

MEMORANDUM

TO: Mayor and City Council

FROM: Ben Woody, Assistant City Manager
Dana Frankel, Downtown Projects Manager

DATE: May 7, 2024

SUBJECT: Business Improvement Districts

BACKGROUND

The Asheville Area Chamber of Commerce (Chamber) and Asheville Downtown Association (ADA) are working with downtown stakeholders to provide supplemental services with the goal of enhancing safety and cleanliness in the central business district through a Business Improvement District (BID). A BID is a type of municipal service district authorized by [NC General Statutes](#) that is defined by ordinance upon a finding that the district is in need of one or more defined services, facilities, or functions to a demonstrably greater extent than the remainder of the city. The Chamber prepared an [operational plan/report](#) that outlines the necessary enhanced services.

RANGE OF SERVICES

North Carolina General Statutes, specifically [G.S. 160A-536\(b\)](#), provides a non-exclusive list of projects that can be supported through the assessment of a special tax revenue in a city's downtown. In practice, this includes a variety of activities, including enhanced maintenance of public infrastructure and facilities, marketing and promotion, events, parking management, economic development, construction and/or maintenance of capital improvements, and the enhancement of other city services or functions.

According to information provided by the North Carolina Downtown Development Association, there are [66 Municipal Service Districts \(Map\)](#) in North Carolina. Examples of established BIDs and the range of enhanced services provided includes:

Municipality	Enhanced Services
Wilmington, NC	Safety & supplemental cleaning w/ambassadors, beautification, economic development, marketing & branding.
Raleigh, NC	Safety & supplemental cleaning w/ambassadors, economic development, marketing & events, conflict resolution & community engagement.

Winston Salem, NC	Safety & supplemental cleaning w/ambassadors, accelerated development, physical appearance, marketing & promotion.
Charlotte, NC	Ambassador program, economic & community development, marketing, programming & events, urban planning.
Hendersonville, NC	Economic development, physical appearance, branding & events, capital projects.
Durham, NC	Safety & supplemental cleaning w/ambassadors, economic development, marketing, creative placemaking.

ROLE OF CITY COUNCIL

The City Council has broad discretion to establish BID boundaries within a geographically defined area such as downtown. Following a series of procedural requirements, including certain notice provisions and a public hearing, a city may establish a business improvement district. As part of the establishment of a BID, the City Council will determine the district boundary and set the applicable tax rate. Once a BID becomes effective at the beginning of a fiscal year, the city must provide, maintain, or let contracts for the enhanced services for which the property owners are taxed within a reasonable time, not to exceed one year.

Each fiscal year, the City Council would set the tax rate of the district, approve any new BID related service contracts, and approve an annual budget. A common approach is for a city to contract with a private entity to manage the delivery of enhanced services. If the City Council desires to do this, it must:

- Seek input from property owners and residents of the service district regarding needs for the upcoming year.
- Conduct a competitive procurement (RFP process) to select a qualified service provider.
- Approve a contract with the selected provider which specifies the purpose for which city funds are to be used within the service district and the scope of services to be provided, and require an appropriate accounting for the funds spent at the end of each year.
- Require the selected service provider to prepare at a minimum an annual update on BID activities, and present that information in a City Council meeting and as a written report.
- Require that any changes to the scope of services be approved by the City Council.

In setting the tax rate for a BID as part of the annual budget process, a City Council must consider the current needs, as well as long range plans and goals for the service district. The City Council must set the tax rate so that there is no accumulation of excess funds beyond that necessary to meet current needs, fund long-range plans and goals, and maintain a reasonable fund balance. Funds collected can only be used for meeting the needs of the BID, as determined by the City Council.

GOVERNANCE MODELS

The City Council may elect to appoint an advisory committee for a BID, but it is not a requirement to do so. While a city may grant a BID advisory committee some powers, the city maintains final authority over the use of a BID's funds and is not legally bound by an advisory committee's recommendations.

The role and composition of BID advisory committees varies by municipality. For example, the cities of [Wilmington](#), [Winston-Salem](#), and [Hendersonville](#) have Council-appointed advisory committees representing various downtown stakeholder interests. These advisory committees typically make recommendations to the City Council and provide financial, program, and contractor oversight for their downtown BID.

A municipality may also elect to not appoint a BID advisory committee, and the City Council/city staff provide direct oversight of the contracted private entity responsible for the delivery of enhanced services. Examples of this model include the cities of [Raleigh](#) and [Durham](#). Typically these cities contract directly with a private entity operating as a registered nonprofit with their own independent board of directors that may elect to subcontract with a third party vendor to provide select services (e.g. ambassador programs).

Finally, there are examples of communities that utilize an alternative approach for BID governance. An example of this model can be found in Charlotte. The City of Charlotte contracts with [Charlotte Center City Partners](#) (CCCP) to administer municipal services districts through an annual contract. According to the CCCP [bylaws](#), their Board of Directors prepare and submit to the Charlotte City Council a slate of nominees for appointment as directors for the ensuing board term. While the CCCP is governed by an independent board of directors, the Charlotte City Council is responsible for appointing the slate of nominees for the CCCP Board of Directors. It appears a similar governance model was proposed for Asheville in the [2012 Downtown Asheville BID Formation Report](#).

5/21/2024 Meeting Notes

- RFP timeline
 - **Council Resolution - Competitive RFP and Public Hearing:** Pursuant to N.C.G.S 160A-536, a contracted service provider for the BID may be secured through a competitive request for proposals following BID formation. The City intends to issue an RFP within 3 months of the adoption of this resolution. As required by statute, the City shall solicit additional input from residents and property owners within the BID as to the needs of the service district, and hold a public hearing before executing a contract with a service provider for the provision of BID services.
- Engagement strategy
 - **NCGS Statutory Requirement:** ...if the city enters into a contract with a private agency for a service district...*The city shall solicit input from the residents and property owners as to the needs of the service district prior to entering into the contract...*
 - **Council Resolution - Community Engagement:** the BID service provider solicits opinions, feedback, and input annually, or more as needed, regarding the effectiveness of BID operations consistent with minimum requirements provided by BID statute, and otherwise to the reasonable satisfaction of the City. Input should be sought from individuals and groups that represent business, residents, and workers. This will ensure the voices of a cross-section of downtown stakeholders are taken into consideration.

Discussion notes:

- To engage workers, renters, etc. (all impacted) in addition to property owners and residents
- Acknowledge the work that the Chamber has done - "here's what we heard". What's missing? What's *most* important?
- Example - ambassador program.
- Use a Downtown Commission meeting as a community input opportunity for the RFP
- Downtown Commission could use survey results to inform their discussion/input/priorities
- Additional meetings with stakeholder/focus groups... i.e. AVL Food and Bev
 - What would you like to see? Find shared desires (i.e. with Chamber results) what are the "needs". Prioritization?
- Internal engagement - police, community responders, etc.
- Hands on approach to engagement? In-person? Bringing people together to talk through it...
- CAPE to put together a community engagement plan and strategy - follow up meeting prior to June 11 (council date) - before the agenda briefing (June 6?)
- Dana/Ben to work on construction of the RFP
- Ben talk to Nikki about CED role.