



November 28, 2016

VIA EMAIL

The Honorable Esther Manheimer
Mayor
City of Asheville
70 Court Plaza
P.O. Box 7148
Asheville, NC 28802

Dear Mayor Manheimer;

I am writing on behalf of the **Don't Wreck Asheville Coalition** – a grassroots group of Asheville residents, businesses, and organizations that is now forming because of concerns that the elected government of the City is failing to protect the interests of Asheville in its planning work on the I-26 Connector project with the North Carolina Department of Transportation (NCDOT).

While founding Coalition members have been making efforts since the beginning of this summer to work collaboratively with City officials on this project, thus far, we have failed to make much headway in our efforts to educate City Council members about the myriad problems associated with Alternative 4B, and why the City is embarking upon a losing and quixotic mission to minimize the project's irreversible harms to the western entrance to downtown Asheville.

It is greatly troubling that the City has had a long history on the I-26 Connector project of listening to the advice and counsel of people who know nothing about highway design. Instead, the City has relied upon a volunteer group of environmental activists, landscape architects, residential architects, and city planners to try and fashion together the design for a highway project. While all are certainly proficient in their chosen fields, to charge them with designing a highway that will meet federal AASHTO standards is, simply put, foolish.

While the Coalition acknowledges that this situation predated your service to the City as mayor, it should not continue as negotiations move forward, as this project is simply too complex to leave to unqualified volunteers to handle. We remind you that in a meeting with City officials on September 6 (that you had spearheaded arranging), representatives of the Montford Neighborhood Association were told that the City wouldn't know how to write an RFP to seek expert engineering consultants on highway NEPA projects. Yet, City residents are supposed to rely upon this same group of people to shepherd along a major highway expansion that will forever change the face of Asheville. I'm sure you can understand the irony in that prospect.

At this juncture, the Coalition is requesting the following:

- (1) The City conduct its NCDOT negotiations on the I-26 Connector project in conformance with the State's Open Meetings statute.
- (2) The City supply to the Coalition copies of all written and electronic communications from January 1, 2014 to the present time about the I-26 Connector project between current/former Council members; current/former Council members and City staff; and, City of Asheville employees' and current/previous officials' communications between or among NCDOT and its consultants, as well as the Land of Sky French Broad River MPO.
- (3) Council Member Julie Mayfield officially recuse herself from any and all meetings, negotiations, deliberations, advisory counsel, communications, and votes on any issue connected to the I-26 Connector project due to her conflict of interest as the Co-Director of Mountain True, an organization that has taken an inappropriate and unelected quasi-governmental role in representing the City's interests in this matter, and that is prejudiced by Mountain True's past and ongoing support for Alternative 4B due to its pro bono work on behalf of just one neighborhood impacted by I-26. This request is made in light of the City Council's November 23, 2010 Code of Ethics, which clearly states: "*Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.*" The extent to which Council Member Mayfield uses her Mountain True position while communicating about and working on the City's negotiations on the I-26 Connector project demonstrates a complete disregard for the general principles underlying the City's ethics policy for Council members.

Open Meetings Requirements. As the City well knows, the I-26 Connector project will have profound and irreparable impacts on the residents of Asheville into perpetuity. For that reason alone, the violations of Chapter 143 Article 33C of North Carolina statutes in connection to the "Working Group" the City and NCDOT has convened on the I-26 Connector project is particularly egregious. As such, we remind you of the City and State's obligations under Chapter 143 Article 33C. Specifically:

*§ 143-318.9. **Public policy.** Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly. (1979, c. 655, s. 1.)*

*§ 143-318.10. **All official meetings of public bodies open to the public.***

(b) As used in this Article, "public body" means any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that (i) is composed of two or more members and (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function.

(d) "Official meeting" means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of

the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body.

(e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.

Because the meetings of the Working Group have not been open to the public, nor any record of its proceedings made available to the general public, it is the Coalition's contention that any of the actions taken at the meetings held on March 24, June 3, August 9, September 20, October 18, and November 18, 2016 are without validity and make any planning stemming from these past deliberations ripe for injunctive relief by the State's courts. Because litigation to prove a point is a waste of resources on both ends, the Coalition simply requests that the City begin its deliberations with NCDOT anew in forums open to the general public with public notice of meetings provided on a timely basis.

Additionally, the Coalition requests that the City provide a roster of those serving on the Working Group (including contact information); an explanation of how the City's Working Group members were selected; detail the City's requirements for those serving on the Working Group; and, provide the professional experience possessed by members of the Working Group that is germane to the NEPA review, planning, and construction of mega-transportation projects of this nature.

In closing, let me assure you that members of the Coalition are willing to work with you to resolve the problems inherent in the 4B Alternative of the I-26 Connector project in an attempt to avoid protracted, expensive litigation. On behalf of the Coalition, I thank you, in advance, for your prompt attention to the matters detailed above.

Sincerely,



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cc: The Honorable Nick Tennyson, Secretary, NCDOT
David Brown, Board Member, NCDOT
Gary Jackson, Asheville City Manager
All Honorable Members of the Asheville City Council
Lyuba Zuyeva, Director, French Broad River MPO
Richard H. Streeter, Attorney at Law