THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: February 23, 2021

Subject: 2021 City Council Legislative Agenda

Staff Resource(s): Brad Branham, City Attorney

Action Requested: Adoption of the 2021 Legislative Agenda and direction to share with Asheville's Local Delegation

Background:

- The 2021 legislative session of the North Carolina General Assembly commenced in January of this year.
- The deadline for filing local bills with the House drafting office is March 3rd, and the deadline for the Senate drafting office is February 25th.
- Historically, the City Council has adopted a legislative agenda to provide direction to our local delegation on those priorities for local or general legislation which the City wishes to pursue.

Council Goal(s):

- A Financially Resilient City, An Equitable & Diverse Community, Transportation & Accessibility

Committee(s):

- Governance

Pro(s):

- Provides direction to our local delegation on Council's legislative priorities, and serves as a starting point for presentation of potential general and local acts which would benefit the City.

Con(s):

- None.

Fiscal Impact:

- None.

Suggested Motion:

- Motion to adopt a resolution to approve the 2021 City Council Legislative Agenda and to direct the City Attorney to provide the resolution to the members of our local delegation.

Attachment(s)

- Resolution

RESOLUTION NO. 21-_____

RESOLUTION OF THE CITY OF ASHEVILLE ADOPTING ITS 2021 LEGISLATIVE AGENDA

WHEREAS, The 2021 legislative session of the North Carolina General Assembly convened in January of this year; and

WHEREAS, The City Council of the City of Asheville has identified certain matters of local and State-wide interest where legislative action is needed or desired; and

WHEREAS, The City Council of the City of Asheville wishes to express its request for consideration and adoption of these initiatives to the General Assembly;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City of Asheville Legislative Agenda for the 2021 Session of the North Carolina General Assembly, attached hereto as Exhibit A, is hereby adopted; and

The Asheville City Attorney is hereby directed to transmit a certified copy of this Resolution to the members of the General Assembly whose districts include the City of Asheville; and

The City Council offers the City's assistance to members of the General Assembly and the legislative staff with respect to any items listed on Exhibit A, including the provision of additional information, and further resolutions in support of specific bills; and

BE IT FURTHER RESOLVED that the Asheville City Council expresses its thanks and appreciation to the members of the local delegation for their service on behalf of the City of Asheville

Read, approved and adopted by the City of Asheville this 23rd day of February, 2021.

_____ _____

CITY CLERK MAYOR

Approved as to form:

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CITY ATTORNEY

Exhibit A
CITY OF ASHEVILLE 2021 LEGISLATIVE AGENDA

Restoration of State Maintenance Assistance Program (SMAP)
The NCDOT SMAP program has long been a source of revenue to help grow access to the public transportation system in cities and regions across our State. SMAP has been an important source of support for urban transit by providing flexible funds for operations, infrastructure and the all-important matching funds that allow local governments access to federal transit funds. Recently, SMAP funding has been significantly reduced, placing public transit, and those who rely upon it, in jeopardy. The City, along with many other local governments, believe that reinvesting in this program is essential, and should be included in the upcoming budget proposals.

- Support budgetary measures that fully restore funding the SMAP for urban transit systems, and its companion rural program, Rural Operating Assistance Program (ROAP). and coordinate these efforts to the extent practical with other local municipalities.

Authority to Conduct a Referendum on a 1/4 cent Sales Tax for Transit
Many cities, including ~~T~~the City of Asheville, are ~~is~~ in desperate need of additional funding to support the continued growth of their~~its~~ public transit system. Oftentimes, such funding comes from a dedicated sales tax. Current legislative authority only permits such taxes to be imposed on a county-wide basis pursuant to a duly conducted voter referendum. It is the belief of the Asheville City Council that there is strong community support for such a tax within the City of Asheville, and perhaps in other locations as well, but this question could only be posed to the voters if additional authority is granted to allow the tax to be applied only within ~~the~~ municipal limits.

- Support legislation to provide authority for Asheville, or general legislation to empower cities throughout the State, to conduct a local referendum on the institution of a municipality specific quarter cent sales tax to fund public transit.

Authority for Establishment of a Civilian Oversight Board for Police
Following substantial civil unrest in response to nationwide occurrences of excessive use of force by police officers, the public has called upon local governments to provide additional avenues for civilian oversight of law enforcement. The City of Asheville believes that the best option to achieve this end is through the establishment and utilization of a civilian oversight board. New local or general legislation is needed to empower the City of Asheville, and municipalities throughout the State, with this authority. The intent of such a board would be to build a better relationship between the community and law enforcement, and to provide a transparent process by which complaints may be reviewed by members of the community prior to any final disciplinary action being taken, as well as having advisory authority over policy matters. Properly constituted, this board would be empowered to review materials necessary to provide recommendations to the Chief of Police, while still preserving employees' privacy and due process protections.

- Support legislation to provide local or general authority for the establishment of a civilian oversight board to review police use of force cases, and to provide recommendations to the Chief of Police regarding disciplinary action.

Reform the Local Occupancy Tax Utilization

Buncombe County first obtained the authority from the General Assembly to levy an occupancy tax in 1983 through Session Law 1983-908. This law has been amended several times, most recently in 2015 via Session law 2015-128. In its present form, the Buncombe County occupancy tax constitutes a six percent tax on room rentals. From these funds the local Tourism Development Authority (TDA) is required to spend three-fourths of the total tax revenue on the promotion of travel and tourism, with the remainder being spent on capital expenditures for major tourism projects which increase the use of tourism facilities.

- Support legislation to amend or reform Session Law 2015-128 to direct a more equitable distribution of funds collected, ~~and~~ expand the allowable uses of the funds to benefit the community, and increase the spectrum of qualified TDA board membership to allow for broader and more representative community engagement. The City of Asheville would specifically request that allowances for membership be provided for community members working in the arts and entertainment industry, tourism based service workers, and those owning and operating short term rental or homestay properties.

Authority for Electronic Meetings

As part of the work of the General Assembly to provide relief during the COVID-19 pandemic, the General Assembly passed amendments to Chapter 166A of the North Carolina General Statutes that provided clear authority for local governments and other public bodies to hold electronic meetings during a state of emergency declared by either the Governor or the General Assembly. However, after working through the many months of the pandemic, it is a concern of the City that once any state of emergency declared by the Governor or General Assembly ends, the clear authority to hold electronic meetings ends. The City, along with other local governments, believes that the authority given should be made permanent, and usable at the discretion of local governments.

- Support legislation to make clear authority for electronic meetings permanent and usable at the discretion of local governments.

Clarification on Council Action following Public Hearings

In addition to the provision of authority for public bodies to conduct remote meetings during the COVID-19 pandemic state of emergency, the General Assembly also included a provision within its amendments to Chapter 166A of the North Carolina General Statutes that provided authority for local governments and other public bodies to conduct public hearings required or authorized by law during a state of emergency. However, section (d) of § 166A-19.24 created ambiguity as to when the public body may conduct a vote following the public hearing. This section of the statute requires the public body to allow for the submission of written comments for 24 hours following the public hearing. The language has created confusion for municipalities about when a vote may be conducted, and resulted in significant delays in official actions being taken. The City, along with other local governments, believes that revisions to this section of Chapter 166A should be made to remove the ambiguity and allow for votes to be taken at the same meeting as the relevant public hearing.

- Support a legislative amendment providing clear direction to public bodies that votes may be taken, if otherwise permitted by law, at the same remote meeting in which the relevant public hearing is conducted.

Oppose Legislation that Would Punish Cities for Altering Law Enforcement Budgets

Recent legislation has been filed in the General Assembly which, if adopted, would strip vital funding from any city which made relatively small adjustments to local law enforcement budgets. Beyond being a punitive option which would partially remove local budgetary authority from local government, such a bill

would likely have numerous unintended and wide ranging ramifications. Even normal yearly fluctuations in capital expenditures could potentially trigger State defunding. The City of Asheville believes that the budgetary decisions on how to deliver local services, including public safety, are best left to the local governments who are in the best position to understand the needs of their local communities.

- Oppose legislation which would defend cities who make adjustments to their local law enforcement budgets, including but not limited to the currently pending Senate Bill 100.