenue.

Background:
- The City's Water Resources Department intends to pursue a waterline replacement project along Patton Avenue in West Asheville.
- The City has obtained easements from all but nine property owners whose properties would be impacted by the project.
- All property owners were provided with offers of financial compensation for the needed easements, based on appraisals obtained from a North Carolina licensed appraiser.
- This project will replace an existing 16-inch waterline with a new 24-inch transmission line, which was identified as a need in order to provide more transmision main redundancy and increase Water Resources' capacity to the western portion of the water system.

- The existing waterlines along this section of Patton Ave are undersized for potential future growth along the corridor and for providing service to the western portion of the water system.
- While this Council action will allow the City to potentially commence condemnation actions in relation to the nine easements at issue, the City will make additional efforts to communicate with the property owners in an effort to acquire these easements by agreement, rather than through litigation.

Council Goal(s):
- Clean & Healthy Environment

Committee(s):
- None

Pro(s):
- Will facilitate the completion of a needed waterline replacement project, and safeguard the project schedule.

Con(s):
- Will result in the commencement of eminent domain actions against nine property owners.

Fiscal Impact:
- The expected value of the needed easements is $378,400, which is included in the project budget for the subject project.

Motion:
- Motion to adopt a resolution authorizing the City Attorney's Office to condemn waterline easements needed for the City's Patton Avenue waterline replacement project.

RESOLUTION BOOK NO. 42 - PAGE 452

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 Wisler moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Items "J", "K " and "N". This motion was seconded by Vice-Mayor Smith and carried unanimously by roll call vote.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 21-253 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND ACCEPT THE U.S. DEPT. OF JUSTICE 2021 EDWARD BYRNE JUSTICE GRANT

ORDINANCE NO. 4914 - BUDGET AMENDMENT FOR THE 2021 EDWARD BYRNE JUSTICE GRANT

Action Requested: Adoption of a resolution to apply for and accept the United States Department of Justice (DOJ) 2021 Edward Byrne Justice Assistance (JAG) Grant and adopt a budget amendment in the City's Special Revenue Fund in the amount of $76,873.

Background:

- The City of Asheville receives an annual opportunity to apply for a Department of Justice (DOJ), Edward Byrne Justice Assistance Grant.
- The DOJ has preliminarily determined that the Asheville Police Department (APD) is eligible to receive a 2021 award of $76,873 which is allocated to the APD and the Buncombe County Sheriff's Office in the amounts of $60,035 and $16,838 respectively.
- The APD will use the funds to help pay for overtime for police officers.
- The APD is currently down 34% in sworn staffing and is having to use overtime to help cover critical operational assignments until we can get staffing levels back up.
- The APD has seen a large increase in violent crimes and plans to use this funding to help compensate for overtime used to investigate and solve these violent crimes.
- The Buncombe County Sheriff's Office will use the funds to purchase protective gear such as helmets, goggles and gas masks.

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

Committee(s):
- Public Safety Committee - November 17, 2021 - 2-1 vote to approve

Pro(s):
- Ensures the ability to better protect the safety of the residents of Asheville and Buncombe County.

Con(s):
- None

Fiscal Impact:
- There is no local match required.

Motion:
- Motion to adopt a resolution approving the application and acceptance of the grant and a budget ordinance amendment in the City's Special Revenue Fund in the amount of $76,873.

Councilwoman Roney noted reasons for pulling Consent Agenda Items "J", "K" and "N", Asheville obviously has an opportunity to diversify our public safety response instead of sometimes simply not responding, which she feels is inappropriate. And to address the root causes of crime through investment in long-term safety strategies, including partnering for community paramedicine, domestic violence prevention, violence interrupter programs, youth mentorship, homelessness, opioid and overdose response, re-entry programming and mental health services. Instead, we are being asked to expand funding available for business as usual, which is the criminalization of our neighbors who are suffering. That is not something she can support additional, matched funding for.

Councilwoman Wisler moved to adopt a resolution authorizing the Mayor to apply for and accept the U.S. Dept. of Justice 2021 Edward Byrne Justice Grant, and the associated budget amendment. This motion was seconded by Councilwoman Kilgore and carried on a roll call vote of 6-1, with Councilwoman Roney voting "no."

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K. RESOLUTION NO. 21-254 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT THE 2021 BULLETPROOF VEST GRANT FROM THE U.S. DEPT. OF JUSTICE

ORDINANCE NO. 4915 - BUDGET AMENDMENT FOR THE BULLETPROOF VEST GRANT

Action Requested: Adoption of a resolution to apply for and accept the 2021 Bulletproof Vest (BVP) Grant from the U.S. Dept. of Justice; and adopt a budget amendment in the City's Special Revenue Fund in the amount of $61,740.

Background:

- The City of Asheville receives an annual opportunity to apply for a U.S. Department of Justice (DOJ), Bulletproof Vest Partnership (BVP) Grant.
- The DOJ has preliminarily determined that the Asheville Police Department (APD) is eligible to receive a 2021 award of $30,870 which requires a dollar for dollar match by the City.
- The funding will allow the purchase of 84 bulletproof vests over the 2 year life of the grant.
- Vests protect law enforcement officers and reduce line-of-duty deaths and disabling injuries.
- Congress has appropriated taxpayer funding to be used specifically for body armor to protect officers and distributes these funds by way of this grant to help offset the costs of providing them to officers.
- In the last three decades body armor saved the lives of more than 3,000 police officers.
- The Police Executive Research Forum (PERF) has conducted studies on the effectiveness of body armor in saving lives. Results show that by not wearing ballistic armor, police officers have 14 times the risk of dying of an injury.

Council Goal(s):

- A Connected and Engaged Community

Committee(s):

- Public Safety Committee - November 17, 2021 - 2-1 vote to approve

Pro(s):

- Increases officer safety by providing crucial safety equipment.
- Reduction in cost to the City of Asheville for the purchase of bulletproof vests

Con(s):

- None

Fiscal Impact:

- The City of Asheville's match is $30,870 and is already included in the adopted APD Fiscal Year 2021-22 budget.
- It should be noted that the overall fiscal impact to the City of Asheville is reduced because the Police Department would have to purchase these vests at full replacement costs if the grant is not accepted.

Councilwoman Turner moved to adopt a resolution approving the application and acceptance of the grant from the U.S. Dept. of Justice; and a budget ordinance amendment in the City's Special Revenue Fund in the amount of $61,740. This motion was seconded by Vice-Mayor Smith and carried on a roll call vote of 6-1, with Councilwoman Roney voting "no."

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N. RESOLUTION NO. 21-258 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EPIC RECRUITING TO CREATE RECRUITING MEDIA, CREATE A RECRUITMENT WEBSITE, AND STRATEGIZE AND MARKET THE CITY OF ASHEVILLE AND THE ASHEVILLE POLICE DEPARTMENT TO RECRUIT EXCEPTIONAL POLICE APPLICANTS

Action Requested: Approval to enter into a contract with EPIC Recruiting to create recruiting media, create a recruitment website, and strategize and market the City of Asheville and the department to recruit exceptional police applicants.

Background:

- The police department currently has 60 vacancies of the authorized 238 sworn officer positions.
- Typical recruiting efforts include attending career events and conducting informational sessions at local job fairs and colleges and universities in the region.
- Due to the COVID-19 pandemic, in-person recruitment events were canceled or limited due to health precautions.
- This was also during the time the department saw an unprecedented number of resignations and is in the most need to promote the department and seek qualified applicants.
- A contract with an experienced Police Recruiting Consultant will assist the department in reaching exceptional applicants, to include a more diverse recruiting pool, in a nationwide online recruiting campaign.
- To recruit these exceptional applicants, a proven consultant with an identified strategy and marketing plan has been identified.
- The consultant will help create recruiting videos and a website to highlight the City of Asheville as a great place to live and the police department as a great place to work.
- EPIC Recruiting was the successful proposer and will provide the services for $225,000 which requires the approval of the City Council.
- The Asheville Police Department has identified funding within its existing budget from one-time savings in the existing AXON contract, due to the return of surplus equipment to pay for this contract.
- There will be no additional funding needed in the Police Department budget to implement this contract.
- The contract duration is two years.
- This proposer has a proven history in successfully recruiting police candidates for multiple cities across the country.
- The proposer will bridge the gap between historical police recruiting techniques and current recruiting methods.
- The proposer will create new recruiting media, set up and manage recruiting website, and provide analytics pertinent to driving the right candidates to the application site.
- This firm will assist the department in attracting a diverse pool of applicants that is in alignment with what the community is requesting of its police department.

Council Goal(s):

- Smart City

Committee(s):

- None.

Pro(s):

- The proposal provided by EPIC Productions of Phoenix, LLC Recruiting meets and exceeds the request made by the department.
- The recruitment plan as laid out within the proposal will hopefully yield not only the required applicants but also provide feedback as to the success of the recruitment plan through the analytics provided by the contract and the company.

Con(s):

- None.

Fiscal Impact:

- As noted above, no additional funding is required.
- Funding for the contract will come from the existing Police Department operational budget through one-time savings identified from the return of surplus equipment as part of an existing Axon contract.

Patrick Conant encouraged City Council to ask more questions about what EPIC Recruiting will do to shift recruitment efforts. He expressed concern on how the contract is being funded with this new expense. It seems like the Police Department can always find money in their budget, suggesting that Council should provide a greater financial oversight of the Police Department's allocated funds.

Vice-Mayor Smith moved to adopt a resolution authorizing the City Manager to enter into a contract with EPIC Recruiting to create recruiting media, create a recruitment website, and strategize and market the City of Asheville and the Asheville Police Department to recruit exceptional police applicants. This motion was seconded by Councilwoman Wisler and carried on a roll call vote of 6-1, with Councilwoman Roney voting "no."

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III. PRESENTATIONS & REPORTS:

A. MANAGER'S REPORT - AMERICAN RESCUE PLAN ACT UPDATE (ARPA)

Recognition

City Manager Campbell said that Anthony Brown was performing field work as part of his regular duties. Mr. Brown was driving, doing his job as a leak detection specialist for the City of Asheville Water Resources Department, when he noticed a man in distress standing on the bridge over Interstate 40. He immediately turned around, got out of his vehicle and approached the man. Anthony told him his name and asked the man for his name. The man told Anthony there was nothing he could do to help him or save him. Mr. Brown told the man he wasn't there to judge him. He told him he was there because he cared. Mr. Brown said the man started telling him what he was going through. Mr. Brown explained to him that he had a brother who committed suicide and the pain never really goes away. It gets easier everyday, but the pain never really goes away. Mr. Brown said "as they talked, the man slowly started to walk back to Brown's truck, and, eventually, we came off that bridge safely."

City Manager Campbell congratulated Mr. Brown who has just been awarded the National American Water Works Association 2021 Heroism Award. She thanked him for not all that he does at the Water Department, but especially for his heroic act of kindness on that day.

American Rescue Plan Act (ARPA) Update

City Manager Campbell introduced Assistant to the City Manager Jaime Matthews who presented an update on ARPA. The key takeaways from this presentation will be (1) the requested funding far exceeds the amount allocated to the City; (2) staff is continuing to review the Request for Proposal responses through the end of the year; and (3) robust evaluation and scoring process based on Council approved categories and criteria.

Ms. Matthews reviewed the timeline, ARPA fiscal recovery fund goals, allowable uses, categories approved by Council, and approved/tentatively approved funding.

She reviewed the evaluation process (1) number of responses received - 70 total for $64,728,534 - significant amount of responses in the workforce development category; (2) scoring rubric based on Council approved (a) equitable community impact - 40%; (b) project plan and evaluation - 40%; and (c) organization's qualifications - 20%; (3) criteria created for objective evaluation, same process for internal and external applications; and (4) evaluation team - 27 staff evaluators from diverse departments and pay scales.

Next steps include continued staff evaluation process; and initial Council review and decision-making process.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE OPEN SPACE REQUIREMENTS AND RELATED AMENDMENTS

Councilwoman Roney moved to continue this public hearing until February 8, 2022. This motion was seconded by Vice-Mayor Smith and carried unanimously by roll call vote.

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO ARTICLES II AND XVI OF THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE DEFINITIONS AND STANDARDS FOR HOMESTAYS

ORDINANCE NO. 4917 - ORDINANCE AMENDING ARTICLES II AND XVI OF THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE DEFINITIONS AND STANDARDS FOR HOMESTAYS

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend Articles II and XVI of the Unified Development Ordinance to update definitions and standards for homestays. This public hearing was advertised on January 1 and 8, 2021. On January 12, 2021, this public hearing was continued until March 23, 2021. On March 23, 2021. On May 11, 2021, this public hearing was continued until May 25, 2021. On May 25, 2021, this public hearing was continued until September 28, 2021. On September 28, 2021, this public hearing was continued to this date.

Background:

- The City of Asheville has had standards allowing residential homes to be used for transient lodging for over 15 years, originally known as "Bed & Breakfast Homestays".
- The original set of standards were very limiting.
- In 2015 the homestay standards were updated to allow greater flexibility and opportunity for more households.
- Enforcement challenges followed and revisions to these standards were completed in 2016 and 2018 in an effort to provide more clarity and improve the city's ability to regulate and enforce the homestay standards.

- The city currently has 725 active homestay permits and 50 active enforcement cases (as of December 2021).
- At two separate meetings in the summer of 2018, the Planning and Economic Development
  Committee (PED) heard from members of the Homestay Network (a community based organization of homestay permit holders) and city staff regarding the regulation and enforcement of homestays.
- The city's new definition of "kitchen", adopted January 2018, was at the center of the discussions.
- On June 10, 2019 the PED Committee provided policy direction to staff to move forward with a change to the definition of "kitchen" along with other minor amendments.
- The adoption of this change was delayed however and, in the months that followed, City staff continued to work with community representatives and council members on standards designed to address both community and staff concerns.
- The subject of homestays was revisited by the PED Committee in March and April of 2020 to explore three proposed changes that including:
    1. Prohibiting the use of detached accessory structures for homestays;
    2. Allowing homestays to have a kitchen; and,
    3. Requiring non-resident property owners to be listed as co-hosts on a homestay application.
- The PED Committee provided clear direction in support of changes #1 and #3 but were not in agreement with respect to #2 for the changes related to kitchens in homestays.
- The draft ordinance is written **to allow** kitchens in homestays, which provides the greatest flexibility to move between short-term lodging and long-term living with the least amount of disruption.
- This is also the option recommended by the Planning & Zoning Commission.

Comprehensive Plan Consistency:

- This proposal best aligns with the *Living Asheville Comprehensive Plan* theme of a Resilient Economy by addressing the city's, "housing affordability challenges from a number of different angles, which include . . .creating more economic opportunities for wage growth and upward mobility" (p. 175).
- Also, under strategies to increase and diversify the housing supply, the Plan describes the need to, "Develop a comprehensive study of all lodging types and their impact on the community in order to evaluate policy options related to these different uses.
- In the interim, continue enforcement of illegal short-term vacation rentals" (p. 179).

Council Goal(s):

- A Well Planned and Livable Community

Committee(s) and Commission(s):

- Planning and Economic Development Committee - June 2018, August 2018, June 2019, November 2020, March 2021 and April 2021.
- Planning & Zoning Commission - December 2 (public hearing) and December 17 (vote), 2020. Approved unanimously, 6:0.

Fiscal Impact:

- No additional resources are being requested so no additional fiscal impact is anticipated.
- Homestay and Short-term Vacation Rental enforcement remains the single largest focus area within zoning enforcement and includes contracting with a third party software vendor to adequately monitor rental activity; this practice continues to be recommended.

Staff Recommendation:

- Staff recommends approval of the zoning text amendment for the reasons stated above.

Ms. Tuch explained what is being considered is a zoning text amendment to the UDO updating the regulations for homestays including (1) prohibiting the use of accessory structures for homestays; (2) allowing full kitchens in homestays; and (3) requiring owners to be co-applicants.

She provided some background, noting that homestays have been in place since 2006 (originally Bed & Breakfast Homestay). The City relaxed requirements and expanded options in 2015 as interest in and availability of online platforms grew. Standards were further refined in 2018 as part of a broader ordinance related to lodging - added definition of "kitchen." Ongoing conversation has highlighted interest in revising the definition of kitchen, along with other changes to address enforcement and housing concerns.

A dwelling unit means a series of rooms designed for independent, long-term living and which includes a separate bathroom, bedroom and kitchen. A homestay is a use that occurs within a dwelling unit and which can include up to two guest rooms that are used to provide overnight short-term lodging accommodations for compensation. A homestay is secondary to the main residential use of the home and the dwelling must be occupied by a full-time, long-term resident.

She then explained the first amendment of prohibiting the use of accessory structures as a homestay. The second amendment will require property owners not living on the property to be a co-applicant on all homestay applications; and limit all applicants to only one homestay permit. And, the third amendment regarding the definition of kitchen is to simplify the existing definition and clarify that kitchens be permitted in homestays.

The Planning & Economic Development Committee (PED) unanimously supported Amendments #1 (prohibiting the use of detached accessory structures) & #2 (requiring property owners to be co-applicants), but were not in agreement with regards to #3 (kitchens). The Planning & Zoning Commission unanimously supported all three amendments.

Staff's recommendation (1) consistent with the PED & the Planning & Zoning Commission's recommendation, staff supports the proposed changes prohibiting the use of accessory structures as homestays (#1), and requiring property owners to be a co-applicant (#2); and (2) consistent with the Planning & Zoning Commission's recommendation, staff also supports the proposed change to allow kitchens in homestays (#3).

Ms. Tuch responded to various questions/comments from Council, some being, but are not limited to: how do we enforce requiring property owners not living on the property to be a co-applicant on all homestay applications; how successful are we with the collection of fines that are imposed; what happens if there is more than one property owner not living on the property; and are we going to grandfather in existing homestays.

In response to Councilwoman Wisler regarding ownership of homestay permits, Ms. Tuch had no problem in amending language that no more than 5% (currently 30%) ownership in an LLC, corporation, trust or other legal entity shall be a sufficient ownership stake to constitute ownership for the purpose of the limitation of a homestay permit.

Mayor Manheimer opened the public hearing at 5:40 p.m.

From advanced live call-ins, three individuals spoke in opposition to the UDO amendment.

From advanced live call-ins, two individuals spoke in support of the UDO amendment.

One individual felt that if Council votes to adopt this amendment, we should inventory the current affordable long-term rental properties and carefully monitor how many of those property owners apply for short term rental permits so we actually know the impact on affordable rental properties in Asheville.

Mayor Maheimer closed the public hearing at 5:56 p.m.

Councilwoman Kilgore, Roney and Turner were all concerned about the enforcement of these amendments.

Councilwoman Roney was concerned that if we convince our neighbors that density of development on transit corridors is what we need, and we do, but we are not enforcing the short term rental aspect of it - then we are really just expanding lodging use into the neighborhoods. She did not support that. She hoped to revisit conversation around enforcement because that is going to take more work. She asked that we revisit this in 6 months or sooner to see the data around enforcement.

Councilwoman Turner shared the concerns raised by some of the callers and shared concerns of ongoing enforcement issues, illegal units, absentee homeowners, neighbors being lost in neighborhoods, etc. In 2019 we had the highest percentage of our housing stock being used for short term use in the country. She hoped in the end that this becomes a win for the community. There are some truths to the fact that this might create some more housing stock, but whether or not it's used long-term now or later is up for debate. She hoped this would not push housing prices up and hope that it creates more shared-housing opportunities. She was hopeful that this helps more people than it hurts. She was very concerned about displacement.

Mayor Manheimer acknowledged that we are struggling on the enforcement side and even when Council allocated funding for additional staff we have not been able to keep up with everyone who violates the rules. We must continue to work on the enforcement side.

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

Councilwoman Wisler moved to approve the zoning text amendment with changes to Chapter 7, Articles 2 and 16, updating standards for the regulation of homestays, with an amendment to Section 7-16-1 (c) 9 (j) to read "Homestay permits shall be limited to one person, immediate household, LLC, corporation, trust or other legal entity. A person's immediate household shall include a spouse, children, or any other relative residing in the same home. No more than 5 percent ownership in an LLC, corporation, trust or other legal entity shall be a sufficient ownership stake to constitute ownership for the purposes of this limitation", and find that the request is reasonable, is in the public interest, is consistent with the city's comprehensive plan and meets the needs of the community in that the request: 1) balances economic opportunity for income growth and upward mobility with preserving quality of life in residential neighborhoods; 2) supports affordable housing arrangements; and, 3) supports the tourism economy. This motion was seconded by Councilwoman Mosley and carried on a 6-1 roll call vote, with Councilwoman Turner voting "no".

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C. 99999 SWEETEN CREEK ROAD

PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF 99999 SWEETEN CREEK ROAD

ORDINANCE NO. 4918 - ORDINANCE EXTENDING THE CORPORATE LIMITED OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED AT 99999 SWEETEN CREEK ROAD

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville, North Carolina, by annexing a contiguous area of 10.88 acres of city-owned property located at 99999 Sweeten Creek Road in south Asheville. This public hearing was advertised on December 3, 2021.

Background:

- The City of Asheville purchased 10.88 acres located off of Sweeten Creek Rd. and identified in the Buncombe County tax records as PIN 9656-23-4325.
- Acquiring this land will enable the City of Asheville to provide future parks and recreation facilities in a part of the city that is currently underserved with these facilities.
- This property is located in Buncombe County but contiguous to the City of Asheville.
- It is preferred that city owned property be located within the city's jurisdiction; therefore, an annexation of the subject property is proposed.
- Based on guidance from the North Carolina School of Government, a petition for annexation is not required for city owned property and, as such, a Certificate of Sufficiency is not required.
- The property is described in the ordinance and petitioner's Exhibit A, and qualifies for annexation by petition as set forth in the North Carolina General Statutes 160A-31 and NC General Assembly Session Law 2005-139.
- Resolution 21-237 was adopted on November 9, 2021 setting the public hearing for December 14, 2021.
- Pursuant to NCGS 160A-31, a public hearing must be held prior to adopting an ordinance for voluntary annexation.
- Should the annexation be approved, there is a 60 day transition period during which the city must assign a zoning designation to the property.
- A separate report recommending a zoning assignment of RS-4 has been submitted.
- There is a separate but related council report addressing the assignment of zoning.

Council Goal(s):

- A well-planned & livable community

Committee(s):

- None

Pro(s):

- Ensures that city owned property and city facilities are located within the city's own jurisdiction, simplifying permitting for future work.

Con(s):

- None

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that it will: 1) support non-residential development that is compatible with surrounding neighborhoods and that can enhance opportunities for future residential infill (pp. 345-347), and

2) Promote access to well-maintained parks and open space for all (pp.74-75 & 212-213).

Fiscal Impact:

- None.

Recommendation:

- Staff recommends approval of the voluntary annexation request for the reasons stated above.

PUBLIC HEARING TO ZONE 99999 SWEETEN CREEK ROAD TO RS-2 RESIDENTIAL LOW DENSITY DISTRICT AND LAND USE FUTURE MAP DESIGNATION TO PARKS/OPEN SPACE

ORDINANCE NO. 4919 - ORDINANCE TO ZONE 99999 SWEETEN CREEK ROAD TO RS-2 RESIDENTIAL LOW DENSITY DISTRICT AND FUTURE LAND USE MAP DESIGNATION TO PARKS/OPEN SPACE

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to zone 99999 Sweeten Creek Road to RS-2 Residential Single-Family Low Density District and Future Land Use Map designation to Parks/Open Space to a 10.88 acre parcel that is to be voluntarily annexed into the City of Asheville. This public hearing was advertised on December 3 and 10, 2021.

Project Location and Contacts:

- The voluntary annexation petition includes a10.88 acre parcel located at 99999 Sweeten Creek Rd. (PIN 9656-23-4325).
- Owner/Petitioner: City of Asheville.

Summary of Petition:

- The City of Asheville acquired the subject property on September 27, 2021 for the purpose of expanding parks and recreation facilities in an area that is underserved by these facilities.
- This property is located in Buncombe County but contiguous to the City of Asheville.
- It is preferred that city owned property be located within the city's jurisdiction; therefore, an annexation of the subject property is proposed.
- Newly annexed property must be assigned a zoning designation within 60 days of annexation.
- The subject property is currently zoned R3 in Buncombe County but is adjacent to city zoned RS-2 properties to the west.
- Assigning a designation that is consistent with adjacent zoning ensures compatibility with surrounding properties.
- Parks and recreation facilities are permitted in most zoning districts, including all residential zoning districts.
- The Future Land Use map of the Living Asheville Comprehensive Plan includes a designation titled, "Parks / Open Space" which is intended to include a, "wide variety of different park facilities, active and passive open space, and greenways".
- There is a separate but related council report addressing the requested voluntary annexation.

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that it will, 1) support orderly growth and development by assigning a zoning and land use designation that is compatible with surrounding properties (pp. 345-347); and,

2) promote access to well-maintained parks and open space for all (pp.74-75 & 212-213).

Compatibility Analysis:

- The purpose of the RS-2 zoning is to support low density, single-family development that stabilizes and protects the residential character but also notes that, “non single-family development normally required to provide the basic elements of a balanced and attractive residential area is also permitted” (UDO Sec. 7-8-3.a).
- To the north, the property is buffered by the Blue Ridge Parkway which is unzoned federal land.
- To the south, the subject property is bounded by existing soccer fields currently zoned R2 in Buncombe County.
- To the west, a 100 foot wide railroad right-of-way separates the subject property from an adjacent RS-2/RS-4 single-family residential community that is located within the City of Asheville jurisdiction.
- To the east is a large (312 acre), undeveloped parcel zoned R-2, which allows single-family development with densities similar to those found in the city’s RS-2 and RS-4 zoning districts.

Council Goal(s):

- A Well-Planned and Livable Community

Committee(s):

- Planning & Zoning Commission - November 3, 2021 (see recommendation)

Pro(s):

- Assigns a designation consistent with the surrounding zoning and uses.
- Assigns a designation that allows parks and recreation facilities.

Con(s):

- None identified.

Mayor Manheimer opened the public hearing at 6:16 p.m., and since there were no advanced live call-ins, she closed the public hearing at 6:16 p.m.

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

Councilwoman Kilgore moved to adopt the ordinance approving the voluntary annexation of 10.88 acres located at 99999 Sweeten Creek Road. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

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Councilwoman Mosley moved to approve the initial zoning request to Residential Single-family, Low Density (RS-2) and a Future Land Use map designation of Parks / Open Space, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: the initial zoning will, 1) support orderly growth and development by assigning a zoning and land use designation that is compatible with surrounding properties; and, 2) assist in locating parks and recreation facilities in parts of the city currently underserved by these facilities. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

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D. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF UPDATING STANDARDS RELATED TO HOTEL DEVELOPMENT

ORDINANCE NO. 4920 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF UPDATING STANDARDS RELATED TO HOTEL DEVELOPMENT

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend the Unified Development Ordinance for the purpose of updating standards related to hotel development. This public hearing was advertised on December 3 and 10, 2021.

Background:

- On February 23, 2021, the Asheville City Council adopted Ordinance No. 4855, "Ordinance Amending Chapter 7 of the Code of Ordinances of the City of Asheville to establish new standards for hotel development."
- The adoption of this ordinance marked the end of a 17 month long development moratorium on hotels.
- Upon adoption of Ordinance No. 4855, the Asheville City Council requested that staff return in approximately 6 months to provide an update.
- A report was presented on September 14, 2021, to the Asheville City Council providing an update on hotel development activity and observations regarding the review process and the application of the new hotel standards.
- A number of code clarifications were recommended as part of the staff report to Council.
- Council requested that staff return with a zoning text amendment addressing those clarifications.
- Recommended code revisions include:
    - Change 1 - Revisions to definitions for large, small and extended stay hotels in order to define operational requirements and expectations for a hotel, as opposed to other forms of lodging; and to allow for more individualized regulation - Based on these operational features, extended stay hotels can only be large hotels
    - Change 2 - Clarification that off-street parking is required for hotels in the CBD
    - - Supports the current interpretation
    - Change 3 - Clarification that hotels under 100,000 square feet may be reviewed as a Level 1 or Level II (and not just Level IIs)
    - Change 4 - Clarify dimensions for storefronts to be consistent with CBD standards for liner buildings, and allow for greater flexibility.
    - Change 5 - Require that off-street parking requirements for hotels be satisfied on-site (no shared or remote parking options)

Comprehensive Plan Consistency:

- As with the previous hotel amendment, this proposal aligns with a number of themes within the ***Living Asheville Comprehensive Plan*** including:
    - 'A Livable Built Environment' by encouraging responsible growth (p. 130) that promotes great architecture and urban design to enhance placemaking (p. 139) and
    - A 'Resilient Economy' by further implementing a comprehensive study of lodging facilities and their impact, and to develop new policies (pp. 178-9).

Council Goal(s):

- A Well-Planned & Livable Community

Committee(s):

- A report to the Asheville City Council was provided on September 14, 2021.
- This amendment was reviewed by the Planning & Zoning Commission on December 1, 2021 and was approved unanimously, 7:0.
- The Downtown Commission also discussed the proposed amendment at their November 12, 2021 and expressed support with the recommendation that the text amendment be revised to require off-street parking to be provided on-site (disallowing shared or remote parking options).

Pro(s):

- Clarifies standards to better reflect current practices.
- Further distinguishes hotel lodging uses for appropriate regulation that better offsets impacts.

Con(s):

- None identified.

Fiscal Impact:

- None

She explained the following three definition changes: (1) *Hotel, small* means a commercial lodging establishment, under single management with on-site supervisory personnel, containing seven to 35 guest rooms offered to the general public for transient lodging accommodations and which may contain ancillary facilities or services such as ~~restaurants, bars, coffee shops~~ **dining areas,** exercise rooms, swimming pools, ~~spas~~ and meeting rooms. This definition shall **not i**nclude extended stay hotels; (2) *Hotel, large* means a commercial lodging establishment, under single management with **a dedicated lobby and** on-site supervisory personnel **present 24 hours a day, seven days a week**, containing 36 or more guest rooms offered to the general public for transient lodging accommodations and which **contains in-house staff and facilities for housekeeping. Large hotels** may **also** contain ancillary facilities or services such as **laundry**, ~~restaurants, bars, coffee shops~~ **dining areas,** exercise rooms, swimming pools, ~~spas~~ and meeting rooms. This definition shall include extended stay hotels; and (3) *Hotel, extended stay* means a ~~commercial lodging establishment, under single management commonly with on-site supervisory personnel, containing two or more individual units each providing accommodations for sleeping, sanitation and a kitchen and which may contain ancillary facilities or services such as restaurants, bars, coffee shops, exercise rooms, swimming pools, spas and meeting rooms.~~ **large hotel, under single management, containing 36 or more individual units or suites, each providing accommodations for sleeping, sanitation and a kitchen.**

Ms. Tuch said that staff concurs with the Planning & Zoning Commission and recommends approval of the proposed zoning text amendment.

In response to Councilwoman Kiglore, Ms. Tuch said that this amendment will only apply to new hotel applications moving forward.

In response to Councilwoman Roney regarding Level I reviews, Ms. Tuch explained that the standards and code requirements are the same for Level I and Level II reviews, but the process is different. Level II reviews go through the Technical Review Committee, but Level I projects do not. She didn't see any reason why we treated these smaller hotel projects any different than other small projects.

Mayor Manheimer opened the public hearing at 6:27 p.m., and since there were no advanced live call-ins, she closed the public hearing at 6:27 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 proposed wording amendments to Chapter 7 of the UDO and find that the proposed amendments are reasonable, in the public interest, and consistent with the city's comprehensive plan in that they: 1) encourage responsible growth by developing clear and comprehensive development standards; 2) promote great architecture and urban design to enhance placemaking; and, 3) act on a comprehensive study of lodging facilities and their impact by developing new policies for hotel development. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

ORDINANCE BOOK NO. 34 – PAGE 30

E. CORRIDOR STUDIES AS AMENDMENTS TO THE ASHEVILLE IN MOTION MOBILITY PLAN

Mayor Manheimer said that the presentations and public hearings for the three corridor studies will be combined; however, each will require a separate vote.

PUBLIC HEARING TO CONSIDER ADOPTION OF A CORRIDOR STUDY ON HENDERSONVILLE ROAD

PUBLIC HEARING TO CONSIDER ADOPTION OF A CORRIDOR STUDY ON TUNNEL ROAD

PUBLIC HEARING TO CONSIDER ADOPTION OF A CORRIDOR STUDY ON BILTMORE AVENUE AND MCDOWELL STREET

RESOLUTION NO. 21-261 - RESOLUTION ADOPTING A CORRIDOR STUDY ON HENDERSONVILLE ROAD AS AN AMENDMENT TO THE ASHEVILLE IN MOTION MOBILITY PLAN

RESOLUTION NO. 21-262 - RESOLUTION ADOPTING A CORRIDOR STUDY ON TUNNEL ROAD AS AN AMENDMENT TO THE ASHEVILLE IN MOTION MOBILITY PLAN

RESOLUTION NO. 21-263 - RESOLUTION ADOPTING A CORRIDOR STUDY ON BILTMORE AVENUE AND MCDOWELL STREET AS AN AMENDMENT TO THE ASHEVILLE IN MOTION MOBILITY PLAN

Assistant Transportation Director Jessica Morriss said that this is the consideration of resolutions adopting the Transportation Corridor Studies on Hendersonville Road; on Tunnel Road; and on Biltmore Avenue/McDowell Street as amendments to the Asheville in Motion Mobility Plan. These public hearings were advertised on October 1 and 8, 2021. On October 12, 2021, these public hearings were continued to November 9, 2021. On November 9, 2021, these public hearings were continued to this date.

Background:

- The French Broad River Metropolitan Planning Organization (MPO) is the recipient of federal transportation planning funds.
- The MPO is staffed by the Land of Sky Regional Council.

- In addition to regular transportation planning activities, the MPO recently funded three corridor studies in Asheville.
- The studies take an in-depth look at development trends, travel patterns and other plans and goals to evaluate and consider future multimodal transportation improvements.
- For all three studies, consultants were hired through a competitive process to conduct the work.
- Two of the studies, Hendersonville Road and Tunnel Road, were managed by MPO staff.
- The Biltmore Avenue/McDowell Street study was managed by City staff.
- All three studies had multiple public input opportunities through virtual public meetings, surveys, stakeholder meetings, and other outreach.
- North Carolina Department of Transportation (NCDOT) staff also participated in the development of all three studies, as the agency is responsible for operating and maintaining the corridors.
- Each study contains a range of recommended short and long-term projects aimed at:
    - supporting the City's land-use objectives,
    - improving multimodal transportation,
    - improving safety,
    - calming traffic,
    - increasing connectivity, and
    - enhancing transit.
- The studies themselves do not commit the City in any way, financially or otherwise, to implement the recommendations contained within each study.
- The purpose of the studies is to provide a vision for:
    - "positive change" for each corridor,
    - explore potential transportation solutions and costs, and
    - to document public and stakeholder input.
- Adoption of the documents as amendments to the 2016 Asheville In Motion (AIM) Mobility Plan ensures that the AIM Plan remains a current and relevant living document.
- Adoption also ensures that these documents are referred to and incorporated into future corridor projects undertaken by NCDOT, as required by the NCDOT's Complete Streets Policy, as well as ensuring that they are referenced for City CIP projects, and private-development applications.
- Links to corridor study reports:
    - Hendersonville Road - From Rock Hill Road to Airport Road
    - Tunnel Road and South Tunnel Road - From Beaucatcher Tunnel to Swannanoa River Road
    - Biltmore Avenue/McDowell Street - From Hilliard Ave. to All Souls Crescent

Council Goal(s):
- Well-planned and livable community
- Transportation and accessibility

Other Committee(s):
- Bicycle and Pedestrian Task Force - May 20, 2021 - No formal action taken
- Planning and Zoning Commission - September 1, 2021; Vote in favor of endorsing the studies and advancing to City Council
  Multimodal Transportation Commission - June 23, 2021 (Biltmore/McDowell); August 25, 2021 (Hendersonville Road and Tunnel Road) - No formal actions taken

Pro(s):
- Aligns with other policies and plans such as the Complete Streets Policy, Pedestrian Plan, Bicycle Plan, and the Living Asheville Comprehensive Plan.
- Provides a vision and recommended improvements for each corridor to be considered as in planning future projects.

Con(s):

- As planning-level studies, the recommendations for corridor improvements within the plans should be considered as guides for future projects and not considered as exact designs that will be implemented as shown.

Fiscal Impact:

- There are no fiscal impacts associated with these actions.
- There are currently no funds programmed by any agency to implement the recommended improvements.

Assistant Director of Transportation Jessica Morriss gave an overview of (1) partnership between Buncombe County, City of Asheville and the Metropolitan Planning Organization (MPO) (N.C. Dept. of Transportation was part of the steering committees as well); (2) each study provided multiple opportunities for public comment; (3) gives a starting point for a vision of "positive change" for each corridor; and (4) enables better documentation and involvement at an early stage - before major design and construction.

Regarding Hendersonville Road and Tunnel Road, (1) managed by the MPO, in cooperation with the City and County; (2) both corridors were considered "high priorities" for improvements in the region; (3) County chose Hendersonville Road; and (4) City chose Tunnel Road.

Regarding Biltmore Avenue and McDowell Street, (1) managed by the City; (2) funded by the City and the MPO; and (3) came about from several planned projects on the corridors that required further study.

The purpose of the studies is to tie land use and transportation together. In addition, they document a vision for the future (1) corridor studies can help improve the planning process; (2) earlier understanding of needs and constraints; (3) earlier look at potential costs; and (4) aims to get the public involved earlier/create awareness.

Regarding Hendersonville Road, the study area is 5.4 miles between Rock Hill Road and Sweeten Creek Road/Airport Road. It has 11,000+ residents and traffic volumes are 25k - 40k per day. Needs identified include (1) safety issues; (2) increasing congestion; (3) lack of connectivity; (4) lack of bike/pedestrian; (5) infrequent transit services; and (6) constrained corridor. Recommendations include (1) add a multi use path along the corridor; (2) increase transit frequency; (3) add a median to improve safety; (4) improve access management (reduce driveways); (5) improve intersections to reduce congestion; (6) minimize right-of-way needs; and (7) create more connectivity to disperse traffic.

Regarding Tunnel Road, the study area is 1.75 miles between the tunnel and Swannanoa River Road. It has 240 residences with significant commercial and employment. The traffic volumes are 12k - 21k per day (decreasing). Needs identified include (1) safety issues; (2) some congestion; (3) lack of connectivity; (4) lack of bike/pedestrian; (5) constrained corridor; and (6) expected redevelopment. Recommendations include (1) road diet from Chunns Cove to South Tunnel Road to add multimodal and improve safety; (2) improve signal timing; (3) improve intersections to reduce congestion; (4) add roadway connections/create more of a grid; and (5) transition to more urban land uses.

Regarding Biltmore Avenue and McDowell Street, the study area is 2.1 miles between College/Hilliard and Vanderbilt/All Souls Crescent; (2) Mission Hospital and medical offices; and (3) major employment and commercial (Biltmore Village). Needs identified include (1) safety issues; (2) some congestion; (3) lack of connectivity; (4) lack of bike/pedestrian; (5) constrained

corridor; and (6) must maintain hospital access. Recommendations include (1) consider corridors as a functioning pair; (2) rebalance lanes to continue hospital access but also be able to add multimodal; and (3) consider intersection improvements at major bottlenecks.

In summary, the corridor studies set the stage for future infrastructure improvements. They allow the public to get involved earlier in the process. Adopting the studies as amendments to the Asheville in Motion Mobility Plan means (1) the N.C. Dept. of Transportation has to consider them in their planning; and (2) the City can refer to them when reviewing development applications. Adopting the studies does not commit the City or the N.C. Dept. of Transportation to any specific improvement, schedule, or funding contribution.

When Councilwoman Wisler asked if the County's Emergency Medical Services and the City's emergency services have been consulted about the road diet suggested on McDowell & Biltmore Avenue, Ms. Morriss said that she would need to follow-up to see if they were a part of any of the public input; however, her recollection was that when road diets were discussed in general, public safety staff felt it would actually help with traffic flow as it would give additional room to maneuver as needed.

Councilwoman Roney knows that we have a lot of attention in our community around bike and pedestrian facilities. We do not want to be at the top of the highest bike and pedestrian accident ratio in the state. She asked that in all plans that reference bike/pedestrian, that we include the addition of ADA compliance as an identified need. Ms. Morriss noted that any new facilities as part of the corridor studies, or any other project, is required to be ADA compliant.

Mayor Manheimer opened the public hearings at 6:47 p.m.

From advanced live call-ins, two individuals spoke in opposition of the Hendersonville Road corridor study and the Tunnel Road corridor study respectively, for several reasons, some being, but are not limited to: N.C. Dept. of Transportation invested millions on Hendersonville Road to increase traffic flow and the corridor study wants to reduce that flow; landscape islands will slow traffic and create more congestion; an unintended consequence is that if driveway cuts are changed, commercial tenants have the right to cancel their leases; and loan documents on commercial properties have language that if the site plan or access changes, they can call the note due; concern about emergency vehicle access if the road diet is instituted; and lack of communication with affected property owners on Tunnel Road.

From advanced live call-ins, two individuals spoke in support of the three corridor studies, for several reasons, some being, but are not limited to: we need to utilize every tool we have to make our streets safer; and corridor plans will result in needed safety changes.

Mayor Manheimer closed the public hearings at 6:57p.m.

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

Councilwoman Roney moved to adopt the Corridor Study on Hendersonville Road Corridor Studies, as an amendment to the Asheville In Motion Mobility Plan with the addition of ADA compliance as an identified need. This motion was seconded by Councilwoman Turner and carried unanimously. by roll call vote.

RESOLUTION BOOK NO. 42 – PAGE 453

Councilwoman Roney moved to adopt the Corridor Study on Tunnel Road. as an amendment to the Asheville in Motion Mobility Plan with the addition of ADA compliance as an

identified need. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

RESOLUTION BOOK NO. 42 – PAGE 454

Councilwoman Wisler moved to adopt the Corridor Study on Biltmore Avenue/McDowel Street, as an amendment to the Asheville in Motion Mobility Plan with the addition of ADA compliance as an identified need. This motion was seconded by Councilwoman Roney and carried unanimously by roll call vote.

RESOLUTION BOOK NO. 42 – PAGE 455

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING ORDINANCE ADOPTED ON OCTOBER 9, 2018 (ORDINANCE NO. 4702), LOCATED AT 511 BREVARD ROAD, TO REMOVE A RESTRICTION ON DRIVE-THROUGH USES

Councilwoman Mosley moved to continue this public hearing until March 22, 2022. This motion was seconded by Councilwoman Kilgore and carried unanimously by roll call vote.

V. UNFINISHED BUSINESS:

A. ASSIGNMENT OF PURCHASE CONTRACT AT 148-150 RIVER FORD PARKWAY

RESOLUTION NO. 21-264 - RESOLUTION TO AUTHORIZE A CONTRACT RATIFICATION TO ASSIGN THE REAL ESTATE CONTRACTS FOR PROPERTY ON 148-150 RIVER FORD PARKWAY TO SHANGRI-LA INDUSTRIES INC. FOR THE PURPOSES OF CREATING PERMANENT SUPPORTIVE HOUSING

RESOLUTION NO. 21-265 - RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE A FUNDING AGREEMENT WITH STEP UP ON SECOND STREET INC. FOR THE PROVISION OF SUPPORTIVE SERVICES FOR FUTURE RESIDENTS OF PERMANENT SUPPORTIVE HOUSING AT 148-150 RIVER FORD PARKWAY

RESOLUTION NO. 21-266 - RESOLUTION TO AUTHORIZE CONTRACT AMENDMENTS WITH FIVE P MOUNTAIN LLC AND SUNRISE COMMUNITY FOR RECOVERY & WELLNESS FOR ROOM NIGHTS AND SUPPORTIVE SERVICES FOR CURRENT SHELTER PARTICIPANTS EXTENDING THE CONTRACT TERMS THROUGH MARCH 31, 2022

ORDINANCE NO. 4921 - BUDGET AMENDMENT IN THE SPECIAL REVENUE FUND FROM ARPA FUNDING TO FUND THE GRANT AGREEMENT WITH STEP UP ON SECOND STREET INC., THE CONTRACT AMENDMENT WITH FIVE P MOUNTAIN LLC FOR ROOM NIGHTS UNTIL MARCH 31, 2022, AND THE CONTRACT AMENDMENT WITH SUNRISE COMMUNITY FOR RECOVERY & WELLNESS FOR ACCOMPANYING SUPPORTIVE SERVICES

Director of Community & Economic Development Nikki Reid said that this is the consideration of the following actions: (1) Authorize a contract ratification to assign the real estate contracts for property on 148-150 River Ford Parkway to Shangri-La Industries, Inc. for the purposes of creating permanent supportive housing; (2) Authorize the City Manager to execute a

funding agreement with Step Up on Second Street, Inc. for the provision of supportive services for future residents of permanent supportive housing at 148-150 River Ford Parkway; (3) Authorize contract amendments with Five P Mountain, LLC and Sunrise Community for Recovery & Wellness for room nights and supportive services for current shelter participants extending the contract terms through March 31, 2022; and (4) Authorize a budget amendment in the Special Revenue Fund in the amount of $1,056,000 from American Rescue Plan (ARPA) funding to fund the grant agreement with Step Up on Second Street, Inc. for $500,000, the contract amendment with Five P Mountain, LLC for room nights until March 31, 2022 in the amount of $366,000 and the contract amendment with Sunrise Community for Recovery & Wellness for accompanying supportive services in the amount of $190,000.

Background:

- Earlier this year, the City entered into a contract to purchase real estate at 148 and 150 River Ford Parkway (aka the Ramada) for the purpose of creating an Emergency Shelter to serve the unsheltered homeless population.
- The contract expires Dec 15, and the City must give notice to purchase or withdraw the offer.
- Funding and community partners have requested a more extensive planning process in order to achieve long-term success in the development of a new emergency shelter.
- Partners have also indicated the need for additional permanent supportive housing for homeless veterans and people who are chronically homeless, and the Ramada property is also a superior site for permanent supportive housing.
- Staff has identified a path forward that seeks to provide an opportunity to accomplish multiple goals to include:
    - Goal 1 - continue to work with funding partners and the community on a new consultant-led planning process for the development of an emergency shelter in a different location, yet to be determined
    - Goal 2 - pursue positive outcomes for 80 people currently sheltered at Ramada and continue that operation through March, using that time to work on housing solutions for each participant
    - Goal 3 - Transfer the Ramada purchase contracts to a private entity / non-profit partnership to re-purpose for permanent supportive housing instead of the shelter use

- To implement Goal 2, the City will extend its existing contracts with Five P Mountain, LLC and Sunrise Community for Recovery & Wellness through March 31, 2021 and will seek partnership funding to share in these costs.
- To implement Goal 3, the City will assign its contractual rights to purchase the Ramada property to a private entity known as Shangri-La Industries, Inc.
- This firm uses purpose-driven, low-return, private sector financing to acquire and rehab hotels into housing units and secures project-based housing vouchers to cover the carrying costs and long-term capital maintenance. In exchange for this contract assignment, Shangri-La Industries will execute a deed restriction with the City of Asheville for a period of 50 years for permanent supportive housing.
- Their non-profit partner, Step Up on Second Street, Inc., provides on-site case management services for residents, including mental health services, counseling, substance use recovery support and linking to community resources.
- This for-profit / non-profit partnership is part of a national strategy to provide permanent supportive housing for individuals experiencing chronic homelessness and this experienced partnership has rolled out successful hotel conversions for permanent supportive housing in California.

- In this location at River Ford Parkway, the intent of the partnership is to provide 50+ units of permanent supportive housing to homeless veterans, and 50+ units of permanent supportive housing to chronically homeless individuals.
- Step Up on Second Street, Inc. has requested a one-time funding grant of $1.5M in ARPA funds, designed to meet the supportive services needs of residents for a three-year period, allowing Step Up to secure sustainable funding from other sources for ongoing resident service needs.

Council Goal(s):
- Quality affordable housing
- A Well-Planned and Livable Community

Committee(s):
- None

Pro(s):
- Addresses public health and safety
- Prevents current shelter participants from returning to unsheltered homelessness
- Provides new pathway for shelter development
- Creates needed permanent supportive housing units
- Leverages new investment of private-sector resources and national expertise

Con(s):
- None

Fiscal Impact:
- Allocates funds from the American Rescue Plan (ARPA) in the Special Revenue Fund in the amount of $556,000 for existing shelter operations through March 31, 2022, and $1,500,000 for the initial three years of supportive services for permanent supportive housing.
- To date, the City has spent the following amounts of Affordable Housing Capital Improvement Program (CIP) funds on the real estate acquisition at Ramada
    - $44,500 in due diligence, including appraisals, environmental reviews, surveys, property inspections, etc.
    - $50,000 in earnest money
    - $35,000 in non-refundable deposits to the seller(s)
    - If the closing is successful, the City will be credited back its earnest money and deposits for a total amount of $85,000 from Shangri-La Industries, Inc.

City Manager Campbell said the key takeaways from this presentation will be (1) The City of Asheville is committed to an Emergency Shelter as an essential addition to our homeless service system - Deeper, more inclusive planning and a long-term funding strategy are needed to ensure success; (2) Housing is the goal for all people experiencing homelessness, and additional Permanent Supportive Housing is also essential for a high-functioning homeless service system; and (3) The need is great in our community - We need *every* partner and *new* partners to help meet the need.

Homeless Services System Performance Lead Emily Ball said that a retrospect of the non-congregate shelter at the Ramada is that since April 19, 2021: 116 people sheltered. Non-congregate shelters can safely serve people with complex needs; Growing national evidence that non-congregate, low-barrier shelters have stronger outcomes. City entered into a contract to purchase the Ramada to create an ongoing non-congregate shelter in May 2021. Published Request for Proposals (RFP) in August 2021 to identify Shelter Operator; identified

Sunrise Community for Recovery and Wellness as the top candidate based on population experience and proposed operation.

Ms. Ball said that the emergency shelter planning update is that community and funding partners expressed concerns about cost and project configuration. The project cost is : $24.75M (acquisition, rehab, operations) Concerns about total cost and sustainability of ongoing operational costs (est. $2.5-$3M annually. City not able to bear $24.75M cost alone.

Regarding a new opportunity for permanent supportive housing (1) Independent of shelter initiative at Ramada, City staff had been working with new partners to develop additional units of permanent supportive housing in Asheville (a) Permanent Supportive Housing (PSH) is a proven solution to chronic homelessness, providing long-term housing and supportive services; and (b) Additional units of PSH are needed in our community, alongside the units being created by local non-profits such as Homeward Bound (200+ people currently chronically homeless); and (2) Multiple benefits of Ramada location for long-term housing (e.g. proximity to bus line, groceries, employment opportunities, etc.).

Economic & Community Development Director Nikki Reid said that the path forward is that we are at a crossroads with the Ramada property. Real estate contract *expires Dec 15*, must give notice to *purchase* or *withdraw*. The proposed path forward seeks to accomplish multiple goals: (1) Goal 1 - continue to work with funding partners and the community on a new consultant-led planning process for an emergency shelter; (2) Goal 2 - continue / wind-down shelter operations until March 31, 2022 while working on housing solutions for each participant; and (3) Goal 3 - hand off the Ramada to a private entity / non-profit partnership to re-purpose for Permanent Supportive Housing instead of the shelter use.

Ms. Reid said that regarding Goal 1, which is long-term collaborative partnerships to move the needle on major issues in our region. Next steps for the Emergency Shelter initiative (1) Engage with partners in consultant-led planning process to develop and fund an Emergency Shelter project; (2) Future Emergency Shelter funding decisions made at a later date; and (3) *New emergency shelter project configuration would include capital and operating costs developed with funding partners.*

Ms. Reid said regarding Goal 2, which is to continue / wind-down shelter operations until March 31, 2022 while working on housing solutions for each participant. Next steps includes transition current shelter operations to preserve stability for 80 occupants (1) 3 months of shelter and services: $556K; and (2) Partners willing to consider cost share,

Regarding Goal 3, which is to hand off the Ramada to a private entity / non-profit partnership to re-purpose for Permanent Supportive Housing instead of the shelter use. Permanent Supportive Housing at Ramada (1) 50+ units of permanent affordable housing for homeless veterans; (2) 50+ units of permanent affordable housing for chronically homeless individuals; and (3) On-site wrap around services to support residents.

Ms. Ball talked about how tenants will access these units and what that process will be. She said that part of the vision for this property is that housing vouchers will be attached to these units. There are particular HUD regulations that we will need to follow to comply with the use of those housing vouchers. Additionally, when we talk about ending homelessness with permanent housing, the way that we do that in homeless programs is that they use a process called coordinated entry. Coordinated entry means that we pool all of our homeless people, pool all of our housing resources and assess the housing needs of people who are homeless and then make the most appropriate match based on that particular household. They are prioritized by their vulnerability. At this point, there is not a way to identify exactly who would be eligible for these particular units because the full assessment process will need to be gone through. She

highlighted the coordinated entry evaluation we have recently done. We looked at our coordinated entry data over the past year specifically related to demographics and outcomes. In our point in time counts, in January 2021, 70% of people identified as homeless were white; 24% were Black or African American; 2% were American Indian, Alaska Native, or Indigenous; and 4% were multiple races. Those are the comparative numbers we used when we looked at the demographics of those who are houses through coordinated entry. Point in time count - the total homeless population is about 70% white - the percentage of people who are housed in coordinated entry in the past year is 68% who are white. Point in time count - 24% Black or African American - the percentage housed in coordinated entry is 28% who are Black or African American. Point in time count - 2% American Indian, Alaska Native, or Indigenous - the percentage housed in coordinated entry is 2%. And, point in time count - 4% in multiple races - the percentage housed in coordinated entry is 2% in multiple races. The takeaway is that we were really specifically looking for disparities and outcomes in terms of who is housed in our community through the system that we have and we did not find those disparities when we compared that to our point in time count data.

Ms. Reid said that partners include Shangri-La Industries, a for-profit developer and general contractor, who would purchase the hotel, renovate it into housing, and continue to own it; and Step Up on Second Street, a non-profit permanent supportive housing provider contracted by Shangri-La to operate the project and provide supportive services to residents. Funding model is (1) Private capital (Shangri-La) to purchase and renovate; (2) Federal housing vouchers to pay the ongoing rent, which covers operational costs; and (3) Local funding for Step Up to provide supportive services at $500k per year. The process is that Shangri-La would close on property early 2022 and begin renovations with a projected occupancy in late 2022. Next steps include (1) Assign real estate contract to purchase to Shangri-La; and (2) Seed funding of $1.5M in ARPA funds for supportive services for initial 3 years (Step Up to diversify funding after 3 years) - Possible split with funding partners.

Opportunities include (1) Strategically meet a critical community need for more Permanent Supportive Housing; (2) High return on public investment: One time City grant of $1.5M leverages $10M+ private capital to create community asset that ends homelessness for 100+ people; (3) Willing to attach a 50-year affordable housing deed restriction on renovated Ramada building (4) Separate land parcel that is currently undeveloped that is included in this transaction and while there are no plans for that property at this time, Shangri-La has also agreed to restrict that vacant parcel to a residential use as as to preserve housing opportunities for our entire community; (5) Shangri-La has agreed to reimburse the City for all of its due diligence costs ($104,500) for the Ramada acquisition; and (6) Replicable model and proven track record in other communities.

She then reviewed a chart of funding implications from an emergency shelter at the Ramada - $24.75 Million vs. an emergency shelter transition with permanent supportive housing at Ramada - $2.056 Million.

Ms. Reid and Ms. Ball responded to various questions/comments from Council, some being, but are not limited to: explanation of why permanent supportive housing projects can get voucher funding and shelters cannot; do the units have to be inspected for livability, other than just a non-congregate living type situation;

Councilwoman Roney said that she appreciated the support to change to a housing use instead of a lodging use for this property. She was deeply concerned that we fumbled this emergency shelter funding. And in doing so, we have failed our neighbors experiencing homelessness that were temporarily housed in the Ramada Inn and we failed the residential and business neighborhoods in close proximity by not converting to a low barrier shelter already. So many neighbors are under the impression that it already is a low barrier shelter and that's not

working. But it isn't and that's our fault. She will look back on this as a loss. Since we are losing this opportunity for an emergency shelter at this location, she is concerned that we also haven't fully funded deeply affordable housing options that are on the table, and we are displacing encampments during the pandemic, which is a violation of CDC guidelines. She moved to fully fund the purchase of the property at 148-150 River Ford Parkway with the funding mix of ARPA funds, as well as bond funds and General Fund fund balance that is growing beyond our policy of 15% because we raised property taxes during the pandemic. Hearing no second, the motion died.

Councilwoman Turner was also concerned, but she supported these actions with these partners.

Mayor Manheimer was also supportive of moving forward to acquire a high access shelter with partners as soon as possible. She was very disappointed that it did not work out at this site at this time. To her knowledge, there is not a city in North Carolina that has yet brought online a high access shelter. We are trying to do something that is pretty innovative. Unfortunately when you are trying to figure this out, it doesn't always work out. We all have spent a lot of time learning about the entire industry that we didn't know a lot about. To her it is fundamental that we have a high access shelter so that we can partner with the County and their pilot program to have community paramedics that are out there doing emergency response and trying to help people who are experiencing everything from mental health issues to homelessness to substance abuse and have a place to be able to house people on an emergency basis. She applauded City staff on their hard work and efforts on this. She said that permanent supportive housing is an incredible need in Asheville.

Councilwoman Roney said that the population currently at the Ramada Inn is in shelter because the City of Asheville was displacing encamped people in the past year. She is concerned about the potential barriers to shelter for those who have the most need in our community and how those barriers perpetuate the disparities we have. Because an equitable recovery was this Council's key priority for ARPA funding, and she expects our community to hold us accountable in our outcomes, she asked, and Ms. Reid and Ms. Ball responded, what does the application process look like and what is the commitment to existing participants at the Ramada Inn now.

Vice-Mayor Smith felt that permanent supportive housing is a better fit for our community. However, she was concerned about the total funding of $1.5 Million over three years. She suggested we commit to $500,000 of ARPA funds for the first year, which would free up $1 Million for locally based covid related response prevention, etc., and then identify funds from other source(s) for years 2 and 3.

Councilwoman Mosley said that there were several provisions of this that we supported; however, she was concerned about the lack of transparency of this process; and equity. She understands that the City was not required to issue a Request for Proposals (RFP), but was not given a reason as to why we didn't do one. Now we have ended up with proposed partners from out of state. She understood that we came up with these partners because staff reached out to them. To her, that seems like it was a "good old boy network." She felt the process was not equitable. And, she was also concerned about giving ARPA funds to a for-profit entity based in California. After researching Shangri-La Industries, she saw they are not very diverse. Regarding equity, out of the 80 homeless at the Ramada Inn, only 9 are African American and that troubles her. She felt we are not reaching the neediest of the needy in our community and wondered how we get to serve the people who need it the most.

Mr. Tod Lipka, President and CEO of Step Up on Second, said he couldn't speak to Asheville, but his perspective is that the provider community in many cities has an inherent bias

built in because much of the providers are center-based and wait for individuals to come to them. People who are most disabled and have the least access are less able to navigate those bureaucratic boundaries. That is why Step Up is a community based organization. He has 350 employees and all of their service staff don't sit in an office - they go out into the community to find those individuals. There is an assessment tool that they use that has some bias built in, but they really do advocate for an assessment tool that is going to look at some of the issues Councilwoman Mosley raised. In some communities they not only provide the services but the property management. They want to serve Asheville as a community in terms of what are your priorities and preferences. One community put in a criteria that they house only those people that have been homeless for a certain number of years in the permanent supportive housing units. The City could also outline some multi-criteria, because the vouchers will have some criteria, and the assessment tool will also have some criteria. The City can also have it's own criteria. The City can also ask them to mirror, as best as possible without violating Fair Housing laws, that the demographics of the individuals who are housed in this building match the demographics of the homeless population. Sometimes people who need this life-saving housing die before the buildings are completed. So, they disrupt the system that is really built around all the investors, which is why it takes so long and costs so much. We are bringing a solution to you that is intended to radically change how quickly housing is developed and how much it costs to a jurisdiction. We are talking about a year or so to have this housing online and to have people housed - and a minimum cost to the City.

At the request of Councilwoman Roney, Ms. Ball said that she would provide her with the demographic breakdown of Latinx community.

Mayor Manheimer said that we will likely have received funds from the opioid settlement and that might be a source of funds for years 2 and 3. Ms. Reid also noted that we do have capacity in the Affordable Housing Bonds; however, City Attorney Branham noted that there are restrictions on bond money.

In response to Councilwoman Wisler about the 3-year commitment by the City, Mr. Lipka said that the service funding will be required for an indefinite period of time. These housed individuals will need long-term support. The support will reduce over time but it will be pretty intense over the first number of years. We don't see it as completely our responsibility to raise the money for the services after the 3 years. In fact, we thought 3 years as a minimum commitment for the City to make for us to consider this project, because the last thing they want is to provide a solution and then abandon people at some point because of the supportive services funding is no longer there. We would certainly partner with you on philanthropic, on government grants, etc. but the best cities have systemic funding that is ongoing for the supportive services.

In response to Councilwoman Roney, Mr. Lipka said that they don't like to take out units; however, they will make space for some community space.

When Councilwoman Wisler asked if they have a model for emergency sheltering, Mr. Lipka said that they don't do anything with shelters or short term housing. Shelter operations are not a solution.

City Manager Campbell said that we could move forward with allocating $500,000 in ARPA funds and then identify $1 Million from other source(s).

From advanced live call-ins, eight individuals spoke against the assignment of the purchase contract at 148-150 River Ford Parkway, along with the grant agreement with Step Up on Second Street, for various reasons, some being, but are not limited to: City's mismanagement of the Ramada Inn; lack of transparency; Ramada Inn location is not a fit in the surrounding

community; this is an unorganized and unplanned project; current problems with drugs, needles, prostitution, theivery, physical assaults, etc.; need to find a new location for an emergency shelter; and need for more public engagement.

From advanced live call-ins, four individuals spoke in support of the assignment and purchase at 148-150 River Ford Parkway, and the accompanying actions.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolutions and ordinance and they will not be read.

Councilwoman Wisler moved to authorize a contract ratification to assign the real estate contracts for property on 148-150 River Ford Parkway to Shangri-La Industries, Inc. for the purposes of creating permanent supportive housing. This motion was seconded by Councilwoman Turner and carried on a 6-1 roll call vote, with Councilwoman Mosley voting “no.”

RESOLUTION BOOK NO. 42 – PAGE 456

Councilwoman Kilgore moved to authorize the City Manager to enter into an American Rescue Plan (ARPA) funded agreement with Step Up on Second Street, Inc. in the total amount of $1.5M with $500,000 from ARPA funds and $1 Million to be identified from another source(s), for the provisions of supportive services for future residents of permanent supportive housing at 148-150 River Ford Parkway. This motion was seconded by Vice-Mayor Smith and carried on a 6-1 roll call vote, with Councilwoman Mosley voting “no”.

RESOLUTION BOOK NO. 42 – PAGE 457

Councilwoman Roney moved to authorize contract amendments with Five P Mountain, LLC and Sunrise Community for Recovery & Wellness for room nights and supportive services for current shelter participants extending the contract terms through March 31, 2022. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

RESOLUTION BOOK NO. 42 – PAGE 458

Councilwoman Turner moved to authorize a budget amendment in the Special Revenue Fund in the amount of $1,056,000 from American Rescue Plan (ARPA) funding to fund the grant agreement with Step Up on Second Street, Inc. for $500,000, the contract amendment with Five P Mountain, LLC for room nights until March 31, 2022 in the amount of $366,000 and the contract amendment with Sunrise Community for Recovery & Wellness for accompanying supportive services in the amount of $190,000. This motion was seconded by Councilwoman Wisler and carried on a 6-1 roll call vote, with Councilwoman Mosley voting “no.”

Councilwoman Roney said that since we are now in a position of not having a location for an emergency shelter, she thinks it’s important for the community to be remind that as of November 4, 2021, the CDC guidelines for considerations for encampments includes “if individual housing options are not available, allow people who are living in sheltered or encampments to remain where they are.” It goes on to explain the need for 24-hour bathrooms, hygiene materials and sanitation. We do have a recommendation from the Human Relations Commission as of June, 2021, which suggests a change to the City codes and articles regarding encampment removal on City property. We also have had an opportunity in our check-ins to consider a signal to staff to not enforce our own ordinances. That has happened twice now. So, because our check-ins are not in a public meeting, she suggested that we follow the CDC guidelines and signal to staff that we should not enforce our ordinances so long as it is the CDC guidelines to not disburse encampments during the pandemic.

Councilwoman Turner agreed that it is extremely disheartening to displace people from tents. She personally does not want to see folks living in tents - she wants better for them. The City of Asheville does not manage sheltering or does not manage Code Purple. There is a coalition of nonprofits that coordinate Code Purple that help create the criteria for Code Purple. That means that on a night when the wind chill hits freezing, the rules change for these shelters. They allow a later entry after curfew, and they allow congregate sheltering when they otherwise would not because of the pandemic. She called out to the nonprofit coalitions to ask if there is something more they can be doing, like lowering the criteria/temps while we are in the pandemic.

ORDINANCE BOOK NO. 33 – PAGE 33

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

From advanced live call-ins, seven individuals spoke to Council, including, but not limited to the following comments: need to work with nonprofits for different criteria for Code Purple; need for the City to look at transitional housing in addition to permanent supportive housing; stop camp evictions; update on Jones Park rebuild and request for City's support; suggestion that Harrah's be made an emergency shelter; request for the Governance Committee to allow an in-depth discussion and feedback from the public of an Open Meetings policy; request the City pursue legislation that would increase penalties for arson; need for nonprofits to find a better way to work together to utilize the resources the City may bring to the table; and request for quicker assistance on traffic calming on Stoner Road.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:24 p.m.

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CITY CLERK MAYOR