THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: June 9, 2020

Subject: Temporarily Suspend/Waive or Defer Rent and Loan Payments to the City

Staff Resource(s): Sam Powers, Economic Development Director
Barbara Whitehorn, CFO Finance Department Director

Action Requested: Adoption of a resolution authorizing the City Manager to temporarily suspend/waive or defer rental (including capital contributions to leased property) and loan payments to the City on a case-by-case basis, as necessary to address harms caused by the COVID-19 pandemic.

Background:

- On May 12, 2020, the City Council adopted an ordinance authorizing the City Manager to temporarily suspend fees and charges listed in the FY 2019-20 Fees and Charges Manual. At the time of adoption, the temporary suspension or deferral of rental or loan payments to the City on a case-by-case basis was also contemplated as discussed in the May Staff Report. However, that action was inadvertently left out of the adopted ordinance. Adoption of this resolution will correct that omission.
- The City has rental (including capital contributions to leased property) and loan payment schedules with other parties.
- Many Asheville businesses are either closed or operating in a limited capacity due to the COVID-19 pandemic creating substantial economic challenges for owners, employees, and customers.
- Some businesses have requested temporary relief from loan payments, rent payments, and capital contributions in an effort to help reduce their expenses.
- Categories and Criteria for suspending or deferring rent payments or loan payments are attached.
- This action is intended to aid businesses during the formal declaration of emergency. When that declaration expires, any further deferral or waiver would be considered case-by-case by the City Manager.

Council Goals:

- A Thriving Local Economy
- A Financially Resilient City

Committee:

- None

Pros:

- Facilitates business operations that are able to continue normally during the COVID-19 pandemic.
- Reduces operating costs for businesses during the COVID-19 pandemic.
- City Manager authority to temporarily suspend or defer rent or loan payments and capital contributions provides heightened responsiveness to community needs during the COVID-19 pandemic.

Con:

- Loss or deferment of revenue to the City (see attachment).

Fiscal Impact:

- Loan payments deferred (discussed below) have no impact on operations and no long-term financial impact as the amounts will be repaid as part of the final payment on notes outstanding.
- Rent or capital contribution payments to the City temporarily waived or suspended could result in a loss of revenue to the City of approximately $4,000 to $8,500 for rental payments and up to $18,900 in

capital contributions (assuming three to six months of waiver), depending on how many Lessee's request relief and for how long. To date, the City has only received one request to waive rent and one request for waiver of capital contribution.

Suggested Motion:

- Motion to adopt a resolution authorizing the City Manager to temporarily suspend/waive or defer rental (including capital contributions to leased property) and loan payments to the City on a case-by-case basis and to ratify any administrative decision already enacted to defer loan payments or to suspend collection of rents.

Attachment(s)

- Deferrals and Waivers: Categories and Criteria for Consideration
- Resolution

Deferrals and Waivers: Categories and Criteria for Consideration

Category 1: City levied fees suspended for the duration of the COVID-19 event [Ordinance Adopted-May 12, 2020]

Fees and charges suspended by the City for the duration of the event in order to facilitate improved social distancing and to protect employees and the public.

Criteria to be considered for suspension:

a) Risk to employees and the public of continuing to require payment (face-to-face contact).
b) Public benefit of suspension of fees.
c) Financial impact to the City.

Category 2: Request for waiver of rents or fees/capital contributions due to closure or other impact of COVID-19 event [Resolution Consideration June 9, 2020]

Organizations facing financial hardship due to ordered closure of business during COVID-19 that pay leases/rents or fees to the City in order to operate.

Criteria to be considered for waiver:

a) Is business closed due to the Governor's order or Buncombe County Stay Home Stay Safe?
b) Where does the business fall in the phased reopening?
c) Period of time for waiver, or month-to-month consideration. Waivers may be granted retroactively to March 2020 and reimbursements of rent paid during this period of hardship may be granted.

Category 3: Request for fee waivers for economic development or public good during the COVID-19 event.[Ordinance Adopted-May 12, 2020]

Fees that support economic development projects, projects directly impacting the public good, including new projects within the City supported by development and building fees.

Criteria to be considered for waiver:

a) Is the business essential? If the business is deemed essential and was able to operate during COVID-19, is there a financial hardship created by the payment of fees?
b) Will the project continue if fees are required to be paid?
c) Does the project have a significant public good component?

Category 4: Request for deferral of loans for longer than one month [Resolution Considered June 9, 2020]

Organizations with outstanding loans with the City which face financial hardship from the COVID-19 event.

If an organization is requesting loan payment waivers or deferrals in excess of one month, the following information must be provided to allow Staff to evaluate the proposal and make a recommendation:

1) A detailed explanation of why the waiver or deferral is necessary.
2) A plan for repayment if the request is for a deferral of rents or loan payments.
3) A detailed explanation of the public good supported by the waiver or deferral.

Criteria to be considered:

a) The public good supported by the waiver or deferral.
b) The financial impact on the City and any potential negative public impact caused by the waiver or deferral.
c) The appropriate structure for repayment of a deferral.
d) If a deferral is requested, the potential of the requesting business to repay the deferred loan amounts in the future.

RESOLUTION NO. 20-_____

RESOLUTION AUTHORIZING THE CITY MANAGER TO TEMPORARILY SUSPEND, WAIVE, OR DEFER RENT (INCLUDING CAPITAL CONTRIBUTIONS) AND LOAN PAYMENTS TO THE CITY ACCORDING TO ADOPTED CRITERIA ON A CASE-BY-CASE BASIS AND ALSO RATIFYING ANY ADMINISTRATIVE DECISION ENACTED TO DEFER LOAN PAYMENTS OR TO SUSPEND COLLECTION OF RENTS.

WHEREAS, the the COVID-19 pandemic has had substantial negative impacts on citizens and local businesses including substantial financial burdens; and

WHEREAS, the City has to date attempted to ease the financial burdens placed on its citizens by administratively suspending the collection of certain fees, including transit fees, parking fees, fees for homestay permit renewals, and development and other certain fees and charges listed in the FY 2019-20 Fees and Charges Manual on a case-by-case basis; and

WHEREAS, the City anticipates that it may be necessary to also temporarily suspend or defer rent (including capital contribution) and/or loan payments in order to further help address the economic consequences of the COVID-19 pandemic;

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

The Asheville City Council hereby ratifies any administrative decision already enacted to defer loan payments or to suspend collection of rents and further authorizes the City Manager to temporarily suspend, waive or defer rent and loan payments to the City according to adopted criteria on a case-by-case basis and further authorizes the City Manager to execute any and all documents necessary to give effect to this resolution, subject to approval by the City Attorney, and compliance with applicable North Carolina law.

Read, approved, and adopted this the 9th day of June 2020.

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City Clerk Mayor

Approved as to form:

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City Attorney