

Worksession

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilwoman Diana Hollis Jones; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Joseph C. Dunn and Councilman Brownie W. Newman

CONSENT AGENDA:

Interim Shelter to Hurricane Katrina Evacuees

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into contracts with local non-profit agencies to provide housing for families displaced by Hurricane Katrina; the costs of which will be reimbursed by FEMA via the NC Division of Emergency Manager; and (2) the associated budget amendment, in the amount of \$100,000.

The Asheville Chapter of the Red Cross has dealt with requests for assistance from over 500 individuals or families who have evacuated to our area as a result of Hurricanes Katrina and Rita. Of these, 332 had registered with FEMA by October 18 giving temporary addresses within Buncombe County – the fourth highest total for counties in North Carolina.

Housing is the #1 need reported by these evacuees and, to date, approximately 300 families have been provided with temporary shelter in hotels/motels, in conference centers such as Ridgecrest, and in apartments offered by private individuals. An estimated one-third of these have already moved back home to the Gulf States and a handful have moved into more permanent housing here. Over the next few weeks, as Red Cross payment for hotel accommodation runs out we expect that the remainder will either move back home, or seek more permanent housing in our area.

Staff has been in close contact with the non-profit agencies assisting these families – the Red Cross, Asheville-Buncombe Community Christian Ministry (ABCCM), the Affordable Housing Coalition (AHC), and the Housing Authority of the City of Asheville (HACA). A number of faith-based groups and individuals have donated temporary accommodation to ABCCM, and the Red Cross receives reimbursement directly from FEMA for the cost of hotel/motel accommodation for up to 60 days, but otherwise our local non-profits have used their own resources for intake, advice, and housing placements. They will not be able to support the cost of longer-term housing assistance without severely diminishing the assistance they provide to local residents.

We have contacted FEMA and NCEM to find out what federal assistance is available for local efforts and how to structure those efforts in a way that is consistent with FEMA rules for reimbursement. On October 17, we received detailed guidance from NCEM on FEMA's Interim Shelter Assistance program and on October 28 submitted the Interim Shelter Plan, created after consultation with the agencies listed above and with Buncombe County staff.

Through this plan, the City will be reimbursed for the cost of providing housing (not rent assistance) to evacuees for up to 12 months. The City will contract with ABCCM and AHC who will identify those in need of housing, lease suitable units, and place families in those units. We are also seeking retrospective reimbursement of housing expenses already incurred by non-profit providers but at this point we are uncertain whether or not that will be allowed.

It has not been possible to obtain a reliable estimate of the number of people who will remain in our area and seek assistance through the Interim Shelter Program nor for how long

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they will need it. Other types of FEMA and HUD assistance are available, though not to everyone. We are initially requesting budget authority for \$100,000, which is sufficient to rent about 35 apartments for three months.

Every effort will be made to ensure that all expenses incurred by our non-profit partners are eligible for reimbursement by FEMA through NCEM. However, it is possible that our partners may, in good faith, incur expenses that FEMA will deem ineligible. We recommend that in such cases, after all other avenues have been explored, staff should have the discretion to use the City's Housing Trust Fund as a contingency fund to reimburse such good-faith expenses. It is extremely unlikely that such costs would exceed \$5,000.

Advantages:

- Provides up to 12 months of housing for people displaced by Katrina
- Prevents homelessness
- Should be 100% reimbursed by FEMA
- Ensures that local non-profits can maintain services to local residents as well as helping Katrina evacuees.

Disadvantages:

- Scale of need is still uncertain – budget is only a rough estimate
- A small probability exists that some expenses may not be reimbursed, requiring a source of contingency funding (Housing Trust Fund recommended).

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into contracts with local non-profit agencies to provide housing for families displaced by Hurricane Katrina, which costs will be reimbursed by FEMA via the NC Division of Emergency Manager; and (2) the associated budget amendment, in the amount of \$100,000.

Community Development Director Charlotte Caplan updated Council on the families in Buncombe County displaced by Hurricane Katrina. Throughout her update, she responded to various concerns raised by Vice-Mayor Mumpower regarding affordable housing.

Councilwoman Bellamy requested an update in 6-8 months regarding the families we have assisted.

NC DOT Municipal Agreement for Bike Plan

Summary: The consideration of a resolution approving a municipal agreement with the North Carolina Department of Transportation (NCDOT) to receive \$24,000 in grant money to develop a bicycle plan for the City of Asheville.

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In 2004 the City Council approved a grant application to the NCDOT for \$24,000 to develop a bicycle plan in Fiscal Year 2005-06. This grant was awarded in May of 2005. The plan requires \$16,000 in local matching funds. The matching funds are already budgeted in the Fiscal Year 2005-06 operating budget. In addition, the Blue Ridge Bicycle Club has agreed to contribute \$1,000 toward the local match.

The bicycle plan will be developed beginning in early 2006. City staff will oversee the project, which will be carried out by a consultant.

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This project supports the Asheville 1998 Greenway Master Plan and 2003 Update and the 2025 City Development Plan. It also implements several tasks in City Council's Strategic Operations Plan in the areas of:

- Planning, Goal #2, Obj. A, Tasks 1 and 2 – to incorporate multi-modal uses of transportation options and to leverage outside funding to achieve multiple transportation goals where possible.
- Planning, Goal #2, Obj B, Tasks 1 and 2 – to determine opportunities for managing traffic demand and to explore public-private partnerships with major employers and education providers to increase the effectiveness of the transportation system.
- Sense of Place, Heritage & Arts, Goal #3, Obj. B, Task #1 – to construct infrastructure including bicycle facilities to accommodate growth downtown.
- Natural and Built Environment, Goal # 2, Obj. A, Tasks 1-4 – to implement the Wilma Dykeman Riverway Plan and the Completion of several Greenways
- Natural and Built Environment, Goal #2, Obj. B, Task 1 – to work with the State to fund greenway projects via the Transportation Improvement Plan.

Consideration:

- Executing this municipal agreement is one of the required formal steps to follow-through on the 2004 commitment to pursue this grant and develop a bicycle plan for the City of Asheville in Fiscal Year 2005-06.

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City staff recommends City Council approve the resolution approving a municipal agreement with the N.C. Dept. of Transportation to receive \$24,000 in grant money to develop a bicycle plan for the City of Asheville.

Housing Trust Fund Allocation – Vanderbilt Apartments

Summary: The consideration of a resolution approving a \$150,000 Housing Trust Fund loan for the preservation of affordable rental housing at Vanderbilt Apartments.

National Church Residences, Inc. (NCR) has requested a Housing Trust Fund (HTF) Loan in the amount of \$150,000 as partial financing for its proposed acquisition and rehabilitation of the Vanderbilt Apartments. NCR has recently completed a similar project at the Battery Park Apartments.

NCR will acquire the property from the current non-profit owner, for \$1 plus assumption of outstanding loan obligations, and, using Low Income Housing Tax Credits and other financing, will extensively renovate the building, the interior of which has been essentially unchanged for 30 years. In the process they will convert many of the hard-to-lease efficiency units into 1-bedroom units, reducing the number of units from 141 to 123.

In April, Council awarded \$250,000 in HOME funds to this project. Since then, estimated costs have increased from \$10,000,000 to \$11,000,000. Most of this has been offset by increased tax credit revenues. The remaining gap will be filled by deferring more of the developer fee and by this HTF loan. All other financing is now in place, and NCR plans to start work early in 2006.

The application was evaluated by a panel of staff and outside experts and scored well against the HTF criteria. The Housing and Community Development Committee reviewed the

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application on October 31, 2005, and has recommended awarding an HTF loan of \$150,000 at 2% interest amortized over a 30 year term.

Advantages:

- Long-term preservation of 123 units of affordable housing for the elderly and disabled
- Keeps affordable housing downtown
- Brings a significant tax-exempt property back on to the tax-rolls with estimated annual tax revenue of \$80,000

Disadvantages: None

Staff recommends City Council approve a \$150,000 Housing Trust Fund loan to National Church Residences.

As a result of concerns raised by Councilman Davis, there was discussion regarding the structural integrity of the Vanderbilt Apartments. Councilwoman Jones, Chair of the Housing & Community Development Committee, spoke in support of this loan. Community Development Director Charlotte Caplan responded to various questions raised and summarized by saying that she would contact NCR to make sure they have done their due diligence in researching the structural integrity of the building.

Clerk to Advertise License Agreement with Mountain Area Information Network

Summary: The consideration of a resolution directing the City Clerk to publish a Notice of Intent regarding execution of a License Agreement with Mountain Area Information Network (MAIN) for an antenna at 36 Reservoir Road.

The property at 36 Reservoir Road known as White Fawn Reservoir is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunication with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City of Asheville leases antenna space on the towers and ground space for related equipment.

MAIN has offered to enter into a license agreement for antenna space and related equipment on the tower known as the "U S Cellular Tower" which is the tower to the east with several large dish antennas attached. U S Cellular is the primary tenant on that tower and any antenna installations by others are subject to their approval. U S Cellular is agreeable to the installation by MAIN subject to a favorable tower analysis. A tower analysis is required by the license agreement to assure that the new installation does not interfere with existing installations and that the tower is structurally able to support the additional installation. MAIN will pay for and provide a tower analysis. The proposed License Agreement will enable MAIN to operate three (3) antennas at that site; however, there is a provision, which allows either the Licensor or the Licensee to terminate the agreement upon 180 days notice. The term of the License Agreement will be 3 years with 2 renewal periods of 3 years. MAIN will pay a License Fee of

\$7,200 (\$200 per antenna per month) the first year with a 4% increase annually thereafter.

The request by MAIN has been reviewed by staff and the proposed equipment compared to existing installations to determine comparability. Currently we have three somewhat similar installations that are producing as follows:

Arch Communications	1 antenna	@ \$350 per month
Cingular Communication	4 antennas	@ \$287.50 per antenna per month
Morris Communications	3 antennas	@ \$276.25 per antenna per month

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The license fee proposed for MAIN is somewhat below market rate consistent with the rate approved for the Housing Authority of the City of Asheville by Resolution No. 05-92. Both MAIN and the Housing Authority provide public benefit services to lower income persons that are compatible with governmental function and/or sponsorship. A discounted rate for a non-profit providing such services as well as public safety and emergency response agencies seems reasonable and appropriate

Staff recommends that Council review discounted antenna license fees annually during consideration of appropriations to outside agencies.

Relationship to Broadband Initiative: Antenna rental requests are relatively simple transactions and will not materially affect any potential municipal broadband strategy. Specifically cellular and 900Mhz antenna rentals will not create interference with likely technologies to be used for broadband.

The following benefits will be realized from approval of this item:

- The City will receive revenue that it does not currently receive.
- Antenna space that is currently vacant will be utilized.
- MAIN will have improved capacity to provide low cost high speed wireless internet service to City residents.

Planning & Development and Information Technology staff recommend City Council adopt the resolution directing the City Clerk to publish a Notice of Intent regarding execution of a License Agreement with MAIN for an antenna at 36 Reservoir Road.

Traffic Enforcement Equipment Grant

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the N.C. Governors Highway Safety Program to assist the Asheville Police Department in the investigation and reduction of traffic crashes, and an accompanying budget amendment, in the amount of \$252,380,

The Police Department and the City of Asheville have the opportunity to be considered for a grant from the North Carolina Governors Highway Safety Program (GHSP) for equipment to outfit a dedicated traffic unit. The total amount of the grant is \$252,380, which includes \$183,690 in grant funds from GHSP and a required City match of \$68,690.

This grant will allow the City to fully outfit a dedicated traffic unit of five officers for traffic enforcement, accident reduction, community traffic education, and overall improved public safety. The grant includes fully equipped police vehicles and special traffic investigation and enforcement equipment. The equipment, training and technology provided in this grant will enhance the police department's ability to conduct traffic crash reconstruction. This is an equipment only grant with no personnel cost.

This grant opportunity came about after the adoption of the 2005/06 budget, so the City match of \$68,690 was not budgeted. However, funds have been identified for the local match. The Police Department has been able to save \$42,675 in the school crossing guard program following a review and redesign of the program. The remaining \$26,015 needed for the City match will be taken from the Manager's contingency funds. This will leave \$158,469 in the Manager's contingency account for other needs that may arise during the remainder of the fiscal year.

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Pros

- The Police Department obtains much needed traffic enforcement equipment that will improve its ability to address traffic related issues throughout the City.
- The City does not have to bear the full cost of initially purchasing the equipment.

Cons

- The City is required to use \$26,015 in contingency funds.
- The City will have to bear the full cost of replacing the equipment in future budgets.

This grant opportunity meets Council's focus area of *Partnerships to Improve Critical Services & Infrastructures* under Goal 2: Diversified and broadened revenue sources – Develop alternate revenue sources that are available to address local needs.

City staff requests City Council adopt a resolution authorizing the City Manager to apply for and enter into an agreement with the N.C. Governors Highway Safety Program to assist the Asheville Police Department in the investigation and reduction of traffic crashes, and an accompanying budget amendment, in the amount of \$252,380.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place these items on the next formal City Council agenda.

STATUS REPORT ON BUNCOMBE COUNTY SCHOOLS

Mr. Cliff Dodson, Superintendent of Buncombe County Schools, provided City Council with a status report on Buncombe County schools and the performance of the students. He reviewed some assets of the schools, being: (1) S.A.T. scores; (2) 89.2% of students, grades 3-8 score at or above grade level in Reading; (3) 91.4% of students, grades 3-8 at or above grade level in Math; (4) clear expectations; (5) early college/middle college; (6) middle school initiative; and (7) afternoon college. Challenges include (1) the largest minority population in the Buncombe County Public Schools is now Hispanic students – not African-American; (2) per pupil expenditure ranking; and (3) non-English speaking students.

Throughout the presentation, Mr. Dodson responded to various questions from Council.

On behalf of City Council, Mayor Worley thanked Mr. Dodson for his hard work with limited resources.

GREENLIFE PRESENTATION

At this time, 4:15 p.m., Mayor Worley turned the meeting over to Vice-Mayor Mumpower and left the room.

Mr. John Swann, co-owner of Greenlife Grocery on Merrimon Avenue, briefed Council on the controversial issues regarding the effect that his store has had on his neighborhood. He cited incidents of the harassment and behavior by Mr. Reid Thompson on his employees, deliver drivers and contractors. Last summer, Greenlife agreed to enter mediation with Mr. Thompson, however, Mr. Thompson refused that offer. Mr. Swann outlined the many actions taken (and thousands of dollars spent) to address Mr. Thompson's concerns, some being, but are not limited to: noise created when dumpsters were emptied; noise made by their refrigeration compressors; and the difficult issue of trucks on Maxwell Street. He said they are willing to consider any reasonable solution to any issue that is brought to their attention. They are in full compliance with all applicable City ordinances and would like nothing more than be able to continue to offer valuable products and services to our neighborhood and the City of Asheville.

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After Mr. Swann responded to questions/comments from Council, he said that he is still agreeable to mediation.

At 4:55 p.m., Vice-Mayor Mumpower announced a short recess.

At 5:10 p.m., Mayor Worley returned to the meeting.

WATER RESOURCES CAPITAL IMPROVEMENT PROGRAM/FEE STUDY

Water Resources Director David Hanks said that this is the consideration of a dedicated funding source for water system improvements based upon meter size and be implemented effective January 1, 2006.

The engineering firm of Brown & Caldwell, along with City staff has taken a comprehensive look at all aspects of the water system operations, including water treatment plants, distribution system, leak detection, meter accuracy, financial, administration and the water capital improvement program and department fees. A capital improvement fee was requested through the Regional Water Authority, Buncombe County and the City of Asheville previously with the County turning down the request.

Brown & Caldwell was contracted to study the water treatment requirements to meet current and future EPA standards for turbidity in the water. The study also included looking at the asset management of the water system to help determine replacement

and refurbishment cost, including distribution lines, pump stations, valves, meters, replacement and refurbishment program, capital improvement program including fees. A replacement model was created to determine annual funding requirements needed to make necessary improvements to the water infrastructure. The consultant has determined a dedicated capital improvement fee is required to fund the necessary improvements of the water system. This fee will be based upon meter size with small residential type meters having a monthly charge of \$3.50 up to a ten inch meter monthly charge of \$1,430.00. Water Resources staff has been and will continue to work with system customers who may be able to decrease the size of their meters based upon consumption and fire flow requirements to minimize the economic impact on the customers.

Staff recommends approval of a dedicated funding source for water system improvements per the consultant's recommendation based upon meter size and be implemented effective January 1, 2006.

Mr. Richard Stahr, consultant with Brown and Caldwell Engineering, reviewed with Council the current water system overview along with the goals related to water infrastructure sustainability. He benchmarked Asheville vs. other utilities. He pointed out that staff reductions over 10 years have resulted in a lean organization. There has been a 30% reduction in the number of positions since Fiscal Year 1992-93.

He explained that the goals of the Asset Management Program is to minimize life cycle costs while meeting customer needs. Benefits of the Asset Management Program include (1) establishes funding requirements for refurbishment and replacement; (2) prioritizes capital investments; (3) increases dependability of water delivery; (4) focusing resources in the "right" places using asset criticality; and (5) uses improved system knowledge and analytical tools to meet customer services expectations at the lowest life-cycle cost.

He explained that the water plant optimization identifies large capital savings – (1) plant upgrade was expected to cost \$12 Million; (2) pilot study showed smart operational changes would save capital dollars; and (3) scaled back upgrade focused on minor improvements and refurbishment needs saving \$6 to \$7 Million.

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He said that the focus needs to be on main replacement rather than leak repair. He said that \$5 to \$6 Million in upgrades are needed – North Fork upgrade needed to meet regulations; and Bee Tree upgrade needed for long-term operation following 6-year closure. He outlined how the asset management principles were used to develop prioritized a repair & replacement capital improvement program, but more refinement is needed. The current budget for capital projects does not fund needed improvements. The average rate increase over the past 13 years is less than the inflation rate. The current funding shortfall could have been avoided with an annual 4.1% rate increase.

He shared the results of a customer telephone survey and focus group meeting surrounding the issue of whether our rate payers would support an increase to fund sustainable infrastructure.

Some consequences of inaction would be (1) increased line breakages resulting in higher water loss and increased response costs; (2) inability to support economic development (3) deteriorating customer service; and (4) possible violation of bond covenant.

Water rate challenges include residential customer base is growing but demand remains flat; adequate funding is needed for sustainability; current declining block structure should be evaluated; and outdated development fee may not reflect current value of facilities needed to serve new customers.

He reviewed with Council the capital improvement fee structure that will be based upon meter size with small residential type meters having a monthly charge of \$3.50 up to a ten-inch meter monthly charge of \$1,430.

In summary, the Capital Improvement Program recommendations are to (1) implement the Capital Improvement Program to address the backlog of urgent infrastructure needs; (2) adopt the Capital Improvement Program fee effective January 1, 2006, to address the critical refurbishment and replacement needs; and (3) use revenue bond financing to accelerate the recovery from historical underinvestment (Funding Plan is under development.)

In summary, the rate structure recommendations are to (1) conduct stakeholder input process for an updated development fee and migrating toward a Uniform Rate Structure; and (2) complete the rate structure analysis on a timeline that ties to the budget process.

After a brief discussion, City Manager Jackson said that there are other timing considerations other than those of the legal process. The entire fee structure should be looked at as part of the budget process, including the capital surcharge as well. With

regard to the recommendation of the January 1 implementation date, he felt there needs to be a reasonable timeframe allotted for public education and awareness.

Councilwoman Bellamy felt Council should look at the comprehensive capital improvement plan, not just the rate structure. She suggested an analysis of how much the Metropolitan Sewerage District puts into their capital improvement plan and how they fund that.

Councilwoman Bellamy suggested this presentation be broadcast on our Government Channel to let the public know of our needs and the possibility of a rate increase.

It was the consensus of Council to have a short presentation at the Council meeting next week at which time Council will review a communications plan and a timeline for consideration of the water system capital improvement plan and fee structure.

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RECOGNIZE STAKEHOLDERS & RECEIVE COMMUNITY RECOMMENDATIONS FOR RESERVOIR OPERATIONS AND DOWNSTREAM IMPACTS

City Engineer Cathy Ball and Water Resources Director David Hanks said that this is the consideration of a resolution authorizing the Mayor to enter into a contract with Schnabel Engineering for updating reservoir operations and emergency action plans; and approval of a budget amendment, in the amount of \$692,835, to provide funding for this project.

An engineering consultant conducts an inspection of the North Fork and Bee Tree Dams annually to ensure the safety of the dams. The latest dam inspection report completed in June 2005, recommended updating the reservoir operations and emergency action plans for the City's dams. The City has an action plan that provides guidance for operating the radial gates during flood conditions, but it was developed in 1996 and is outdated. It is critical that the City update this and other reservoir operations and maintenance procedures in order to ensure the integrity of the dams and to proactively respond to future flood events.

The Water Resources and City Engineering Departments along with community stakeholders developed request for proposals (RFP) for professional services to update the Operation and Maintenance Plans, Emergency Action Plans, Flood Inundation Maps, Flood Operation Plan for North Fork and Bee Tree Reservoirs, including computer models for operation of the flood gates and down stream mitigation to limit the impact of operating the North Fork gates during extreme weather events. A group of City staff and community stakeholders reviewed the submitted proposals and have selected the engineering firm of Schnabel Engineering South P. C. to perform these tasks.

The RFP included six (6) tasks and one optional item:

- Task 1 – Operation and Maintenance Plan – update ten year old plan
- Task 2 – Emergency Action Plan – update ten year old plan
- Task 3 – Flood Inundation Maps – create maps of Swannanoa River basin, including feeder streams
- Task 4 – Flood Operations Plan – operations to include minimizing down stream effects of operating the flood gates, including computer models
- Task 5 – Training – hands on training for using computer models
- Task 6 Executive summary/public involvement/meetings – summary of non security sensitive aspects of plans and public involvement of how plans will be used and implemented
- Optional item – Low Flow Protocol – impacts down stream of low flows – staff recommends including this item in contract

The total cost of this project has been negotiated at a cost not to exceed \$692,835. The annual dam inspection report recommending this project was not received until June 2005, so funding was not included in the Fiscal Year 2005-06 budget. The current Fiscal Year 2005-06 budget does not have sufficient funding available to fund a project of this magnitude. Staff is, therefore, recommending funding this very important project from cash reserves.

Project Cost Breakdown:

Task 1 – Operation and Maintenance Plan	\$23,920.00
Task 2 – Emergency Action Plan	\$51,710.00
Task 3 – Flood Inundation Maps	\$151,715.00
Task 4 – Flood Operations Plan	\$271,650.00
Task 5 – Training	\$17,080.00

Task 6 – Executive Summary/Public Involvement/Meetings \$36,205.00

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Optional Item – Low Flow Protocol \$18,365.00
Project Administration \$59,205.00

Sub-Total: \$629,850.00

10% Contingency \$62,985.00

Total Not to Exceed: \$692,835.00

Pro:

- Plans are over ten years old and need to be updated. Impact of flood gate operations needs to be determined more accurately to help minimize down stream flooding.

Con:

- Cost is a factor. Cost is not to exceed \$692,835, which will have to come from cash reserves. Cash and investments were reported to be \$13,675,503 Million at the close of Fiscal Year 2004-05. Funding this project will reduce reserves to \$12,982,668; however, this is still sufficient to meet current bond covenant obligations, to provide at least 3 months of O&M expenses, and to maintain needed reserves for emergencies. This level of reserves is also consistent with consultant recommendations for target reserves.

Staff recommends City Council approve the request for the Mayor to enter into a contract with Schnabel Engineering for updating water reservoir plans and maps as well as approve a budget amendment to provide funding for this project.

City Engineer Cathy Ball said that the following are 10 year old plans – Operation and maintenance of reservoirs and dams; emergency action plans; flood inundation maps; and operations of flood gates at North Fork.

She said that the Water Resources and Engineering Department looked at old plans which required updating. The stakeholders involvement was solicited to create Request for Proposals (RFP) for professional services to update existing plans and also create flood inundation maps and a flood control management plan to minimize downstream flooding from operation of the flood gates at North Fork. The stakeholders group included Biltmore Village representatives, Town of Black Mountain, Buncombe County Emergency Management, RiverLink, local professional engineer and City staff, including Water Resources, Engineering, Planning, and City Administration.

The stakeholders group went over the draft RFP to ensure all concerns of group were covered in the proposal. The draft the RFP went through three changes before final version was acceptable to group and the final version was sent out to over 25 local, regional and national engineering firms. The stakeholders group selected Mr. Jim Augins and Mr. Michael Miller to represent the group in the selection process; and (5) selection committee also consisted of City staff from Water Resources and Engineering Departments.

Water Resources Director David Hanks outlined the following RFPs: Task 1 – Update Operations and Maintenance Plan for North Fork and Bee Tree; Task 2 – Update Emergency Action Plan for North Fork and Bee Tree; Task 3 – Flood Inundation Map and Impact of Dams on Downstream Customers; Task 4 – Flood Operation Plan and Manual; Task 5 – Training for using analysis tools, maps and models; Task 6 – Executive Summary/Public Involvement – summary written that can be given to general public; and Low Flow Protocol – impact of dam operations downstream during low flow conditions.

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Mr. Hanks then reviewed with Council the selection process: (1) three firms submitted proposals; (2) selection committee was given copies of the proposals and asked to upgrade each on a number system of questions – based upon criteria in the RFP; (3) each committee member graded the three proposals and then met as a group to discuss; (4) committee agreed that one proposal did not meet the required standards requested in the RFP; (5) the other two firms were highly qualified and scoring by all committees members was very close; (6) the committee decided to bring both firms in for face-to-face interviews; (7) selection committee graded each firm on its presentation and answers to questions by each member of the committee; (8) the committee selected Schnabel Engineering South as the best firm for conducting these studies and plans for operations of the dams at North

Fork and Bee Tree; (9) staff met with representatives from the engineering firm to establish cost and time schedule for each task; (10) cost is not to exceed \$692,835; and (11) estimated completion for the entire project is October 2006 with modeling requirements by July 2006.

City staff recommends that Council approve (1) the request for the Mayor to enter into a contract with Schnabel Engineering South in the amount of \$692,835 for reservoir and dam operation plans; and (2) the budget amendment to reallocate funds from the Water Fund equity account to cover the cost of this project.

In response to Vice-Mayor Mumpower, City Engineer Ball said that last year there was some criticism because we had a plan that said don't open the gates until you have 6 inches of rain in a 24-hour period. The plan done in 1995 only looked at the integrity of the dam. It did not concern itself at all with any flooding downstream. At that time we had no idea that if we opened up the gates prior to flooding what the impact of the full stream length would be. Last year Mr. Hanks had a good solution to have his employees stand at some of the pinch points watching for flooding to occur, but we need to have better technology to operate that system better. What we are getting with the mapping and the modeling component is an up-to-date program that will tell us all the way up to the reservoir what the impacts of opening the gates will do.

In response to Councilwoman Bellamy, Ms. Ball said that there are trying to coordinate the different analyses taking place trying to make sure that the data can be used in each of the different programs to avoid duplication of efforts.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this item on the next formal City Council agenda.

STORMWATER UTILITY PROGRAM

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City Engineer Cathy Ball said that the purpose of this report is to update City Council on the status of the Stormwater Utility Program.

In December 2004 City Council adopted an ordinance establishing a Stormwater Utility. As part of the Fiscal Year Budget process, City Council approved a rate of \$2.34 per month per Equivalent Residential Unit (ERU). One ERU is equal to 2,442 square feet of impervious surface. The budget for the program is \$2,000,000. This program includes money for maintaining the current program, implementing the unfounded federal mandate, increasing the capital improvement program and developing stormwater master plans.

Since July 2005 staff has been working to educate rate payers about the purpose of the fee. Our efforts have included direct mailings with an additional mailing to the top 20 rate payers, community meetings, public meetings and individual meetings.

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The first stormwater utility bills are scheduled for mailing on December 1, 2005. The stormwater utility bill is separate from the water and sewer bill because it is sent only to property owners and not to tenants.

Ms. Ball then addressed specific questions associated with the stormwater utility as well as billing, crediting, tiering and the appeal process.

Ms. Ball outlined the Stormwater Program Goals: (1) plan for, improve and operate the stormwater system in an efficient and effective manner; (2) adopt development policies and standards that prevent flooding, preserve streams and channels, and minimize water pollution without arresting new or infill development; (3) develop detailed watershed plans that promote orderly growth; (4) fully comply with federal and state regulatory requirements; (5) inform the public about stormwater issues and involve them in stormwater initiatives; and (6) implement utility fees to meet these needs in a fair and equitable manner.

She gave a brief history (1) 1999 Federal mandate passed as an amendment to the Clean Water Act – NPDES Stormwater Regulations – Phase II; (2) requires the local governments our size develop a stormwater program to improve water quality; (3) unfunded mandate; (4) in June of 2004, the Stormwater Advisory Committee (SAC) began meeting to discuss program and funding options; (5) in December of 2004, the SAC made a recommendation to City Council to adopt a Stormwater Utility as a means of funding the stormwater program. City Council acted on this recommendation by adopting a stormwater utility enterprise fund; and (6) in June of 2005, City Council adopted a fee structure of \$2.34 per Equivalent Residential Units (ERU'S) = 2,442 square feet of impervious surface.

The stormwater utility (1) is a utility that charges a fee based on the amount of impervious surface on the property; (2) fee is based on impervious area which directly relates to the quality of water as a result of stormwater runoff; and (3) enabling

legislation allows Asheville as well as other local governments in North Carolina to charge this fee.

This is a fee because it's based on impervious surface not value of the property. The fee is charged to both taxable and non-taxable properties. Stormwater runoff is the water that flows off roofs, driveways, parking lots, streets, and other hard surfaces during rain storms. Rather than being absorbed into the ground, it pours into ditches, culverts, catch basins, and storm sewers. It does not receive any treatment before eventually entering the community's streams and lakes.

She explained that the definition of the impervious surface is any surface that does not readily absorb water and impedes the natural infiltration of water into the soil. Common examples include roofs, driveways, parking areas, sidewalks, patios, decks, tennis courts, concrete or asphalt streets, crushed stone and gravel surfaces.

Two hundred and fifty homes were sampled in the City of Asheville and the median square feet of impervious surface for these homes was 2,442. The City determined that the Stormwater Program needed to be funded at an amount of \$2,000,000. Based on this information, it was determined that \$2.34/month per ERU was the appropriate charge to generate these funds.

The fee for all residential rate payers is \$2.34/per month. Commercial, industrial, multi-family and institutional will pay \$2.34 per ERU. One ERU equals 2,442 square feet of impervious surface.

Residential rate payers will be billed once a year in the amount of \$28.08. The first bill will be sent in January. Commercial, industrial, multi-family and institutional rate payers will be

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billed twice a year – in December and June. The fees are for the Fiscal Year 2006 (July 1, 2005 – June 30, 2006).

The estimated \$2,000,000 in revenue will be spent on the budget, which was approved by Council in June 2005: stormwater maintenance/capital - \$1,020,000; plan review/inspection code enforcement - \$100,000; compliance with federal mandate - \$530,000; stormwater master planning - \$200,000; and administration - \$150,000.

Regarding public involvement, (1) direct notices were sent to more than 3,000 non-profit and commercial entities (workshop series hosted in September and October); (2) met with community groups like Council of Independent Business Owners and Coalition of Asheville Neighborhoods in September and October; (3) 19,000 direct notices sent to residential customers this month; (4) paid print advertisements placed in the Citizen-Times, Mountain Xpress and Asheville Daily Planet; (5) media coverage on WLOS, News Radio WWNC and the Western Carolina Business Journal (working with other outlets for coverage this month).

Ms. Ball then reviewed with Council some questions they may hear concerning the fee, some being, but are not limited to: why isn't this bill just added to the water and sewer bill; can we delay the program; why do all single family homes pay the same regardless of their size; why do you have to exceed the requirements of the ordinance to get a credit; and how are you billing private streets.

Ms. Ball responded to a comment from Councilman Davis regarding a group of stakeholders to interface with the public and possibly meet annually to review the program; and a concern about the credit system.

Vice-Mayor Mumpower asked the City Attorney to research what constitutional authority the government has to place this unfunded mandate on cities.

At 6:45 p.m., Mayor Worley announced a short recess.

UDO AMENDMENT REVIEWS

- City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which has been scheduled on November 22, 2005. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Changes Required by Acts of the State Legislature

Mr. Joe Heard, Director of Development Services, said that this is the consideration of an ordinance to amend the Unified Development Ordinance for the purpose of bringing City codes into compliance with recently adopted amendments to State planning statutes.

On September 22, 2005, the General Assembly of North Carolina passed two pieces of legislation amending planning and development procedures: Session Law 2005-418 entitled *An Act to Clarify and Make Technical Changes to City and County Planning Statutes*; and Session Law 2005-426 entitled *An Act to Modernize and Simplify City and County Planning and Land-Use Management Statutes*. In general, this legislation was adopted to codify certain legal issues, update the types of development tools available to local governments, and clarify many procedural aspects of the development process. Specifically, the legislation requires the City of Asheville to amend the UDO in order to address the following issues:

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- Conditions applied to approval by the Board of Adjustment must be related to the circumstances that give rise to the need for the variance.
- The Planning & Zoning Commission must provide a written recommendation to the City Council addressing a proposed amendment's consistency with adopted plans.
- In adopting any amendment, the City Council must adopt a statement describing whether its action is reasonable and consistent with adopted plans.
- Any condition placed on a project undergoing conditional zoning must be mutually agreed to by the City Council and the petitioner.
- Many standards for protest petitions are amended and clarified. Changes of significance include vacant or excused seats on Council shall not be calculated when figuring a supermajority, a minimum of 5% of a buffer 100 feet surrounding the property is necessary for a valid protest, and a person can withdraw his/her name from a petition at any time prior to the vote.

Pro –

- The proposed amendments would bring the UDO into compliance with State planning statutes, making the UDO more consistent with other adopted laws and more legally defensible.

Con –

- The proposed requirements place additional burdens on applicable boards, commissions, and City Council to justify decisions based on reasonableness and consistency with adopted plans.

The Planning and Zoning Commission recommended approval of these code amendments on November 2, 2005, by a unanimous vote of 6-0. In order to bring the UDO into compliance with State planning statutes, staff recommends approval of the proposed ordinance amendment as well.

City Attorney Oast responded to questions from Councilwoman Jones.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this public hearing on the next formal City Council agenda.

DRUG COMMISSION BEST ENFORCEMENT PRACTICES

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Vice-Mayor Mumpower briefed Council on the activities of the Asheville-Buncombe Drug Commission. He explained the following three initiatives, with more to follow, that are being initiated. One, a 12-month poster services; Two, a new award program; and Three, a best practices 2-day seminar on hard drug interdiction for the southeast in April, 2006. He asked for Council's support in name only via co-sponsorship.

Councilman Davis moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Bellamy and carried unanimously.

Councilman Davis moved to be a co-sponsor of the best practices 2-day seminar on hard drug interdiction for the southeast. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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BUS STOP INITIATIVE

Vice-Mayor Mumpower said that this program is a joint effort by Councilman Davis, Councilman Dunn and himself. The Asheville's "Top a Stop" Program is a community initiative to help improve our City's bus service by bringing folks in out of the

rain.

The "Top A Stop" Program is (1) a community partnership to provide more widely available shelters for bus stops; (2) It requires limited government manpower or expense; and (3) It is a program to help neighbors help neighbors and people help people.

The "Top A Stop" Program is being proposed because (1) People are standing in the rain; (2) Mobility is one of the most important ways to help people step up and forward; (3) The more user friendly our bus system is, the more riders it will attract; and (4) It's about working together.

- The Program works by taking a simple, affordable and attractive bus stop cover design; arranging for materials to be provided at cost; and finding partners who will fund and/or build the shelters as a community service.

Jennings Builders Supply (and others) will help with at cost materials. Western Carolina Rescue Ministries, Seabees, Neighborhood Associations, Civic Clubs, and others with a wish to help. We will pursue grants and other forms of non-governmental support. The City can chose to participate with material support once we are able to successfully activate the program.

- The next step is to (1) secure Council support; (2) Complete our initial design & permit work; (3) Work with Transit Director and meet with the Transit Board; and (4) Finalize our plan, complete an initial pilot shelter.

Vice-Mayor Mumpower said that we would like to get started immediately. We have the money, the people, and a plan for an initial pilot shelter. He then showed a picture of what the design will look like.

He feels the program will work because (1) The design is simple and doable as a weekend project; (2) The costs are low ~ a neighborhood or civic club can afford to do it; (3) maintenance is limited; (4) The shelters are attractive and appealing; and (5) Because there is a real need.

In response to Councilwoman Bellamy, Transit Services Director Bruce Black said that the benches received by a N.C. Dept. of Transportation grant can be incorporated very easily with this program.

Councilwoman Jones hoped that the posting of bus schedules can also be incorporated into the timing of the new benches.

Councilman Davis moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Bellamy and carried unanimously.

Councilman Davis moved to endorse the "Top A Stop" Program. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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BOARDS AND COMMISSIONS:

It was the consensus of City Council to reappoint Thomas Bell and appoint Charles R. Worley to the Alcoholic Beverage Control Board.

It was the consensus of City Council to arrange interviews for Ed Taylor and Beverly Jeter for a vacancy on the Citizens-Police Advisory Committee.

It was the consensus of City Council to postpone filling the vacancy on the Downtown Commission until the applications for the end-of-the-year vacancies are received.

It was the consensus of City Council to postpone filling the vacancies on the Economic Development Advisory Committee until the Committee can make recommendations to City Council in January, 2006.

CLOSED SESSION

- At 7:33 p.m., Councilwoman Bellamy moved to go into closed session for the following reason: To consult with attorneys employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: City of Asheville; Carolina Power & Light Co.; and Reid Thompson.

The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Davis and carried unanimously.

At 8:00 p.m., Mayor Worley was excused from the meeting due to a conflict of interest – he did not return. At 8:20 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

ADJOURNMENT:

Vice-Mayor Mumpower adjourned the meeting at 8:20 p.m.

CITY CLERK

MAYOR