

Tuesday – September 9, 2008 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilwoman Jones gave the invocation.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING SEPTEMBER 9, 2008, AS "FAMILY DAY – A DAY TO EAT DINNER WITH YOUR CHILDREN"**

Mayor Bellamy read the proclamation proclaiming September 9, 2008, as "Family Day – A Day to Eat Dinner with your Children" in the City of Asheville. She presented the proclamation to Ms. Jackie Latek, representing Families Together, who briefed City Council on some activities taking place during the day.

**B. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 22-26, 2008, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"**

Mayor Bellamy read the proclamation proclaiming September 22-26, 2008, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Minority Business Coordinator Brenda Mills, who briefed City Council on some activities taking place during the week.

**II. CONSENT AGENDA:**

Mayor Bellamy removed from consideration Consent Agenda "F" from the Consent Agenda. She said that late last week the Western Carolina Rescue Ministries found other means (Employment Staffing Inc. donation) to supply the transit passes, and has relayed to City staff that the budget amendment is no longer needed. She thanked the community for stepping up and making other donations as well to the Western Carolina Rescue Ministries.

At the request of Councilman Mumpower, Consent Agenda Items "D" and "G" were removed from the Consent Agenda for individual votes.

**A. APPROVAL OF THE MINUTES OF THE WORKSESSION HELD ON AUGUST 19, 2008; AND THE FORMAL MEETING HELD ON AUGUST 26, 2008**

**B. RESOLUTION NO. 08-186 – RESOLUTION OF INTENT TO CLOSE A PORTION OF SHADY LANE AND SETTING A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 14, 2008**

Summary: The consideration of a resolution of intent to close an unopened portion of Shady Lane and request a public hearing for October 14, 2008, regarding this issue.

N.C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville permanently close an unopened portion of Shady Lane.

At the August 14, 2008, Greenway Commission meeting, they unanimously approved the closure in that they could find no visible use for retaining that portion of Shady Lane.

Regarding the Strategic Operating Plan, this closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties.

Con:

- In consideration of the location of the unopened right-of-way, staff can find no potential challenges regarding the closure of the alley.

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt a resolution setting a public hearing for October 14, 2008, to close an unopened portion of Shady Lane.

### **RESOLUTION BOOK NO. 31 – PAGE 303**

#### **C. RESOLUTION NO. 08-187 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH T-MOBILE SOUTH, LLC, FOR ANTENNAS AND RELATED EQUIPMENT ON CITY-OWNED REAL PROPERTY AT 36 RESERVOIR ROAD**

#### **ORDINANCE NO. 3650 – BUDGET AMENDMENT REGARDING LICENSE AGREEMENT WITH T-MOBILE SOUTH, LLC, FOR ANTENNAS AND RELATED EQUIPMENT ON CITY-OWNED REAL PROPERTY AT 36 RESERVOIR ROAD**

Summary: The consideration of a resolution authorizing the City Manager to execute a License Agreement with T-Mobile South, LLC for antennas at 36 Reservoir Road; and the associated budget amendment, in the amount of \$56,200.

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.

T-Mobile South, LLC has offered to enter into a license agreement for antenna space and related equipment on the tower known as the "Lower Tower" which is the smaller tower to the west. 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, to be paid for by T-Mobile South, LLC. The proposed License Agreement will enable T-Mobile to operate six (6) panel 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 five (5) years with one renewal period of five (5) years. T-Mobile will pay an annual License Fee based on the initial rate of \$30,000 with a 4% increase annually thereafter. Two years of license fees will be collected in advance; the first two months exempted to allow for installation of equipment.

The initial rate was determined by gathering and comparing rate structures used by other municipalities across the state, including the Cary, Hickory, Charlotte and others. Formal findings were presented to the Planning and Economic Development Commission on August 20, 2008. Results indicate that base fee of \$30,000 per annum represents fair market value for this type of installation.

The Notice of Intent to enter into a License Agreement with T-Mobile South, LLC was published on August 28, 2008, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the License Agreement is being requested.

Regarding the Strategic Operating Plan, strategic tower asset management, through the creation of new license agreements, presents the City with revenue enhancements. These revenue enhancements can help the City's telecommunications operations become more sustainable.

Several new tenant leases are anticipated in Fiscal Year 2009. A portion of this additional revenue has been planned to underwrite a cost savings plan for the City's own telecommunication operations. Specifically, the City is planning on utilizing an estimated \$80,000 of these new revenue enhancements to re-locate equipment from the Spivey Mountain site (where the City pays

\$29,000 per year with a 7% escalation each year) to the White Fawn site (owned by the City). This re-engineering was proposed in the Fiscal Year 2009 budget, and once implemented, will promote significant cost savings to the City over time. The attached budget amendment will appropriate \$56,200 into the re-engineering account.

Pros:

- Enhanced revenue through the license fee income
- Maximized vacant space on existing tower infrastructure
- Underwrites long term cost savings plan for telecommunications

Con:

- None

Fiscal Impacts:

- Fiscal Year 2009: \$56,200 revenue
- Fiscal Year 2009: \$56,200 investment programmed to support re-location of City equipment
- Beyond Fiscal Year 2009: Additional revenue stream based on initial rate of \$30,000 per year with 4% escalation per year.
- Beyond Fiscal Year 2009: Resulting savings of initial rate of \$29,000 per year with 7% rent escalations.

City staff recommends City Council (1) adopt a resolution authorizing the City Manager to execute the license agreement with T-Mobile South, LLC on behalf of the City of Asheville; and (2) approve associated budget amendment.

**RESOLUTION BOOK NO. 31 – PAGE 304  
ORDINANCE BOOK NO. 25 – PAGE**

**D. BUDGET AMENDMENT FROM A DONATION FROM THE FRIENDS OF THE NATURE CENTER TO SUPPORT CONSTRUCTION OF THE NEW RACCOON, FOX AND RED WOLF HABITATS AT THE NATURE CENTER**

This item was pulled from the Consent Agenda for discussion and/or an individual vote.

**E. RESOLUTION NO. 08-188 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT SERVICE AGREEMENT WITH MOTOROLA INC. FOR MAINTENANCE COVERAGE OF OUR RADIO SYSTEM INFRASTRUCTURE EQUIPMENT**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract service agreement with Motorola, Inc in the amount of \$126,297.36 for maintenance coverage of our radio system infrastructure equipment.

The City of Asheville continues to use Motorola, Inc. to perform maintenance coverage on the infrastructure of the Motorola 800MHz radio system. The system is used by Public Safety departments as well as other operational departments.

Annual maintenance payments are required in order to keep the radio system in a reliable and supported state. A contracted agreement also means that the City has access to technicians and repair equipment immediately upon a problem arising.

Because the radio system provides basic support and enhanced safety functionality for officers, this action ties into City Council's goal of being one of the safest and most secure communities when compared to similar cities.

Pro:

- Prioritize public safety and infrastructure investments that support health and safety.

Con:

- If we do not have a maintenance contract in place we could have lengthy and more costly service interruptions on the radio system.

The fiscal impact would be for Fiscal Year 2009: \$126,297.36. Having to pay for repairs on a basis per call and per part would be extremely likely to be much more costly.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a contract with Motorola, Inc. for maintenance coverage of our radio system infrastructure equipment.

**RESOLUTION BOOK NO. 35 – PAGE 305**

**F. BUDGET AMENDMENT TO ACCEPT DONATION FROM EMPLOYMENT STAFFING INC. FOR THE PURPOSE OF REIMBURSING TRANSPORTATION EXPENSES INCURRED BY WESTERN CAROLINA RESCUE MINISTRIES INC. ON BEHALF OF HOMELESS CLIENTS SEEKING WORK OPPORTUNITIES**

Mayor Bellamy removed this item from the Consent Agenda. She said that late last week the Western Carolina Rescue Ministries found other means (Employment Staffing Inc. donation) to supply the transit passes, and has relayed to City staff that the budget amendment is no longer needed.

**G. RESOLUTION AMENDING THE CITY'S FISCAL YEAR 2007-08 AND FISCAL YEAR 2008-09 CONSOLIDATED ACTION PLANS TO REALLOCATE FUNDS TO THE ONTRACK FINANCIAL EDUCATION AND COUNSELING SERVICES AGENCY**

This item was pulled from the Consent Agenda for discussion and/or an individual vote.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Councilwoman Jones moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Russell and carried unanimously.

**ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

**D. ORDINANCE NO. 3651 – BUDGET AMENDMENT FROM A DONATION FROM THE FRIENDS OF THE NATURE CENTER TO SUPPORT CONSTRUCTION OF THE NEW RACCOON, FOX AND RED WOLF HABITATS AT THE NATURE CENTER**

Summary: The consideration of a budget amendment, in the amount of \$69,160, for a donation from the Friends of the Nature Center for the Nature Center.

The Friends of the Nature Center is a 501 (c) 3 non-profit organization whose purpose is to act as an advocate for the Western North Carolina Nature Center, and to raise funds to support the programs and enhancements at the Nature Center.

The Friends has donated \$69,160 to the City of Asheville to support construction of the new raccoon, fox, and red wolf habitats at the Nature Center. The funding will be applied to the cost of irrigation, landscaping, hot wire equipment, signage, and whelping boxes.

Construction of the raccoon, fox and red wolf habitat supports these City Council strategic goals:

- Critical Services and Infrastructure – Support and enhance basic city services and customer services
- Sense of Place, Heritage and the Arts – Embrace Asheville's vibrancy, character and cultural art – Sustain Asheville's unique character and heritage, develop regional assets

Pros:

- Provide funding that completes the funding plan for construction cost.
- Support the overall well being and safety of the red wolves, foxes and raccoons living at the Nature Center.
- Demonstrate a strong collaborative effort between the City of Asheville and the Friends of the Nature Center.

Con:

- None

The budget amendment will increase the budget for the red wolves, foxes and raccoons living at the Nature Center by \$69,160 and provide additional funds to enhance the habitat at no cost to the City of Asheville.

City staff recommends City Council to adopt a budget amendment authorizing the City Manager to establish a budget for funds received from the Friends of the Nature Center in the amount of \$69,160 to support construction cost of the new raccoon, fox, and red wolf habitats at the Nature Center.

Councilman Mumpower wanted to highlight the efforts of those who are willing to help the City run the Nature Center.

Councilman Mumpower moved for the adoption of Ordinance No. 3651. This motion was seconded by Councilwoman Jones and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **G. RESOLUTION NO. 08-192 - RESOLUTION AMENDING THE CITY'S FISCAL YEAR 2007-08 AND FISCAL YEAR 2008-09 CONSOLIDATED ACTION PLANS TO REALLOCATE FUNDS TO THE ONTRACK FINANCIAL EDUCATION AND COUNSELING SERVICES AGENCY**

Summary: This is the consideration of a resolution amending the FY 2007-08 and FY 2008-09 Consolidated Action Plans for HOME Program funding, and the 2008-09 Consolidated Action Plan for CDBG funding to reallocate these funds to the OnTrack Financial Education and Counseling services agency to provide counseling and rental assistance services to low-income clients.

On July 29, 2008, staff was contacted by the Affordable Housing Coalition of Asheville and Buncombe County (AHC) advising that the agency would discontinue providing counseling and rental assistance through its CDBG and HOME agreements with the City. AHC anticipated taking this action by mid-September. Since that date, staff has worked closely with AHC to identify an alternative agency to provide these services through the CDBG and HOME programs. Several community agencies were approached; however, OnTrack Financial Education and Counseling Services (OnTrack) was the only agency interested in assuming these services. OnTrack, a well-established and successful counseling agency, is very enthusiastic about continuing this important work for our community.

In order to minimize an interruption in these services, OnTrack quickly prepared the required applications for CDBG and HOME funds for review by the Housing and Community Development Committee (HCD) and the Asheville Regional Housing Consortium Board (the Board). OnTrack's CDBG application was approved by the HCD Committee on August 18, 2008; and the agency's HOME application was approved by the Board on August 20, 2008. Both the HCD Committee and the Board expressed their appreciation to OnTrack for stepping forward to assume this responsibility on behalf of those who are in need of this assistance.

This request supports and implements the City's 2008-09 Strategic Plan goal of providing affordable housing by targeting financial resources to initiatives that end homelessness in Asheville. In addition, this request supports the goals and objectives established in the City's 2005-10 Consolidated Strategic Plan for Housing and Community Development

Pros:

- Corrects each Action Plan so that it accurately reflects that OnTrack will now provide these services to the community;
- Updates the fiscal and programmatic information for each plan;
- Minimizes a gap in rental assistance services for the community; and
- Allocates CDBG and HOME funding to OnTrack to deliver these services.

Con: None noted.

Fiscal Impact: None.

City staff recommends City Council amend the Fiscal Year 2007-08 and Fiscal Year 2008-09 Consolidated Action Plans for HOME Program funding, and the 2008-09 Consolidated Action Plan for CDBG funding to reallocate these funds to the OnTrack Financial Education and Counseling services agency to provide counseling and rental assistance services to low-income clients.

Councilman Mumpower suggested these monies might be better invested in core City activities.

Councilman Newman moved for the adoption of Resolution No. 08-192. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **RESOLUTION BOOK NO. 31 – PAGE 309**

### **III. PRESENTATIONS & REPORTS:**

#### **A. STRATEGIC PLAN QUARTERLY UPDATE**

Assistant City Manager Jeff Richardson said that the Asheville City Council identified short and long term goals at the January 2007 strategic planning retreat and staff is providing its fourth quarterly update on progress in several key areas.

City Council has asked City staff to provide quarterly updates on key strategic initiatives associated with the eight priority areas reflected in the City's Strategic Plan. Staff has tracked projects using performance indicators and measurements through the fourth quarter of Fiscal Year 2007-08. In addition, as a subset to this presentation, staff has provided Council with the additional information: (1) Economic Development Key Indicator Report; and (2) Police Department Drug & Community Policing Quarterly Report.

He then presented the following Fourth Quarter Fiscal Year 2007-08 Strategic Plan End of the Year Report.

The following are the focus areas for 2007-08: (1) Community Building; (2) Critical Services & Infrastructure; (3) Economic Development; (4) Growth, Development, & Land Use; (5) Housing Opportunities; (6) Sense of Place, Heritage & the Arts; (7) Natural & Built Environment; and (8) Intergovernmental Relations.

The following are the 2008-09 Strategic Plan focus areas: (1) Affordable; (2) Green; (3) Safe; and (4) Sustainable.

In the focus area of community building, the following goals have been accomplished:

Continue to Develop Resources and Tools for Increasing Citizen Participation in Government - Neighborhood and Community Outreach Progress: (1) twenty neighborhood meetings prove successful; (2) five neighborhood walks; three community meetings; (3) three neighborhood groups receive technical assistance; (4) Neighborhood E-News (3 issues); and (5) Neighborhood event planning assistance (3 events).

Citizen's Academy Graduation – (1) Graduation on June 24, 2008; (2) Last class graduated 28 students; and (3) Largest Citizen's Academy graduation

Develop Public Outreach to Communicate City Council's Strategic Goals - Downtown Master Plan Success: (1) High attendance for public meetings (Average 120 - 200 people); (2) Issue/specific topic meetings (Average 50 - 60 people); (3) Mailings to property owners; (4) E-mail newsletters; and (5) Website with documents from public/group meetings.

“Promote Inclusive Decision-Making” – 2007-08 progress: (1) communications improvements – City Channel programming, Map Asheville, website redesign; and (2) increase citizen participation: (a) Citizens Academy; (b) community/neighborhood outreach; (c) neighborhood planning (pilot) program; (d) neighborhood E-News; (e) neighborhood walks; and (f) development forums.

In the focus area of critical services & infrastructure, the following goals have been accomplished:

Enhance Commitment to Public Safety and Drug Approach - Weed and Seed Initiative Progress at West Riverside: (1) Drug arrests up 14%; (2) Calls for service (Asheville Police Department) down 18%; (3) Weed and Seed patrols net 216 arrests; (4) Services provided to 344 citizens by Resource Officers; and (5) Asheville Police Department Officers facilitate Community Oriented Problem Solving (COPS) Meetings.

Continue Commitment to Public Safety - Traffic Safety Unit's Wreck Reduction Efforts: (1) 47% cumulative reduction for targeted areas (excluding fender benders); (2) Intersection of US 19-23 & Louisiana Ave down 46%; (3) Intersection of Tunnel Road & S. Tunnel Road down 50%; and (4) Hendersonville Road in the area of Boston Way, Lodge Street and surrounding areas down 47%.

Enhance Basic City Services by Providing an Enhanced Level of Customer Service and Response – (1) Street Maintenance Progress: (a) 1410 potholes filled within 24 hours; and (2) Downtown Cleanliness: (a) Downtown public restrooms; (b) Park Ambassador; (b) weekly street cleaning.

“Supporting and enhancing basic City services” - 2007-08 notable enhancements include: (1) Downtown garbage collection (7 days per week); (2) Pritchard Park Ambassador; (3) Bee Tree Water Treatment Plant On Line; (4) Sidewalk Project Completions 56% up; (5) Asheville Police Department Gang Suppression Unit introduced; (6) City facility security improvements up; (7) Two new fire stations on-line – emergency response time up; and (8) water revenue bond implementation.

In the focus area of Economic Development, the following goals have been accomplished:

Improve Parking and Pursue Public-Private Partnerships to Address Downtown Parking Needs - Parking Improvements Progress: (1) Civic Center Garage improvements (\$561,280); (2) New equipment for three parking garages; (3) completed feasibility study: Rankin Avenue Garage; (4) completed parking lot improvements under I-240; and (5) pursuing private/public partnerships.

Develop strategies for youth and education programs and increase awareness of City government – City of Asheville Youth Leadership Academy (CAYLA) success: (1) 100% acceptance into college acceptance; (2) high ratings on the summer job success; (3) community service enrichment was broad level of community service; and (4) City knowledge has been increased.

“Supporting a dynamic and robust Asheville economy with balanced growth” – 2007-08 notable initiatives: (1) job development: Volvo, Biltmore Farms, Unison Engine Components, Colbond, Highway Clays; (2) customer service center/development services; (3) Eagle-Market Street Request for Proposals mixed-use proposal; (4) UNC-Asheville “Rising Star” Program; (5) CAYLA; (6) Riverfront property acquisition (Senate Bill 7); and (7) access to capital: Mountain Bizworks.

In the focus area of Growth, Development & Land Use, the following goals have been accomplished:

Pursue redevelopment of City-owned property to advance Council's goal of affordable housing – (1) City Owned Land Redevelopment: (a) Aston Gateway; (b) Ralph/Choctaw; and (c) Hunt Hill Purchasing Site; and (2) City Facility Master Planning process - plans underway.

Continue to Support Programs Such as the Greenway Master Plan and Increase the Amount of Linear Feet of Paved Greenways in the City - Greenway Development Progress: (1) Master Plan to City Council next month; (2) French Broad River Corridor Connector: planning, design, and land acquisition underway; (3) Hominy Creek Greenway: preparing for construction; and (4) Reed Creek Greenway: Phase I between Cauble and Catawba Street is complete; Phase II underway.

In the focus area of Housing Opportunities, the following goal has been accomplished:

Address the City of Asheville's Growing Need for Affordable Housing – Mayor's Affordable Housing Task Force Progress: (1) June 2008, City Council accepts Affordable Housing Plan; (2) July – August, 2008, Affordable Housing Working Group works with Housing & Community Development Committee – Unified Development Ordinance amendment work begins; and (3) September 2008, Unified Development Ordinance amendment recommendations (Presentation September 15 to Housing & Community Development Committee) – if accepted, then September 23, 2008, City Council agenda.

“Providing sufficient, safe and affordable housing opportunities for all citizens” – 2007-08 notable progress: (1) City of Asheville Homeless Coordinator (in-house); (2) 10-Year Plan progress continues; (3) Housing Code presentations (19 meetings); (4) Housing Trust Fund (a) Council appropriated \$600,000; (b) awards - \$590,000; (c) units: 12 market and 6 rental; and (d) loans repaid - \$202,908; and (5) additional \$500,000 Glen Rock/60 units (year two).

In the focus area of Sense of Place, Heritage and the Arts, the following goals have been accomplished:

To Support Asheville's Unique Character and Promote Opportunities for Social Interaction and Local Products - The Downtown Asheville Farmers Market: (1) produce; (2) baked goods; and (3) people.

Embrace Asheville's Cultural Heritage - Urban Trail maintenance project: (1) Maintenance assessment completed; and (2) Restoration repair work beginning Fall 2008.

Develop Recommendations & Implement Wayfinding Project - Implementation will include: (1) 35 pedestrian level signs; (2) 13 informational kiosks; and (3) 290 directional and destination signs.

“Embracing Asheville's vibrancy, character and cultural heritage” – 2007-08 significant progress: (1) Pack Square Park (Phase III); (2) Downtown Farmers Market; (3) Lexington I-240 Mural Project; (4) Bike Plan; (5) Downtown public restrooms on-line; and (6) Energy Loop restoration.

In the focus area of Natural & Built Environment, the following goals have been accomplished:

Continue to Improve Energy Conservation Efforts - Public Works 4/10 Work Schedule Pilot Program: (1) Preliminary results: (a) energy use reduction in Public Works Building: 13%; (b) building energy use reduction in Fleet Building: 6%; (c) avoided building cost energy bill: \$1665; (d) expected annual fuel savings per employee: \$521; and (e) expected green house gas emissions avoidance: 249 tons.

Continue to Improve Energy Conservation Efforts - Staff Energy Conservation Education (Better Energy Savings Today

Program, or B.E.S.T.) Progress: (1) distributed conservation educational materials throughout 23 city buildings; (2) alternative community staff education; and (3) management education on sustainability leadership. This results in 1.2% total energy reduction in 23 City buildings.

"Preserving and Enhancing Asheville's natural beauty" – 2007-08 notable progress: (1) Council acquisition of 20.9 acres (preserved open space); (2) Beaucatcher Overlook Park 30 acres (2/3 paid); (3) Steep Slope Ordinance approved; (4) stormwater/erosion control permit Review process enforcement up (\$94,000 fines); (5) two watershed engineering analyses; (6) zoning enforcement up: routine enforcement yielded 300% increase in violation; and (7) City's environmental education efforts underway.

In the focus area of Intergovernmental Relations, the following goal has been accomplished:

Collaborate with Local and Regional Partners – Collaborate on Regional Issues (1) Collaborative Efforts Include: (a) City operations proposal/ County parking decks; (b) One Stop Citizens Service Center; (c) Asheville Police/Buncombe Co. BCAT; (d) City Asheville Police Department/Department of Social Services Substation effort; (e) UNC-Asheville/City of Asheville Rising Star Program; and (f) environmental education: City of Asheville/Metropolitan Sewerage District/Water.

"Collaborating with State/Local Agencies to Achieve Regional Goals" – 2007-08 notable progress: (1) Oaks Subdivision Water Project (\$200,000); (2) mental health Community Development Block Grant funding for Dobbins Center; (3) wholesale municipal water contracts; (4) DEA/Asheville Police Department Task Force; (5) City of Asheville/Buncombe County 911 consolidation; (6) regional emergency services training center; (7) City of Asheville Fire & Rescue mutual aid agreements; and (7) WNC Green Building Council Partnership (\$5,000 rebate/ environmental building incentives.

This information is to update City Council on key operational initiatives specific to City Council's Strategic Operating Plan. No action is necessary at this time.

Upon inquiry of Mayor Bellamy, Parks & Recreation Director Roderick Simmons updated City Council on the temporary closing (approximately 2-3 weeks) of the Burton Street Center for renovations. He said the programs will be conducted at the West Asheville Center in the interim.

Councilman Newman was pleased to see the expected annual fuel savings per employee of \$521 with the 4/10 work schedule pilot program.

In response to Mayor Bellamy, Director of Public Works Mark Combs explained how the City has been working with the N.C. Dept. of Transportation regarding mowing and notifying adjacent property owners about their responsibility of keeping gutters and sidewalks in front of their homes clear of weeds.

At the request of Mayor Bellamy, and by consensus of Council, she asked that the City place on their website and on the government channel information to raise the citizens' level of awareness of their responsibilities.

When Councilman Russell asked when the Civic Center parking deck stairwell would be completed, Director of Transportation and Engineering Cathy Ball said she would be happy to provide Council a timeline for that project.

Mayor Bellamy commended Civic Center Director Sherman Bass and his staff on improvements to the Civic Center.

Mayor Bellamy was pleased to see the increase in success over last year's success and thanked the City staff for the work they do on behalf of the citizens of Asheville.

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF 131 OLD CHARLOTTE HIGHWAY, ASHEVILLE, NORTH CAROLINA**

##### **ORDINANCE NO. 3652 – ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING ONE LOT LOCATED AT 131 OLD CHARLOTTE HIGHWAY**

Mayor Bellamy opened the public hearing at 5:53 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance for the voluntary annexation of one lot



located at 131 Old Charlotte Highway. This public hearing was advertised on August 29, 2008.

She said that Curtis Canty, on behalf of the City of Asheville Board of Alcoholic Beverage Control Board, has petitioned the City for the annexation of one parcel located at 131 Old Charlotte Highway (PIN 9667.16-73-7727) containing approximately .85 acres.

The lot is located on the northern side of Old Charlotte Highway just past the entrance to Eastwood Village. The parcel is approximately 1.9 miles from the nearest boundary of the City of Asheville's primary corporate limits and is, therefore, subject to the standards for annexation of noncontiguous area contained in N. C. Gen. Stat. sec. 160A-58.1. The parcel and the petition meet all applicable requirements of the State of North Carolina.

A single-family home is currently located on the property and they propose to build a new ABC store. The current appraised valuation for this property, according to the Buncombe County tax records, is \$90,100.00. As this property is owned by a governmental entity, it is exempt from property taxes. The City of Asheville will, however, share in the revenues produced at this store.

Pursuant to N. C. Gen. Stat. sec. 160A-58.2 a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, it is proposed that the annexation become effective on December 31, 2008.

This action complies with the City Council's Strategic Operating Plan with the goal of working to enable voluntary annexation to support healthy growth of the City.

Pro:

- Complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

Con:

- Marginal increase in service costs.

Regarding fiscal impact, while the property is not taxable, since owned by a governmental entity, the City will receive a distribution of the profits of the store. Information from the CEO of the local ABC Board states that,

"Early projections indicate that the Fairview area store would generate sales at between \$1,250,000 and \$1,800,000 annually. At these levels we would project the initial net income before distributions of approximately \$30,000, since the Board would incur debt for the construction of the building. We believe that the benefit to the City from a store in this location will only increase in future years."

Information from the Fire Department indicates costs would include: a \$100 debt service payment to the Reynolds Fire Department, tri-annual inspections, and emergency responses. The Department indicates that these expenses would be negligible.

The Police Department indicates that this annexation will not have a significant impact on the operation. They base this comment on information on calls from other ABC stores in our jurisdiction.

City staff recommends City Council adopt the ordinance annexing the property set forth in the petition.

Mr. Curtis Canty, CEO of the Asheville ABC Board, said that this area was identified in their five-year plan early on as a growth area for Asheville. They secured this site in December of 2007. At this site they will expand their operations to better serve that market as it continues to grow.

Mayor Bellamy closed the public hearing at 5:55 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Jones moved for the adoption of Ordinance No. 3652. This motion was seconded by Councilman Newman and carried unanimously.

**ORDINANCE BOOK NO. 25 - PAGE**

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## **V. UNFINISHED BUSINESS:**

### **A. DISCUSSION REGARDING THE OFFER BY W&K HOTELS LLC FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED AT 550 AIRPORT ROAD (AIRPORT HOLIDAY INN)**

At staff's request, Vice-Mayor Davis moved to refer this discussion to the City Council Finance Committee. This motion was seconded by Councilman Newman and after the Mayor asked for public comments and received none, the motion carried unanimously.

### **B. CONSIDERATION OF THE SECOND AND FINAL READING OF ORDINANCE NO. 3642 – ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSES OF FILLING IN MISSING INFORMATION, CORRECTING MISTAKES, RESOLVING DISCREPANCIES AND CLARIFYING THE ORDINANCE AS IT RELATES TO SIGN REGULATIONS**

Mayor Bellamy said that the public hearing and adoption on first reading of Ordinance No. 3642 was held on July 22, 2008, and due to the vote, it needed to be brought back for a second and final reading. On August 26, 2008, by City staff request, the second reading of this ordinance was continued until this date.

Urban Planner Julia Cogburn said that this is the consideration of amending Ordinance No. 3642, which was adopted on first reading only to address Council concerns with respect to the proposed amendments to Chapter 7 of the Unified Development Ordinance as it relates to signs regulations.

On July 22, 2008, Asheville City Council received a report on recommended changes to sign regulations found in the City's Unified Development Ordinance. At that meeting Council voted 4-3 to approve the proposed amendments. During discussion on the proposals, certain Council members expressed concerns with two of the amendments, which have led to proposed wording changes. Specifically, Council concerns were expressed about:

- The minimum setback requirement for real estate signs and the type of sign included in the setback provision.
- The provision requiring movement of vehicles that contain signage.

The staff proposes the following modifications to the amendment language to address the issues noted above.

- The primary concern with setback requirements for real estate signage was for the larger signage on commercial/institutional/industrial zoned properties. Therefore, we would now like to propose that no setback be required if the real estate sign is less than ten (10) square feet per face, however, a set back of ten (10) feet would be required for anything greater than ten (10 feet) per face.
- The suggested amendment concerning how often a vehicle must be used in the normal course of business has been deleted. . The current language states that a vehicle with signage on it must be used "periodically." The staff had recommended that "daily" use be required. After discussion, the Council expressed a preference for "weekly" use. After further consideration of the matter, the staff feels that it would be better to retain the existing language, allowing our enforcement officers to determine whether or not it appears that a vehicle is being used as a sign based on the type of business (one requiring significant delivery services vs. one not requiring the same) rather than having to inspect a site daily to see if a vehicle is being driven at any time during a week.

In summary, Ms. Cogburn said that the concerns noted were (1) Size of signs included in the minimum setback provision for real estate signs; and (2) Provision requiring movement of vehicles with exterior signs.

Regarding real estate signs (1) No setback required if the real estate sign is less than ten (10) square feet per face; and (2) Setback of ten (10) feet for signs greater than ten (10 feet) per face. *This excludes signs typically used for residences*

Regarding vehicles with signs (1) Original proposal that required "daily" movement concerned Council, given the nature of certain businesses and environmental concerns; (2) In discussion the Council expressed a preference that this be modified to require "weekly" movement; (3) After further internal discussion of Council concerns, the staff now believes it would be better to retain the existing language (requiring "periodic" movement); and (4) This allows enforcement officers discretion to determine whether a vehicle is being used as a sign based on the type of business (one requiring significant delivery services or not) rather than having to frequently inspect a site to determine if vehicles are being regularly driven for business purposes.

Staff recommends that Council approve the revisions to the ordinance as previously presented, but incorporating the described changes.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Newman moved for the adoption of the second and final reading of Ordinance No. 3642 as amended as outlined above. This motion was seconded by Councilwoman Jones and carried on a 4-3 vote, with Vice-Mayor Davis, Councilwoman Cape, Councilwoman Jones and Councilman Newman voting "yes" and Mayor Bellamy, Councilman Mumpower and Councilman Russell voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE 14**

#### **C. DISCUSSION REGARDING CONTRUCTION EASEMENT TO ALLOW FOR A PERMANENT ROAD IMPROVEMENT ON PUBLIC LAND (PACK SQUARE PARK)**

At staff's request, Councilman Mumpower moved to table this item pending resolution of litigation. This motion was seconded by Councilwoman Jones and after the Mayor asked for public comments and received none, the motion carried unanimously.

#### **D. RESOLUTION NO. 08-189 – RESOLUTION ADDRESSING THE INCORPORATION OF THE TOWN OF LEICESTER**

Assistant Director of Planning & Development Shannon Tuch said that this is the consideration of a resolution addressing the incorporation of the Town of Leicester.

In June of 2007, the Asheville City Council heard a request from representatives of the task force for the incorporation of Leicester for the adoption of a resolution of support for their incorporation efforts. This resolution of support would allow the Leicester request that is currently before the Joint Legislative Commission to move to the General Assembly with a positive recommendation; without this resolution of support, a negative recommendation would be offered which could impact the success of the incorporation request. In June, the request was not supported by the majority of Council members (motion failed for lack of a second). While the desire for self governance was generally supported by the Council, specific concerns over the size of the proposed incorporation area (66+ square miles), ability to provide adequate services, and protecting Asheville's growth interests were among the concerns cited during the discussion; Council also expressed a desire for more discussions with Leicester representatives to better understand their request and to explore a mutually acceptable and sound proposal.

Leicester representatives returned to City Council on January 8, 2008, with a revised proposal that still included a boundary that largely followed the boundary of the township but did exclude the city's extra-territorial jurisdiction (ETJ) that fell within the boundary of the township. Representatives felt that this modification should help address Asheville's growth interests along with a modification to the proposed charter that would restrict the town's ability to pursue involuntary annexations. During this meeting, the Council continued to express concern over the general size of the area but did, ultimately, approve a resolution of support with language that was designed to encourage additional modification and adjustment. It was unclear whether the adopted resolution would be viewed as a resolution of support by the Joint Legislative Committee so, rather than forward this resolution for consideration, Leicester representatives elected to continue discussions with City staff and Council members.

After several meetings and discussions Leicester representatives have now agreed to reduce the overall size by approximately 43%, excluding large areas of undeveloped forest land and/or lightly managed farm land. This change will have a positive impact on the density for the proposed area of incorporation to a number higher than the .4 persons per acre documented for the township. The staff, however, is unable to assess what the actual density would be. Also discussed during these meetings was how to better protect Asheville's interests for future growth with some modifications to the boundary being proposed for areas along Leicester Highway and surrounding areas. This discussion resulted in a few variations with the most refined and mutually acceptable option being offered for consideration; this option results in a total area of 37.7 square miles which constitutes a significant reduction from the 66 square miles originally proposed. It is also important to note that due to the significant reduction in overall size, the restriction in the town's proposed charter that would prohibit involuntary annexations has been removed to allow for future growth options for Leicester.

As a general point of interest, between the June '07 and January '08 time period, representatives from Swannanoa approached the City of Asheville with a similar request for a resolution of support for an incorporation which was adopted in May of this year. Unlike the request from Leicester, Swannanoa desired a referendum and for this desire to be reflected in the text of the resolution. Because a referendum had not been offered by the representatives from Leicester, this language is not included in the resolution.

She said that copies of the June 27, 2007, staff report and relevant portions of the minutes of both the June 27<sup>th</sup> meeting

as well as the January 8<sup>th</sup> meeting, where previous consideration occurred, are available. Under "Legal and Process Issues," the staff report explains why the City of Asheville is being requested to consider this matter.

In the City Council Strategic Operation Plan, City Council adopted the following four strategic goals: *sustainable, affordable, green and safe*. This report's recommendation most appropriately reflects the goal of *sustainability* by addressing growth management issues on the periphery of the city limits by forging strong, collaborative partnerships with bordering municipalities to address regional growth concerns.

Pros:

- Would allow for Leicester to have a degree of self governance
- May help contribute to regional partnerships

Cons:

- Size of area and potential delivery of service problems
- Supports a trend of rural incorporations without regional planning
- (Minor) financial impact

This modified proposal would reduce the impact that had been originally projected at \$20,000 from lost sales tax revenue to a number not less than \$13,000 (to be based on assessed value).

The revised proposal is a significant improvement over the original incorporation plan. However, the staff believes that the size of the area proposed for incorporation will present practical difficulties in delivering urban services, and the density and character of the area proposed for incorporation is predominately rural and does not reflect the intent of incorporation.

The staff recommends that the Council consider the information contained in the staff report and presentations offered by the Leicester representatives and make an appropriate motion with respect to the resolution. Should the Council choose to support the adoption of the resolution, suggested language is noted in the resolution, as follows: (1). The City of Asheville approves the incorporation effort of the Town of Leicester to obtain a greater degree of governance and control over its future through incorporation, but expresses the following concerns: (a) That the size of the area proposed for incorporation will present practical difficulties in delivering urban services; (b) That the density and character of the area proposed for incorporation is predominately rural and does not reflect the intent of incorporation; and (c) Incorporation affects the City of Asheville's opportunities for improved fiscal health.

In response to Councilman Russell, Ms. Tuch said that the Leicester Task Force did not express interest in including language about the incorporation being submitted to a referendum; however, City Council can include that language if they wish.

Ms. Pat Cothran requested ten minutes, however, there were not three other individuals in the Chamber that would give up their time for her to speak. Councilwoman Jones moved to waive the rules and allow Ms. Cothran ten minutes. This motion was seconded by Councilwoman Cape. Said motion failed on a 2-5 vote, with Mayor Bellamy, Vice-Mayor Davis, Councilman Mumpower, Councilman Newman and Councilman Russell voting "no."

Ms. Cothran preferred not to make a presentation but provided City Clerk Burleson her notes to circulate to Council.

When Councilman Russell asked if Leicester was interested in holding a referendum on incorporation, Ms. Cothran felt that Raleigh would ask for a referendum anyway. She asked for Council support of their incorporation without any three concerns outlined. She also asked that the referendum issue not be a part of the resolution as well.

Councilman Mumpower could not support the resolution without language recommending any act of incorporating Leicester be submitted to a referendum.

In response to Councilman Mumpower, City Attorney Oast said that charters can be adopted for cities that limit or prohibit those cities from annexing.

In response to Councilman Mumpower, Ms. Cothran said that their charter does not include language about involuntary annexations. It does not include a prohibition against involuntary annexation. Their charter has already been submitted to Raleigh – prior to beginning these deliberations. If they incorporated such a large area they would put in their charter that they would not involuntarily annex; however, they have now reduced the size by almost half. She didn't particularly envision that they will do involuntary annexations.

Councilman Mumpower noted that Asheville gets criticized for involuntary annexations and that is one of the reasons why

Leicester is wanting to incorporate. He questioned why Leicester would want to retain the power of involuntary annexation – the same model that they are resisting from Asheville. He would recommend language in the resolution be added to include a referendum and a charter amendment that does not allow involuntary annexations in the Town of Leicester.

Councilman Mumpower moved to approve the resolution incorporating the three concerns with the following two additional: (1) request the Town of Leicester's ability to utilize involuntary annexation be removed from their charter; and (2) any act incorporating Leicester be submitted to a referendum by the citizens of the identified proposed Town. This motion failed for a lack of a second.

When Councilman Russell asked if there are any cities in North Carolina that don't have the power to annex, City Attorney Oast said that some have limited ability to annex. It is something that can be peculiarized to any particular city and be limited or expanded as the legislature wishes.

Councilman Russell moved to approve Resolution No. 08-189 incorporating the three concerns with the following additional: (1) any act incorporating Leicester be submitted to a referendum by the citizens of the identified proposed Town. This motion was seconded by Councilman Mumpower.

In response to Vice-Mayor Davis, City Attorney Oast said that a referendum is not a necessary part of the incorporation procedure, but it is something that can be required at the time the legislature takes action. What Council is doing is expressing their position that they think the legislature should make that a requirement as it has the option to do. This would only be a recommendation from Council. All Council can really do is to either say they approve this or not. We include recommendations in our resolutions because they are legitimate concerns, He advised Council that the effect of their recommendations is limited.

At the request of Vice-Mayor Davis, using a map, Urban Planner Blake Esselstyn showed Council where the new boundary line is in relationship to the City.

Councilwoman Cape could not support the motion because we only have the option of saying yes to the incorporation or no. She felt the size was still too large, lack of a referendum and some of the other issues. Just because we add the concerns in the resolution, does not mean they will be heard.

Councilman Newman felt that it is not right the right thing to do to allow people to organize large rural areas for incorporation. The areas in North Carolina that get organized into municipalities should be what most people view as towns and cities – not large areas of farm and forest land. He felt the revised boundary is still an overwhelming rural area. There may be a more appropriate area narrowly defined around what most people see as the Town of Leicester, but this proposed area is far too expansive to meet what would be good policy for Buncombe County or North Carolina.

In response to Councilwoman Jones' comments regarding the balance of good planning of what is important to preserve and what is appropriate to develop, Ms. Cothran said they are certainly agreeable to regional planning efforts.

Even though Vice-Mayor Davis felt the area was not urban enough for incorporation, he would support the motion with the inclusion of a recommendation for a referendum.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

The motion made by Councilman Russell and seconded by Councilman Mumpower to approve the resolution, with the following four concerns (1).The City of Asheville approves the incorporation effort of the Town of Leicester to obtain a greater degree of governance and control over its future through incorporation, but expresses the following concerns: (a) That the size of the area proposed for incorporation will present practical difficulties in delivering urban services; (b) That the density and character of the area proposed for incorporation is predominately rural and does not reflect the intent of incorporation; and (c) Incorporation affects the City of Asheville's opportunities for improved fiscal health; and (d) any act incorporating Leicester be submitted to a referendum by the citizens of the identified proposed Town, carried on a 5-2 vote, with Councilwoman Cape and Councilman Newman voting "no."

**RESOLUTION BOOK NO. 35 – PAGE 306**

**E. RESOLUTION NO. 08-190 – RESOLUTION ADOPTING THE ASHEVILLE AREA WAYFINDING MASTER PLAN**

**RESOLUTION NO. 08-191 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A COOPERATIVE INTERLOCAL AGREEMENT FOR MAINTENANCE OF THE ASHEVILLE AREA WAYFINDING PROGRAM**

Transportation Planner Dan Baechtold said that this is (1) Consideration of a resolution adopting the Asheville Wayfinding Master Plan; and (2) Consideration of a resolution authorizing the City Manager to sign a cooperative interlocal agreement for the maintenance of the Wayfinding program.

Per City Council's direction, staff is working with other area partners toward implementing a comprehensive wayfinding and signage program for the Asheville area. The master plan phase of the project is complete, and the next step is fabrication and installation of the signs. All of the participating local governments are being asked to adopt the Wayfinding Master Plan and the interlocal agreement.

- The City of Asheville, Buncombe County, the Towns of Weaverville, Woodfin, and Black Mountain, and the Asheville Regional Airport jointly funded the development of the Asheville Area Wayfinding Master Plan.
- Hillier Architecture was hired in April 2007 to design and program the county-wide wayfinding system.
- The Partnership on Wayfinding task force, made up staff from the City of Asheville and the Convention and Visitors Bureau (CVB), the Towns of Weaverville, Woodfin, and Black Mountain, Buncombe County, the Asheville Regional Airport, and the North Carolina Department of Transportation worked with Hillier on the wayfinding analysis and designs, and identified needed signage in the community.
- Through a public input process, designs were selected that included pedestrian level signs and kiosks, vehicular signs, and gateway signs.
- In December 2007 Buncombe County Tourism Development Authority approved funding for construction of the wayfinding system in the amount of \$1.65 million.
- The CVB is leading the project management.

Current Status: The Asheville Area Wayfinding Program is entering the implementation phase of the project, which includes the fabrication and installation of approximately 35 pedestrian level signs, 13 informational kiosks, and 290 directional and destination signs within Buncombe County, of which 230 are within the City of Asheville.

- Programming for the wayfinding elements is complete.
- Three Buncombe County artists have been selected to create five designs for "finials" that will be on top of some of the sign poles.
- Eight kiosks and approximately 35 pedestrian-level signs are planned for installation throughout downtown Asheville.
- A construction management team is being assembled to guide the steering committee through the bid process, encroachment agreements with the NCDOT, and the construction and installation of the wayfinding elements.

The Asheville City Council 2008-09 Strategic Plan lists this project as action item under the Sustainable Category. The strategic plan reads: "Partner with the Convention and Visitors Bureau to implement the regional wayfinding project."

Next Steps:

- The CVB will begin the bid process in mid-September. It is expected to take approximately six weeks.
- The installation will be phased beginning with the pedestrian program. The second phase includes installation of signs in downtown Asheville, followed by the remaining signs in the program.
- The steering committee anticipates fabrication to begin in November with installation beginning in December and continuing through April 2009.
- A plan for removal of obsolete signage will be finalized.

Pros:

- Successful regional partnership.
- Most of the project is funded by the Tourism Development Authority.
- The wayfinding program addresses several identified City Council goals: 1) improving signage into and out of City parking facilities; 2) providing information kiosks in the downtown; 3) removing sign clutter and obsolete signage; 4) improving directional signage for residents and visitors.

Cons:

- The project requires an ongoing commitment from the City to maintain the signs.
- The project requires a financial contribution from the City Parking Fund to purchase the signs that will be attached to City parking structures (a \$90,000 commitment spread over two years).

The City of Asheville contributed financially to the master plan phase of the project. The Tourism Development Authority has committed the majority of the funding for the fabrication and installation of the signs. The City's parking fund will be used to pay for signage that is physically attached to the City parking structures. The City of Asheville and other municipalities will assume an ongoing maintenance role for the signs, which will result in additional responsibilities for the sign maintenance crew in the

Public Works Department.

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City staff recommends (1) approval of the resolution adopting the Asheville Area Wayfinding Master Plan; (2) approval the resolution authorizing the City Manager to sign a cooperative interlocal agreement.

Mr. Kelly Miller, Executive Director of the Buncombe County Tourism Development Authority, briefly explained the final phase of the wayfinding project. Showing people clearly and succinctly how to get to point A and point B is crucial in the area of fuel consumption. He said that fabrication and installation will begin in early November and we should be completed in April of 2009. They will begin installation of pedestrian signs and informational kiosks, followed by vehicular signage in Asheville and then the surrounding towns. They will focus on the City of Asheville first. Regarding removal of existing signs, they will be identifying where the signs are located and make sure that new signs are in place as old signs come down. He said that the Tourism Development Authority has budgeted \$150,000 (for 5-years) to go towards the maintenance effort and have worked closely with City staff and the other municipalities to come up with a unique maintenance program – the Tourism Development Authority will pay half and the other half is to be paid for by the other cities in the area.

There was a brief discussion regarding the maintenance contract of these expensive signs. Mr. Miller said that if the signs are vandalized by graffiti, there is a coating on the signage that will make it easy to take graffiti off. If the \$150,000 allocated by the Tourism Development Authority is not enough for the 5-year contract, Mr. Miller said they would talk about amending the agreement.

When Vice-Mayor Davis asked if there is a willingness of the Tourism Development Authority to consider an extension after the five-year maintenance period is up, Mr. Miller said, not speaking for the Tourism Development Authority, said that he felt there will be a real desire to continue this relationship for many years.

In response to Councilman Mumpower, Ms. Kate Marble, project manager, said that there is a removal plan as part of the program. At this point, there are approximately 50 existing signs slated to be removed.

Councilman Mumpower felt this program has advantages to the tourism industry in Asheville but significant risks to the taxpayers of Asheville. Since Asheville residents know where to go, he suggested partnering with the Tourism Development Authority with the City's involvement being the utilization of City staff to make sure the equipment is maintained, but the Tourism Development Authority carry the entire maintenance costs for the five years, or at least for two years until we find out what the risk factors are.

In response to Councilman Mumpower, Mr. Miller felt that retail sales can increase as much as 20% with an effective, unified, integrated community wayfinding program. When more people walk in an attraction or know how to get to Biltmore Village, those businesses can hopefully generate more revenue to hire more people.

In response to Councilman Mumpower, Mr. Miller said the Tourism Development Authority's operating budget this year is \$5.2 Million and they have about \$1.6 Million in our product development fund.

There was a brief discussion, initiated by Councilman Mumpower, about how other cities in North Carolina receive a portion, if not all, of the room tax revenue. He said the City of Asheville does not enjoy this revenue source that he believed every other large city in North Carolina enjoys. On that basis, it seems more fair for something that is clearly going to reward the tourism industry for the Tourism Development Authority to assume the risks associated with this good effort, than the taxpayers. He felt the direct beneficiaries are visitors. Based on the tax structure we have in Asheville, he suggested Council not put our taxpayers at risk for maintaining these signs.

Mr. Miller said the City does receive funds from the Tourism Development Authority in a huge way. They have funded ten projects for a total of over \$9 Million. He noted that they are the only County in the State of North Carolina that takes one-cent and puts it into a program called "tourism product development fund" that anyone, even the Civic Center, can make application for those funds. He said that fund is working well.

Councilman Mumpower felt that we work hard in the City of Asheville to stop putting up signs, but now we are part of an effort, because it's something we want, to create more signs.

Councilman Newman felt this is an excellent partnership and a great investment of dollars.

Councilwoman Cape asked the Tourism Development Authority to consider supporting Asheville in letting Asheville have an equal share of the room tax as other large cities in North Carolina. It would be beneficial to us to be able to help with the product development of keeping our streets clean, signs maintained, etc. Mr. Miller said that he would take that message back to

the Tourism Development Authority.

In response to Mayor Bellamy, City Manager Jackson said that he would research insuring the signs and report back to Council.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolutions and they will not be read.

Councilman Newman moved for the adoption of Resolution No. 08-190. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **RESOLUTION NO. 08-190 - RESOLUTION BOOK NO. 31 – PAGE 307**

Councilman Newman moved for the adoption of Resolution No. 08-191. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **RESOLUTION NO. 08-191 – RESOLUTION BOOK NO. 31 – PAGE 308**

Mayor Bellamy suggested a joint meeting of City Council and the Tourism Development Authority to discuss future revenues and possibilities for more collaborative efforts. Regarding the Civic Center, Council adopted a policy for basic maintenance of the Civic Center and Council committed space for a performance center, so it's about time we had a serious conversation about significant investment in other infrastructure needs for our City. Mr. Miller said that he would take that message back to the Tourism Development Authority. Mayor Bellamy asked City Manager Jackson to follow-up with a letter to the Tourism Development Authority asking for that conversation.

### **VI. NEW BUSINESS:**

#### **A. RESOLUTION NO. 08-193 – RESOLUTION AUTHORIZING NEW RATES FOR ADVERTISING ON CITY BUSES AND PARKING DECK PROPERTIES**

Mr. Paul Van Heden, Transportation and Engineering Department employee working on sales and marketing, said that his first project was to analyze and make recommendations to improve the way Asheville generates revenue from selling ad space on the buses.

The background is (1) the outdoor industry has changed and the current advertising rates have become obsolete (a) no demographic, showing or market share data; (b) no graphics; (c) ads sold by day, rather than by month; and (d) parking services have never offered advertising products; and (2) new advertising rates (a) makes the City's advertising competitive; (b) parking services is integrated into the advertising mix; (c) graphics for all products; and (d) all data an advertiser needs will be included in a comprehensive Excel sheet.

Using a chart, he explained how the rate sheet meets best practices and increases earnings. Using a chart, he showed the old rate sheet and then the new rate sheet.

The next steps will be (1) staff will outreach to local businesses in order to educate them about advertising opportunities on buses and elevators; and (2) staff will aggressively go after local and national accounts.

The following is additional information from the staff report prepared by Director of Transportation and Engineering Cathy Ball. This is the consideration of a resolution authorizing new rates for advertising on city buses and parking deck properties.

Staff is dedicated to maximizing revenue from selling ad space on appropriate city-owned property. To this end, staff revisited the way it sells advertising on the Asheville Transit System (ATS) and studied the feasibility of installing billboards within city-owned parking decks.

Last year ATS earned approximately \$64,425 in advertising. It is staff's opinion that by streamlining the rate structure to meet best practices, aggressively market advertising opportunities to businesses, and making bus wraps available – this amount could be doubled.



In addition, staff would like to open a new venue for advertising by placing poster-lockers within the three parking-deck elevators, and selected stairwells.

Under the current rate structure and advertising products, the most ATS can generate from bus advertising is approximately \$85,000. Under the proposed rate structure, ATS expects to generate \$120,000 in the first year. The most staff expects to make under the new rates is \$380,000 per year.

Staff estimates that allowing advertising in the poster-lockers would generate between \$19,000 to 30,000 in the first year.

Staff will aggressively go after local and national accounts when the rates are approved.

New rates: **Bus Advertising** is a method for advertisers to reach the public in metropolitan areas. Ads are placed externally on the sides and rear of a public bus - thus turning it into a mobile billboard. Ads are also placed inside the vehicle, attached to the corners between the walls and ceiling overhead.

The first step in encouraging businesses to advertise with ATS is to create a rate sheet which meets industry standards, offers demographic information, and uses terms a potential media buyer would expect.

In creating this new rate sheet, staff decided to build on the old one and include best practices. Staff selected the following cities for analysis:

- Fayetteville, NC (FAST): Chosen because they are a south-eastern transit system with a similar-sized fleet of 17 buses.
- Charlottesville, VA (CTS): Chosen because they are a south-eastern transit system with an exact-sized fleet of 20 buses.
- Danville, VA (DMT): Chosen because they are a south-eastern transit system with a similar-sized population size of 53,000.
- Raleigh, NC (CAT): Chosen because their system services the capital. As such, they are a good benchmark for transit systems in North Carolina.
- Winston-Salem and Durham (WSTA, DATA): While their fleet and population is larger than Asheville's, comparing with these markets allows staff to determine what upper-end rates are possible.

Staff made a side-by-side comparison of base advertising rates to advertise for one month on transit systems listed above. Based on this comparison, staff set the following prices to advertise on one bus for one month:

Ad Product	Rate 1 month / 1 bus	Old Rate
Queen:	\$200	\$230
King:	\$225	\$105
King Kong	\$700	
Half Side	\$600	
Full Side	\$1,000	
Full Wrap:	\$2,000	\$833
Tail-Light	\$200	\$105
Supertail	\$400	
Full Back	\$600	
Interior:	\$20	\$15

Staff created a full rate sheet by multiplying the number of buses necessary to meet a certain showing with the base monthly rate. A "showing" represents the percentage of buses which carry a particular ad, represented as a number between 1 and 100. In the case of Asheville, a "50" showing can be achieved by placing ads on ten buses.

In order to motivate advertisers to invest in long-term contracts, staff included a 5% discount for three months, 6% for six

months, and 7% for the entire year. Offering bulk discounts is standard practice across the advertising industry.

Applying the above calculations, staff set the rate structure for advertising on ATS buses. This rate sheet was reviewed by, and has support from, the Transit Commission.

**Billboard rates:** In the context of this report, a billboard is a 28 x 40.5 inch advertising space within a lockable frame. The top half (28 x 20) will be rented out to advertisers, and the bottom half (28 x 20) will be reserved for public information and civic announcements.

Since this type of product has never been offered by the city, and staff was unable to find a city in North Carolina that offered similar space - staff resorted to comparing rates with the rates for advertising on the back page of local newspapers, and researched as to what the market would support.

The Transit Commission approved staff's recommendation with a 5 to 1 vote on August 13, 2008.

Should the Council approve this proposal, a wording amendment adding language to the City's sign code specifically allowing this form of advertising will have to follow.

This action complies with the City Council's Strategic Plan in the Green focus area by assisting in the development of a sustainable funding structure for Asheville Transit.

Fiscal impact:

- Costs per billboard: Approximately \$200. Total cost: \$800.

Pros:

- Advertising on the buses can generate an extra \$60,000 (\$120,000 within a year). In the long term, this could go up to as much as \$380,000 per year.
- Staff expects to generate between \$19,000 to 30,000 in the first year from advertising in the city-owned elevators and hallways.

Cons:

- Advertising on buses dilutes the ATS brand.

City staff recommends City Council adopting a resolution approving the new rate sheet.

When Vice-Mayor Davis recalled the negative reaction from residents about the full wrap buses, Mr. Van Heden said that the Transit Commission discussed that at length. The outcome was to limit the full wraps to five buses. Advertisers can use different combinations for different types of wraps, but at no given time over the next two years can any one advertiser be able to dominate the entire civic space. This way we can balance the desire to meet funding requirements without having to depend on taxpayers at the same time preserve civic space.

In response to Councilwoman Cape, Mr. Van Heden said that we can generate \$120,000 to \$300,000 if everything worked out ideally, opposed to \$64,000 if we continue on the track we are on now.

Councilwoman Cape asked how the additional revenue will be utilized. Ms. Ball responded that Assistant to the City Manager Lauren Bradley is working on creating a marketing plan so we can figure out how to better invest those monies. Staff will be reporting back to Council with that proposal.

Councilman Mumpower felt we have spent years developing heavy regulations for billboards, commercial signage and in people's yards, and now that it serves our purposes, we are prepared to approve signs. He felt we are being inconsistent. He also

felt we are putting ourselves in competition with the business community and advertising firms and that is not good city government.

Councilman Russell felt that this have been approved by the Transit Commission by a 5-1 vote and it will increase the revenue stream. Therefore, he moved to approve Resolution No. 08-193 adopting new rates for advertising on City buses and parking deck properties as outlined by City staff. This motion was seconded by Councilwoman Cape.

In response to Vice-Mayor Davis, Mr. Van Heden said that we will lose approximately \$110,000 if we do not allow full wraps. He explained why he did not think the prohibition of full wraps would affect the base revenue of \$120,000.

Councilwoman Jones hoped we would look for opportunities for public service announcements inside the buses at a reduced cost.

Councilman Newman moved for a friendly amendment to the motion to not allow the full side or full wraps. Councilman Russell did not accept the friendly amendment. Since Councilman Russell did not accept the friendly amendment, Mayor Bellamy asked for a second to the amendment. Said motion died for lack of a second.

Councilman Newman moved for a friendly amendment to the motion to not allow the full side, full wrap or King Kong signs. Councilman Russell did not accept the friendly amendment. Since Councilman Russell did not accept the friendly amendment, Mayor Bellamy asked for a second to the amendment. Said motion died for lack of a second.

Councilman Newman moved for a friendly amendment to the motion to not allow the full side, full wrap or King Kong signs. Councilman Russell did not accept the friendly amendment. Councilwoman Cape seconded the motion and said motion failed on a 3-4 vote, with Mayor Bellamy, Councilwoman Jones, Councilman Mumpower and Councilman Russell voting "no."

Mayor Bellamy could not support the motion in that she felt it will create a problem in our community with the increase of signage on our buses, based upon the feedback we get about yard sale signs. She looked forward to seeing other opportunities to diversify funding sources.

The original motion made by Councilman Russell and seconded by Councilwoman Cape, adopting new rates for advertising on City buses and parking deck properties as outlined by City staff, carried on a 4-3 vote, with Mayor Bellamy, Vice-Mayor Davis and Councilman Mumpower voting "no."

## **RESOLUTION BOOK NO. 31 – PAGE 312**

### **VII. OTHER BUSINESS:**

#### **A. CLAIMS**

The following claims were received by the City of Asheville during the period of August 15-28, 2008: Betty Clark (Water), Olivia M. Walton (Sanitation), Greg and Susanne Wilson (Sanitation), Southern Concrete (Sanitation), John Santangelo (Streets), AT&T (Water), Donna Mackin (Water) and Charter Communication (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

### **VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Gene Hampton, founder of North Carolina Citizens for Quality Government, spoke to Council the US Constitutional right of freedom of speech at Bele Chere.

Mr. Gilian Kearns spoke about his inability to register people to vote at the Transit Station. As this is a time sensitive matter, Mayor Bellamy placed this on the September 16, 2008, worksession for Council to receive a report from City Attorney Oast.

Councilman Mumpower commended Employment Staffing Inc. for stepping forward with the donation of \$500 to Western Carolina Rescue Ministries (WCRM). He also thanked WCRM for their long standing history of not reaching into taxpayers' pockets.

Councilwoman Cape said that she has just returned from a Sister City trip to Nigeria and she was able to see the value of social and governmental infrastructure and what a difference it makes regarding litter, potholes, streets, etc. She felt we take for

granted the basic infrastructure., and was pleased to see how well the City of Asheville functions as a community. She commended City staff who work so hard on those basic elements.

### **Closed Session**

At 7:50 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) To consult with an attorney 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: State of North Carolina; City of Asheville; and County of Buncombe - The statutory authorization is NCGS sec 143-318.11(a)(6); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e) - The statutory authorization is contained in NCGS sec. 143-318.11(a)(1). This motion was seconded by Councilwoman Jones and carried unanimously.

At 8:57 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilman Mumpower and carried unanimously.

### **IX. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:57 p.m.

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CITY CLERK

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MAYOR