

Worksession

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilman Kelly M. Miller; 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

**Annexation**

Urban Planner Julia Cogburn said that reviewed with Council some basic information about annexation. Annexation in North Carolina can take place via 3 mechanisms: (1) legislative annexation; (2) voluntary; or (3) statutory or involuntary annexation. North Carolina is one of handful of states that allows for involuntary annexation. Many government and financial scholars feel that the North Carolina statutes play a vital role in health of North Carolina cities and, therefore, the state itself. Annexation is based on the principal that it is good public policy to make that which is urban in nature (and meets certain qualifications) should be municipal for steady, orderly growth of our cities. Also, those on the edge who benefit from the services and amenities offered by a City should contribute to its operation.

Using a map, she showed the growth of Asheville over time. For the most part, in recent history, the City has proposed annexation at in a conservative fashion at least biennially. The characteristics of this approach have been: (1) To undertake annexation of properties that are clearly urban in nature, attempting to avoid the annexation of vacant land or sparsely developed properties; (2) To annex areas carefully defined from a service provision standpoint (the City has generally not looked at annexing areas that are difficult or complicated to serve); (3) To annex areas that enhance our ability to provide efficient and effective municipal service “gaps” such as property along a road corridor that has corporate jurisdiction on either side; (4) To look for areas that can benefit from enhance urban services (such as Enka Village where the City replaced a severely deteriorated sidewalk); (5) To annex areas in different quadrants of the City; and (6) To avoid, per direction of City Council, the annexation of industrial areas, primarily the southern part of Buncombe County west of Hendersonville Road.

Involuntary annexation is perhaps more important to Asheville as a growth management tool than other cities because we lack the incentives other cities have to ensure steady growth. The Sullivan Acts restrict ability to grow with water line extension and to charge differential rates. Asheville taxpayers absorb operation cost deficits for water customers not within the City.

Every other year, since 2002, the Asheville City Council has approved a Resolution of Consideration showing broadly areas that may be considered for annexation in the near future. State law provides that such a resolution, and accompanying map, may be adopted by cities as a preliminary step in the annexation process. The recent maps approved by the City of Asheville have been very expansive in scope, including areas that may not experience enough urban development in the near future to qualify for annexation, or are topographically or geographically illogical for annexation. Because of this, last year the Council asked staff to propose amendments to the map of consideration to make it more practical for the public and for the City as a tool for consideration of annexations. Using a map, she showed the existing area of consideration of about 66.5 square miles in size. Staff is proposing removal of about 23 square miles from the area of consideration. These are primarily areas that are not likely to urbanize in the near future, as they are substantially rural and have little immediate development potential due to their location or to topographic or geographic constraints. Council may wish to ask staff to look at these areas and suggest a new Map of Consideration. Staff can be prepared to bring to Council in the coming months a new map for consideration.

If Council directs, staff is prepared to begin looking at future annexations in line with recent history or simply cleanup. Using the Map, she said that based on a very preliminary review some of the areas that might be considered are portions of the Royal Pines area, the Emma Road area, the Bent Creek area and the Charlotte Highway area. She noted that most of those areas have water service but not all of them have sewer service. There are also some minor cleanup annexations in the north, around the UNC-Asheville campus.

Annexations that remain in litigation include (1) Ridgefield Business Park (annexation ordinance passed in 2005 – Superior Court and North Carolina Court of Appeals have ruled in favor of the City of Asheville); (2) Airport Road (annexation ordinance passed in 2005 – Superior Court and North Carolina Court of Appeals have ruled in favor of the City of Asheville); and (3) Biltmore Lake (annexation ordinance passed in 2007 – depositions and discovery underway for upcoming trial).

She suggested Council give staff direction on if they wish to reconsider its direction concerning the annexation of industrial properties, especially those that are no longer in industrial use. In general, annexation by itself should not represent anything more than a marginal increase in the cost of doing business. However, as other costs rise, industrial property owners will continue to

evaluate whether operations can be conducted in a more cost-effective manner at other locations.

When City Manager Jackson asked if the City were to get the application of conditioning water service based upon voluntary annexation, where and when would that be triggered by the development patterns. Ms. Cogburn responded it would be 15-20 years because so much of the areas outside the City limits already have water service.

Councilman Newman explained that for developments that are located in areas where it is not logical or cost-effective to provide city services, cities may sign an annexation agreement with the developer, which would allow them access to city infrastructure now in return for the city being able to voluntarily incorporate the development into the municipality once the city has grown enough that it is cost-effective to provide services to that area.

City Attorney Oast said that he is aware of several situations where that occurs. He understands the way it works is if you are a development that is seeking service, but the city (for whatever reason) cannot or does not wish to have you voluntarily annex at the time, that the developer (who owns all the property) will sign an annexation agreement. And, as a condition of receiving service, and at such time as the city grows out in that direction such that voluntary annexation does not present service delivery issues, the city can invoke that agreement and the area comes into the city. In fact, he said the City has used that process in the past with the Town Center at Biltmore Park.

Upon inquiry of Mayor Bellamy, City Attorney Oast updated Council on the series of meetings held regarding annexation in Raleigh. Basically, he said that the Joint Legislative Committee voted in favor to recommend a moratorium on city-initiated annexations and if the laws are changed, voted to recommend that the people in the area to be annexed get to vote on whether they want to be annexed or not. He said he would provide Council a summary sheet.

Throughout discussion, Ms. Cogburn responded to various questions/comments (and for those she could not respond to, would be forthcoming to Council), some being, but are not limited to: does the City traditionally spend a lot of money in campaigning the positive side of annexation; is it true that if we were to annex everything in the Map of Consideration area it would be at least 25-30 years; and historically, how has Asheville annexed; is Asheville conservative or liberal with it's annexation.

Mayor Bellamy suggested that we meet with other municipalities to see how we can utilize the spheres of influence, similar to Charlotte/Mecklenburg, as a tool for our growth. After a brief discussion about the spheres of influence purpose, it was the consensus of Council to form a small Council committee to work with principles of other municipalities in our area, County Commissioners and legislators to consider moving the spheres of influence forward.

Councilman Mumpower pointed out how Asheville is treated differently than any other city in North Carolina. Our own legislators are responsible for creating this difference. He encouraged Council to (1) be bolder and honest with the community about the fact that Asheville is not being treated fairly; (2) develop a policy that for a 3-year period of time that Council will not annex industrial areas; (3) consolidate to avoid the duplication of services; (4) suspend action on forced annexation for one year; and (5) continue to fight the Sullivan Acts to make sure that Asheville is treated like other cities.

Councilman Newman reiterated his support of Council to reach a settlement with the County and our legislators on the water dispute. He felt that if there is a way to settle the questions outside of the judicial process, it would be in our best interest to find a solution. He then presented Council with the following proposal to settle the Sullivan Act dispute. The City of Asheville agrees that there shall be no differential rates charged for water customers inside and outside the City limits. The Sullivan Acts will be modified to allow Asheville to operate under the voluntary annexation policies that apply to all other cities in North Carolina. Asheville will not be allowed to divert Water Funds to the General Fund. However, up to 5% of Water Funds may be used for infrastructure improvement projects directly related to water line replacement (such as improving streets or sidewalks torn up during the line replacement process). Legal challenges to the constitutionality of the Sullivan Acts will be withdrawn. The proposed settlement represents a compromise – neither party gets everything they wish. However, it does address the core concerns identified by the City, County and legislators over the past several years. The benefits of the settlement to Asheville would be (1) the water system will be managed by the City, which has demonstrated good stewardship of the system over the past several years, investing tens of millions in long overdue water infrastructure repairs; (2) voluntary annexation will allow the City's tax base to grow as the area urbanizes; (3) the City will have additional funds to upgrade streets and sidewalks as part of the process for replacing old water lines; and (4) no additional expenses to carry out litigation associated with the Sullivan Acts. The benefits of settlement to non-City residents include (1) assurance that water rates will be no higher for non-City customers than for those who live in Asheville; (2) assurance that for all existing customers, water cannot be used as a condition for annexation into the City; (3) assurance that payments made for water services cannot be delivered to the City's General Fund; and (4) no more tax monies will need to be used in litigation associated with the Sullivan Acts. The benefit to the water system will be the assurance that the infrastructure will be fixed as funds cannot be diverted to non-water system programs. He said that under the previous agreement, the County paid for the management of the Nature Center, Golf Course and the baseball facilities, which together cost approximately \$600,000 a year. The County also reimbursed Asheville for \$1.7 Million for payments City taxpayers make for patrol

and investigation services that are only provided outside the City limits. The total value of these tax equity arrangements was about \$2.3 Million. There are a variety of opportunities for future partnerships between Asheville and Buncombe County to assure a fair plan for financing of facilities and services that benefit all taxpayers in the region. He then explained the importance of voluntary annexation.

Vice-Mayor Davis supported agreed with the majority of the proposal presented by Councilman Newman, if we have the ability to receive tax equity. He suggested the meeting with the group regarding the spheres of influence could include discussion about the tax equity, which may be in the form of consolidation of services.

Mayor Bellamy felt we should meet with the County soon to see if there is something in downtown Asheville that will meet their needs and help us financially, since they are considering taking the Biltmore Square Mall off the tax rolls and moving their offices (approximately 600-700 people) from our downtown area. We need to be creative in what we bring to the table. She also felt that in order to resolve the issue with Henderson and Buncombe counties, we need to look at the results from the Land-of-Sky Regional Council study on water. She suggested putting a regional planning board in place – not an independent authority, but a group to see where growth is occurring and how we can work together as a region with water. We also need to educate the City taxpayers on how the sales tax works and about how much they pay and where their tax dollars are distributed, e.g., Asheville residents are not just paying for the cleaning of Asheville, but for the tourists and Buncombe County residents who come into Asheville.

In response to Councilman Russell, Mayor Bellamy said that approximately 130,000 people are served on the City's water system, of which 57,200 are Buncombe County residents.

Councilman Russell said that no one wants to be unfair, but phasing in a small differential rate would result in significant monetary gains to the City.

Councilman Mumpower could not support Councilman Newman's proposal in that it still treats Asheville citizens unfairly. He would not be opposed in taking 5, 10 or 15 years to implement a fair deal, but was opposed to Asheville being treated unfairly.

Councilwoman Cape pointed out that Asheville has an engaged citizenry in Asheville and suggested a bullet-point understanding of the issues so they can talk with our legislators too.

Councilman Newman suggested an analysis be performed of over the last 20 years of how many millions of dollars would Asheville have now and what our population would be if the developments that occurred in Buncombe County within close proximity to the City limits had been required to annex. He also wondered what our growth forecast will be (1) the ability for Asheville to grow; and (2) no ability for Asheville to grow. He explained that even if we prevail in court, the legislature does have the ability to grant cities or restrict cities annexation authority. We are not going to solve rate differential issue except through persuading the County Commissioners and legislators that we should have that right.

Councilman Miller agreed that while we wait for the court's decision, we obtain more information on the tax data while at the same time meet with our legislators and County Commissioners on a possible settlement.

Mayor Bellamy said that staff is also preparing information on the reality of water differential rates across North Carolina. She felt it was important for everyone to have clear and accurate data.

Mayor Bellamy believed that a subcommittee was identified at the retreat consisting of herself, Vice-Mayor Davis and Councilman Newman regarding water issues.

When Councilman Newman asked for clarification on a proposed settlement, Mayor Bellamy said that staff will be providing some additional information on questions raised so then Council as a whole can give direction to the subcommittee on if we are flexible on anything and if so, what are those areas we will be willing to reach middle ground. Per City Manager Jackson, staff could be prepared to provide an information update in 30 days or possibly at the February 10 meeting. He will meet with Mayor Bellamy to get it scheduled for another worksession.

Mayor Bellamy felt it was clear that our water system will be managed by the City. She reiterated that the total population served through our water system is 130,000, with 57,200 being County residents. There are 22,900 water meters in the County. Our current water system value is \$1.3 Billion. She believed water is the gold of the 21<sup>st</sup> Century and having an independent non-elected authority to oversee that asset is a mistake.

In response to Councilwoman Cape, City Attorney Oast explained that we could win the lawsuit, but still be prohibited from requiring annexation as a condition of the extension of service.

Mayor Bellamy explained that we need the water system to have a good business practice model that is fair to Asheville and requires developers to tap into water systems that they are close to. Councilman Newman said that the spheres of influence model will assist in this issue.

In response to Councilman Mumpower about a policy not annexing industries for the next three years, City Attorney Oast said that he would have to research information on constitutional limits on differential taxation of industries. If Council develops a policy of this type, Planning & Development Director Judy Daniel asked for guidance on properties that are industrial and in business vs. industrially zoned properties that are no longer in manufacturing. Mayor Bellamy suggested this topic come back to Council for future discussion as Planning staff is taking an amendment forward to the Planning & Zoning Commission, and then onto Council, a proposed ordinance that responds to the current economic climate which will assist businesses and development proposals to open and operate more easily, while still meeting the technical Unified Development Ordinance standards along with City adopted goals.

Councilwoman Cape asked staff to provide Council with economic incentives for annexation.

City Manager Jackson said that the discussions coming before Council will include (1) looking at the development regulations; (2) discussing annexation policies; (3) formal consideration of the Map of Consideration; and (3) review of economic incentives for annexation.

At 4:50 p.m., Mayor Bellamy recessed the meeting for 10 minutes.

Tuesday – January 27, 2009 - 5:00 p.m.

#### Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilman Kelly M. Miller; 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**

Vice-Mayor Davis gave the invocation.

#### **I. PROCLAMATIONS:**

##### **A. PROCLAMATION PROCLAIMING JANUARY 30, 2009, AS “ASHEVILLE LYRIC OPERA DAY”**

Mayor Bellamy proclaimed January 30, 2009, as “Asheville Lyric Opera Day” in the City of Asheville. She presented the proclamation to Mr. David Starkey, General and Artistic Director of Asheville Lyric Opera, who briefed Council on some activities taking place that day.

#### **II. CONSENT AGENDA:**

At the request of Councilman Mumpower, Consent Agenda Items “C”, “D”, “E”, “F” and “G” were removed from the Consent Agenda for discussion and/or individual votes.

##### **A. APPROVAL OF THE MINUTES OF THE RETREAT HELD ON JANUARY 9-10, 2009; AND THE REGULAR MEETING HELD ON JANUARY 13, 2009**

At the request of Councilman Miller, he asked that the January 9-10, 2009, retreat minutes be amended on page 11 to read: “Councilman Miller felt the hotel tax money might be better spent on more advertising or on a new performing arts center where it could generate more hotel stays and sale tax revenue, which would spread the burden.”

**B. RESOLUTION NO. 09-9 - RESOLUTION NAMING THE NEW CITY PARK ON MAPLE DRIVE IN THE HAW CREEK COMMUNITY IN HONOR OF HAZEL AND RORY MASTERS**

Summary: The consideration of a resolution to name the new city park on Maple Drive in the Haw Creek community as Masters Park in honor of Hazel and Rory Masters.

The City of Asheville took ownership of a nine-acre property located on Maple Drive in the Haw Creek community shortly after City Council approved the acquisition for use as a future municipal park in November 2007. The action occurred as a result of a proposal from the Haw Creek Community Association (HCCA) to partner with HCCA and Buncombe County to acquire the land for the City. HCCA now proposes naming the future park Masters Park in honor of Hazel and Rory Masters to recognize their contributions to the Haw Creek community.

Rory Masters lived in the Haw Creek community for over 90 years, and he and his wife were the former owners of the park land before it transferred to their daughter. The Masters were dedicated community servants in Haw Creek highlighted by their contributions to the Haw Creek Volunteer Fire Department. They donated the land for the fire facility and donated the funds to establish the department, followed by leading a fundraising campaign to build the facility and acquire the fire equipment. Rory served as the volunteer fire department fire chief and Hazel headed the women's auxiliary. The Masters cared for their neighbors and over the years helped many who were in need.

Hazel Masters passed away in 1993, followed Rory Masters in 1998. Their daughter Chalene Noblett, continues to live in Haw Creek on the family homestead and continues her parents' giving spirit to the community.

This action complies with the City of Asheville's park facility naming policy. The Recreation Advisory Board considered the proposal at its December 8, 2008, meeting and unanimously recommended naming the park in honor of the Masters.

Pro:

- Naming the park in honor of Hazel and Rory Masters complies with the City of Asheville park facility naming policy in that 1) it commemorates an individual(s) for specific services as made evident by their contribution through community service, and 2) naming a park for a deceased individual(s) cannot occur for at least one year after passing.

Con:

- None

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The Recreation Advisory Board recommends City Council to adopt a resolution naming the park on Maple Drive in the Haw Creek community as Masters Park in honor of Hazel and Rory Masters.

**RESOLUTION BOOK NO. 31 – PAGE 407**

**C. BUDGET AMENDMENT FROM THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES, TO INCREASE THE BUDGET FOR CARRIER PARK**

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

**D. BUDGET AMENDMENT FOR AN APPROPRIATION FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES, DIVISION OF AGING, AND THE LAND OF SKY REGIONAL COUNCIL/AREA AGENCY ON AGING THROUGH THE SENIOR CENTER GENERAL PURPOSE FUNDING, FOR THE SENIOR OPPORTUNITY CENTER**

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

**E. BUDGET AMENDMENT FOR AN APPROPRIATION FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES, DIVISION OF AGING, AND THE LAND OF SKY REGIONAL COUNCIL/AREA AGENCY ON AGING THROUGH THE SENIOR CENTER GENERAL PURPOSE FUNDING, FOR THE HARVEST HOUSE**

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

**F. BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION TO INCREASE THE BUDGET FOR THE WEST RIVERSIDE GUN VIOLENCE PROJECT IN ASHEVILLE'S WEED & SEE TARGETED AREA**

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

**G. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A MATCHING GRANT FROM THE U.S. DEPT. OF HOMELAND SECURITY, FEDERAL MANAGEMENT AGENCY, FOR PROCUREMENT OF WILDLAND FIRE SUPPRESSION AND PERSONAL PROTECTION EQUIPMENT FOR THE ASHEVILLE FIRE & RESCUE DEPARTMENT**

**BUDGET AMENDMENT FROM THE U.S. DEPT. OF HOMELAND SECURITY, FEDERAL MANAGEMENT AGENCY, FOR PROCUREMENT OF WILDLAND FIRE SUPPRESSION AND PERSONAL PROTECTION EQUIPMENT FOR THE ASHEVILLE FIRE & RESCUE DEPARTMENT**

These items were removed from the Consent Agenda for discussion and/or an individual votes.

**H. RESOLUTION NO. 09-11 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WYATT & BOWMAN WASTE CONTAINER LLC TO PROVIDE BULK CONTAINER REFUSE/CARDBOARD COLLECTION SERVICES FOR VARIOUS CITY OF ASHEVILLE FACILITIES**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Wyatt & Bowman Waste Container LLC to provide bulk container refuse/cardboard collection services for various City of Asheville facilities.

In December 2008 the City's current annual contract for bulk container refuse/cardboard collection services was approaching its end. The City began an informal bid process to obtain competitive bids from service providers including minority business participants. At the close of the bid process and after review of bids, City staff determined that Wyatt & Bowman Waste Container LLC was the lowest responsive and responsible bidder. The bid process was performed to obtain the lowest competitive bid for an annual contract price and would be in effect for three years with renewal options. The lowest bid was for \$46,289.83 annually and would result in a total three year commitment of \$138,869.49

|                                    |              |            |
|------------------------------------|--------------|------------|
| Wyatt & Bowman Waste Container LLC | \$ 46,289.83 | annual bid |
| G D S                              | \$ 52,539.22 | annual bid |
| Daugherty Waste Management         | \$ 66,740.00 | annual bid |
| Consolidated Waste Services        | \$ 70,741.81 | annual bid |

This action complies with the City of Asheville's strategic plan in that it supports a sustainable city government through a strong commitment to infrastructure maintenance by ensuring that the City facilities support a sustainable healthy work, program and clean facility environment.

Pros:

- Reduce possible health hazard and fire risk related to waste and cardboard accumulation
- Promotes City of Asheville recycling efforts for cardboard/wastepaper refuse

Con:

- Accumulation of waste and cardboard products promote a health and fire risk

The total amount of the annual contract is \$ 46,289.83. Funding for this annual bulk container refuse/cardboard collection service is included in the current Fiscal Year 2008-2009 operating budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with Wyatt & Bowman Waste Container LLC to provide bulk container refuse/cardboard collection services.

**RESOLUTION BOOK NO. 31 – PAGE 409**

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

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.

Councilman Russell moved for the adoption of the Consent Agenda, with the January 9-10, 2009, amendment to the minutes. This motion was seconded by Councilwoman Cape and carried unanimously.

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

**C. ORDINANCE NO. 3688 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF ENVIRONMENTAL AND**

## NATURAL RESOURCES, TO INCREASE THE BUDGET FOR CARRIER PARK

Summary: The consideration of a budget amendment, in the amount of \$30,000, from a grant from the N.C. Dept. of Environmental and Natural Resources, Division of Water Resources (DWR) to increase the budget for Carrier Park.

In 2006 Buncombe County applied to DWR and was awarded a \$30,000 grant to implement water quality features at Carrier Park. Once the project was complete in 2007, the County reimbursed the City for cost of the project although a budget amendment was not completed at that time. This action will complete the budget amendment process.

This action complies with the City Council Strategic Operating Plan in that it furthers the development of the Greenway Master Plan. It also complies with the Carrier Park Master Plan and the Greenway Master Plan in that it creates an educational opportunity for water quality along the French Broad Greenway Corridor.

Pros:

- Reimburses the City for construction cost at Carrier Park

Cons:

- None

The Carrier Park capital improvement budget will increase by \$30,000. There is no impact on the City's General Fund budget.

Staff recommends City Council adopt a budget amendment, in the amount of \$30,000, to increase the Carrier Park budget to account for a grant from the North Carolina Department of Environmental and Natural Resources, Division of Water Resources.

Councilman Mumpower spoke against the action in he felt that during our economic times, it is short-sighted of Council to be putting their monies into things that are nice, but not necessary.

Councilman Newman moved for the adoption of Ordinance No. 3688. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

### ORDINANCE BOOK NO. 25 – PAGE

#### **D. ORDINANCE NO. 3689 - BUDGET AMENDMENT FOR AN APPROPRIATION FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES, DIVISION OF AGING, AND THE LAND OF SKY REGIONAL COUNCIL/AREA AGENCY ON AGING THROUGH THE SENIOR CENTER GENERAL PURPOSE FUNDING, FOR THE SENIOR OPPORTUNITY CENTER**

Summary: The consideration of budget amendments in the amount of \$13,090 for Senior Opportunity Center and \$13,090 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to 1) purchase portable room dividers for the multi-purpose activity room, 2) purchase and install computer station and computers, 3) replace chairs and tables, 4) purchase ice machine and lectern, 5) provide sewing machine maintenance. The allocation requires a 25% local match which will be provided via in-kind services with in-house project management and labor.

Funds will be used at Harvest House to 1) purchase portable room dividers for the multi-purpose activity room, 2) replace chairs and chair carts, and 3) purchase band saw for woodshop. The allocation requires a 25% local match which will be provided via in-kind services with in-house project management and labor.

This action complies with the 2015 Parks and Recreation Master Plan in that it will enhance the level of program services at senior centers.

Pros:

- Room dividers will create a multipurpose use of large activity rooms thereby expanding program space
- Computer center will enhance the customer experience and expand program opportunities
- Woodshop equipment will enhance customer experience and safety
- Replace old and worn equipment

Con:

- None

Funds will supplement current operating budgets for Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services. There is no impact on the City's General Fund budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to establish 1) a budget in the amount of \$13,090 for Senior Opportunity Center, and 2) to establish a budget in the amount of \$13,090 for Harvest House for purchase, replacement and installation of equipment.

Councilman Mumpower felt that with our budgetary constraints and the reality of our economic picture, he could not support this action. He felt the state's money would be better spent on something that will really make a difference and that is the court system.

Councilman Newman moved for the adoption of Ordinance No. 3689. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **E. ORDINANCE NO. 3690 - BUDGET AMENDMENT FOR AN APPROPRIATION FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES, DIVISION OF AGING, AND THE LAND OF SKY REGIONAL COUNCIL/AREA AGENCY ON AGING THROUGH THE SENIOR CENTER GENERAL PURPOSE FUNDING, FOR THE HARVEST HOUSE**

Summary: See Consent Agenda "D" above.

Councilman Mumpower felt that with our budgetary constraints and the reality of our economic picture, he could not support this action. He felt the state's money would be better spent on something that will really make a difference and that is the court system.

Councilman Newman moved for the adoption of Ordinance No. 3690. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **F. ORDINANCE NO. 3691 - BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION TO INCREASE THE BUDGET FOR THE WEST RIVERSIDE GUN VIOLENCE PROJECT IN ASHEVILLE'S WEED & SEED TARGETED AREA**

Summary: The consideration of a budget amendment, in the amount of \$5,000, from the North Carolina's Governor's Crime Commission (GCC) to increase the budget for the West Riverside Gun Violence Prevention Project in Asheville's Weed & Seed targeted area.

The original budget for the West Riverside Gun Violence Prevention Project in the amount of \$15,000 was approved by City Council on October 28, 2008, and required a \$5,000 match. Since then the funder revised the requirement as no match and increased the grant award to by \$5,000.

In October 2004, elected officials, city staff and Asheville citizens mobilized to develop comprehensive strategies to address issues of law enforcement, neighborhood restoration, and prevention/intervention/treatment programs and activities in the West Riverside area of Asheville as part of a Weed and Seed initiative. The program was introduced to the community via a series of public meetings to determine the concerns of residents of the target area, and was received favorably with the understanding that residents would be integrally involved in the planning and implementation of the initiative.

In July 2006, the U.S. Department of Justice announced the designation of Asheville as an "Officially Recognized" site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life. Weed & Seed sites are required to leverage additional funds to carry out their respective goals and objectives. This grant award will address the community driven Weed and Seed goals of: 1) reducing crime and improving public safety, 2) enhancing the relationship between the community and law enforcement, 3) providing accessible programs for youth, and 4) increasing parent involvement in education and after-school activities.



The additional \$5,000 will enhance the funds already assigned for Asheville Police officer investigative overtime and FICA in the Weed and Seed area with a concentration on crimes related to gun violence and gang activity, and for gang suppression unit detective supplies and equipment. The project also provides a prevention element in which gang detectives will teach the "Gang Resistance Education and Training Families" (GREAT) curriculum in the Weed and Seed area. This will enhance the GREAT curriculum currently being taught at Randolph Learning Center. The GREAT curriculum is also being taught at Asheville Middle School as classes become available. No additional City funding will be required to support this grant.

This action complies with the City Council Strategic Operating Plan in that it supports the following goals in the Safe Focus Area: 1) expand community policing initiatives, 2) reaffirm commitment to eliminate open air drug market in Asheville, and 3) support recreation and employment alternatives for youth at risk of gang exposure.

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Pros:

- Reduce gun crimes and gang activity in an area of Asheville that has high crime activity.
- Enhance the Weed and Seed strategy of providing a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs for residents of the target area.
- Mobilize community residents to take an active role in gun violence and gang prevention.
- Provide resources for residents as a means of personal growth and development.
- Multi-agency collaboration to address gun violence and gang prevention in the targeted area.
- Leverage resources to sustain the GREAT Families program which can be replicated in other areas of the city.

Con:

- Some resistance to change by the residents who live in the target area.

-  
The fiscal impact will be the grant revenue of \$5,000 for overtime for Gang Suppression Officers and the facilitation of Gang Resistance Education and Training Families program at no additional cost to the City.

-  
City staff recommends City Council adopt a budget amendment authorizing the City Manager to increase this project budget in the amount of \$5,000 for the Project Safe Neighborhoods Gun Violence Prevention Project for the Weed & Seed area.

Councilman Mumpower felt that with our budgetary constraints and the reality of our economic picture, he could not support this action. He felt the state's money would be better spent on something that will really make a difference and that is the court system.

Councilman Newman moved for the adoption of Ordinance No. 3691. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **G. RESOLUTION NO. 09-10 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A MATCHING GRANT FROM THE U.S. DEPT. OF HOMELAND SECURITY, FEDERAL MANAGEMENT AGENCY, FOR PROCUREMENT OF WILDLAND FIRE SUPPRESSION AND PERSONAL PROTECTION EQUIPMENT FOR THE ASHEVILLE FIRE & RESCUE DEPARTMENT**

#### **ORDINANCE NO. 3692 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF HOMELAND SECURITY, FEDERAL MANAGEMENT AGENCY, FOR PROCUREMENT OF WILDLAND FIRE SUPPRESSION AND PERSONAL PROTECTION EQUIPMENT FOR THE ASHEVILLE FIRE & RESCUE DEPARTMENT**

Summary: The consideration of a resolution authorizing the City Manager to accept a matching grant from the U.S. Dept. of Homeland Security, Federal Emergency Management Agency, and an associated budget amendment, in the amount of \$70,197, for procurement of wildland fire suppression and personal protection equipment for the Asheville Fire & Rescue Department.

The U.S. Department of Homeland Security (DHS) and the Federal Emergency Management Agency has made funds available through Assistance to Firefighters Grant Number: EMW-2008-FG-11916 to enhance Asheville Fire and Rescue's (AFR) ability to protect the public and fire service personnel from fire and related hazards. Since 2001, The Assistance to Firefighters Grant Program has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel.

DHS has recognized that fire departments throughout the country have a wildland fire hazard and need specialized equipment to minimize losses. Departments that service not only their jurisdiction but also service their region for wildland

response have received grant awards. AFR responds to such emergencies within Asheville but also in our region through mutual aid. With our region's growing urban interface, the threat of wildfire is a continuing concern for Asheville and western North Carolina. AFR is working to address the emergency response needs by enhancing our wildland firefighting capabilities.

This grant will be utilized to purchase equipment to enhance the effectiveness and safety of AFR's firefighters while combating grass, woods and brush fires. The equipment includes fire suppression tools and appliances. Personal protective equipment for the department's members will provide superior protection while decreasing heat stress.

This equipment is needed with or without the grant. The grant enables AFR to accelerate the purchase of this equipment so that more firefighters can be equipped and protected this fiscal year than if we had not received the grant. The required match for the grant will come from the department's already designated FY 08-09 appropriated funds for this purpose. The equipment provided through this grant will become the property of Asheville City Government.

This action complies with the Strategic Operating Plan as follows: (1) Safe - By the equipping the department with upgraded wildland fire suppression and personal protective equipment, this grant will assist in making Asheville the safest city in America based on approved metrics for similarly sized cities; and (2) Fiscally Responsible - This grant allows the department to have the equipment that is needed to help protect firefighters and recognizes that AFR provides services to the region, thereby reducing the expenses of city taxpayers.

This item has been reviewed by the Council's Public Safety Committee and has received the committee's endorsement.

Pros:

- This grant will enable AFR to accelerate our procurement of this equipment beyond what our appropriated budget will currently allow.
- This equipment can be used both in our city and in our region.
- The city's match for this grant at 20% or \$14,039 will come from the department's FY 08-09 budget.
- The Department of Homeland Security, Federal Emergency Management Agency, will provide \$56,158 or 80% of the grant amount in matching funds for the purchase of wildland fire suppression and personal protection equipment.
- The equipment will increase the department's wildland firefighting capabilities.
- Firefighter and citizen safety will be enhanced.
- This equipment is immediately available to Asheville residents and businesses.

Con:

- None identified at this time.

There is no adverse fiscal impact associated with this grant. Accepting this grant will relieve the cost of this needed equipment from the upcoming Fiscal Year 2009-10 budget. The Fire Department will utilize funds already included in its Fiscal Year 2008-09 small capital budget to fund the \$14,039 City match.

City staff recommends that City Council (1) authorize the City Manager to accept the matching grant from the Department of Homeland Security, Federal Emergency Management Agency to enhance the safety of our firefighters, community and region; and (2) adopt the associated budget amendment.

Councilman Mumpower felt that with our budgetary constraints and the reality of our economic picture, he could not support these actions. He understood the need of procurement of wildland fire suppression and personal protection equipment for the Asheville Fire & Rescue Department, but felt Asheville should pay for those things themselves and let the state spend their money on the court system, which will benefit everyone.

Councilman Newman moved for the adoption of Resolution No. 09-10. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 31 – PAGE 408**

Councilman Newman moved for the adoption of Ordinance No. 3692. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

**ORDINANCE BOOK NO. 25 – PAGE**

**III. PRESENTATIONS & REPORTS:**

## A. N.C. DEPT. OF TRANSPORTATION FUNDING POOLS

Assistant Director of Transportation and Engineering Ken Putnam said that during Council's consideration of a resolution supporting the proposed improvements to Victoria Road in the immediate area of Mission Health System as part of the hospital's overall master plan at the October 28, 2008, City Council meeting, there was discussion about the N.C. Dept. of Transportation (NCDOT) funding in general and a request was made to identify the "funding pools" and determine how they could benefit the greater community. As a side note, *the NCDOT Board of Transportation approved a total of \$1,000,000 for Mission Health System on January 8, 2009.*

Typically, there are three "funding pools" that fall outside the Transportation Improvement Program (TIP) process and are controlled by the local Division office (*Board of Transportation member*) and/or the Secretary of Transportation in Raleigh. The subject "funding pools" include Divisionwide Small Construction Funds, Statewide Contingency Funds, and Public Access Funds. A fourth "funding pool" includes SB 622 Economic Development Funds; however, current funding has not been extended.

Divisionwide Small Construction Funds are intended for small to medium size projects that would improve traffic flow and/or public safety. Typical projects include providing turn lanes, medians, curb and gutter, resurfacing, traffic signals, and warning flashers. The work must be done on state-maintained streets and there is an annual cap of \$250,000 for each specific project. See below:

### DIVISIONWIDE SMALL CONSTRUCTION FUNDS

- Annual cap of \$250,000 per specific project.
- Controlled by the Board of Transportation (BOT) member - \$2,000,000 per year.
- Work must be on state-maintained streets.
- Typical projects include (*based on Board of Transportation meeting minutes*)
  1. Left-turn lanes
  2. Right-turn lanes
  3. Curb and gutter
  4. Medians/Directional Left-Overs
  5. Sidewalks (*not typically in Division 13*)
  6. Resurfacing (*including milling*)
  7. Traffic signals (*new installations and upgrading existing*)
  8. Warning flashers (*including solar powered*)
  9. Traffic studies and preliminary engineering (*not typical*)
  10. Corridor access management plans (*not typical*)

Statewide Contingency Funds are also intended for small to medium size projects that would improve traffic flow and/or public safety. Typical projects include providing turn lanes, medians, curb and gutter, resurfacing, drainage improvements, traffic signals, and warning flashers. These projects typically have an annual cap of \$100,000 for each specific project (*higher caps can be approved on a case-by-case basis*) and the funds are administered by the State Senate, State House, and the Secretary of Transportation. See below:

### STATEWIDE CONTINGENCY FUNDS

- Typical annual cap of \$100,000 per specific project (*higher caps can be approved on a case-by-case basis*)
- Administration is shared by the President Pro Tempore of the Senate, the Speaker of the House and the Secretary of Transportation - \$10,000,000
- Projects are recommended by the President Pro Tempore of the Senate, the Speaker of the House, and the Secretary of Transportation
- Typical projects include
  1. Access streets

2. Left-turn lanes
3. Right-turn lanes
4. Medians/Directional Left-Overs
5. Pedestrian walkways
6. Resurfacing (*including milling*)
7. Drainage improvements
8. Traffic signals (*new installations and upgrading existing*)
9. Warning flashers (*including solar powered*)
10. Volunteer Fire Department Paving (*driveways and parking areas*)
11. Protective dunes (*coast*)

Public Access Funds are intended to be used for providing school bus drives, drives to fire truck bays for volunteer fire departments, and access to new industry entities. Requests for these funds are made directly to the NCDOT by schools, volunteer fire departments, and various industry entities. See below:

#### PUBLIC ACCESS FUNDS

- Requests for funding typically come from schools, volunteer fire departments, and industrial entities. Written requests should be submitted to the appropriate Division Engineer.
- Industrial requests are for industries creating new jobs and are typically funded at \$1000/job, with a maximum of \$150,000 per project.
- Schools are funded for bus drives only and are limited to \$50,000 per school.
- Rural volunteer fire departments can receive funds for providing drives to the bays for fire trucks and are limited to \$25,000 per fire department.
- The appropriate Division Engineer reviews school and volunteer fire department requests and the Chief Engineer approves them. The Access Review Committee reviews and approves all public access requests.

With a new governor beginning her first term and the current economic climate, there is no guarantee that the subject funds will stay intact. He will continue to work closely with the local NCDOT staff in trying to identify appropriate projects within the City limits of Asheville that we could pursue.

Councilman Newman questioned how we can effectively implement the projects we want funded over the next five years with our transportation infrastructure plan. City Manager Jackson felt the increased interaction between our Metropolitan Planning Organization (MPO) representatives and City staff is very beneficial and he encouraged Council to continue that as staff develops an action plan. He said that it is the City's goal to be more strategic in putting our interests at the table by educating the MPO representatives and then seeking Council endorsement of the action plan.

Mayor Bellamy noted the changes in dynamics since there is new leadership at the NCDOT. She felt it was important to point out that even with the MPO being one step, the bigger fight is working with the Board and the new Secretary of Transportation to ensure that our projects do move forward. She said the downfalls in our area is that outside the Transportation Improvement Plan, we don't have any long-term plans for major roadways in the community. She felt it should be a priority for our two MPO representatives to look at where we're going, how do we get there, and how we can use the multi-modal system because it's imperative for our growth.

Vice-Mayor Davis said in Henderson County, all the cities and towns in Henderson County get together as a Henderson County MPO before they come to the main MPO meeting. He feels that is a great model and they may try to do something similar to that in Buncombe County.

Mayor Bellamy felt supported the Henderson County model for our area in that it's imperative that when we advocate to NCDOT, it's with one voice with one vision that they can stand behind.

In response to Councilman Mumpower, Mr. Putnam explained what funds were used for the \$1 Million Mission Hospitals project, which decision was not filtered through the MPO.

Even though Councilman Mumpower felt the Mission Hospitals project is a good project, he felt it was reprehensible for

them to sidestep the MPO process, which is the filtering body for decisions about regional roadways. He felt Council should take a formal position against these kind of activities.

Councilman Newman said the funding pools from NCDOT are not secret in that there are other ways to get projects funded. It's not currently structured that all projects get approved by the MPO; however, he would support that. He did feel that the MPO needs to be doing a good job effectively with the decisions they are currently charged with making. In addition the MPO needs to engage with the Secretary of Transportation and our Board members because, as it is currently constructed, they are important decision-makers in what projects get funded.

Mayor Bellamy said that Council's two MPO representatives will keep Council informed.

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

##### **A. RESOLUTION TO PERMANENTLY CLOSE A PORTION OF WALLACK STREET**

Mayor Bellamy said that this public hearing was held on December 2, 2008, and continued to this date in order to give the Greenway Commission an opportunity for further evaluation of the request with the petitioners being given an opportunity to be heard at the meeting.

Councilman Mumpower said that there appears to be a potential for compromise on this issue and as such, he moved to continue this public hearing until February 10, 2009. This motion was seconded by Vice-Mayor Davis and carried unanimously.

##### **B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 22 SULPHUR SPRINGS ROAD, FOR THE PROJECT IDENTIFIED AS SULPHUR SPRINGS CONDOMINIUMS, FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING, FOR THE DEVELOPMENT OF A MIXED USE BUILDING INCLUDING 27 RESIDENTIAL UNITS AND UP TO 2577 SQUARE FEET OF OFFICE AND COMMERCIAL SPACE, WITH TWO LANDSCAPE MODIFICATIONS AND DESIGN VARIANCE STANDARDS REQUESTED**

**ORDINANCE NO. 3693 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 22 SULPHUR SPRINGS ROAD, FOR THE PROJECT IDENTIFIED AS SULPHUR SPRINGS CONDOMINIUMS, FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING, FOR THE DEVELOPMENT OF A MIXED USE BUILDING INCLUDING 27 RESIDENTIAL UNITS AND UP TO 2577 SQUARE FEET OF OFFICE AND COMMERCIAL SPACE**

Mayor Bellamy opened the public hearing at 5:20 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone property located on 22 Sulphur Springs Road, for the project identified as Sulphur Springs Condominiums, from RM-8 Residential Multi-Family Medium Density District and Community Business II District to Urban Residential District/ Conditional Zoning for the development of a mixed use building, including 27 residential units and up to 3577 square feet of office and commercial space, with two landscape modifications and design variance standards requested. This public hearing was advertised on January 16 and 25, 2009.

Ms. Cogburn said that the subject property, currently owned by Buncombe Realty, consists of .84 acres located at 22 Sulphur Springs Road approximately .1 miles off of Haywood Road in West Asheville. Approximately 3/5ths of the property (to the west) is zoned RM-8 (Residential Multi-Family Medium Density District) with the remaining 2/5ths (to the east) zoned CBII (Community Business II District). The property contains an abandoned dwelling unit and miscellaneous outbuildings. It is fenced on all sides.

The property is surrounded by parcels zoned in various ways and containing varied uses. To the north, the property is zoned CBII, Institutional, and RM-8 and contains offices, church uses, and single-family homes. The property to the west and south is zoned RM-8 and contains single-family homes. To the east is CBII zoned property containing a duplex and offices.

The applicant is requesting conditional zoning to URDCZ (Urban Residential Conditional Zoning District) to allow for the development of a mixed use building. It is proposed that the building will contain 5 one-bedroom, 10 two-bedroom, 6 three-bedroom, and 6 four-bedroom dwelling units (24,541 square feet); 2,165 square feet of commercial space on the northeast side of the first floor; and, 1,412 square feet of office space in the basement level on the western side of the building. Without the rezoning, 9 dwelling units could be constructed on the property. The development of 27 units is a density of 32 units per acre (the

maximum in URD). The proposed building height is 30 feet (three stories), in conformance with the proposed URD zone. The building footprint is 9,872 square feet with an additional 1,051 square feet in exterior walkways.

Access to the parking for the development will be off of Sulphur Springs Road at the northeastern corner of the property. Parking to serve the development is located underneath the buildings, in a surface area to the rear of the buildings, and on the street. Thirty-nine spaces are provided. It is proposed that the sidewalk along Sulphur Springs Road (in front of the property) will be reconstructed during the development of the on-street parking. Per an arrangement between the applicant and the City Traffic Engineer, the on-street parking will be primarily constructed on the applicant's property, with 2 feet of the on-street parking width coming from the existing roadway.

The developer is proposing at least 5 affordable units (18%) and will meet the standards for Healthy Built certification. Four neighborhood meetings have been held to introduce this project to the residents of the area.

The developer has requested 2 modifications and 2 design variances for the project. The modifications to standards, which must be approved by Asheville City Council, are:

1. A modification to the buffer on the west side of the building to allow for placement of balconies on the first and second floors of the building. The intrusion into the required 20 foot buffer is 6 feet. The balconies will be 18 feet above the ground at the lowest point, providing adequate room for the planting of shrubs under the balcony. The full compliment of plantings will be provided in the buffer. Staff is supportive of this modification as it provides an interesting architectural element to this side of the façade and due to the fact that some plantings will occur within this area. An additional condition that evergreens required for this buffer be concentrated between the balcony and the property line was added by the Asheville Planning & Zoning Commission at the request of the adjoining property owner.
2. A modification to the required driveway width of 24 feet. The proposed driveway width is 20 feet. The building is predominately residential, but due to the provision of 3,577 square feet of office and commercial space the requirement is for a driveway 24 feet wide. The developer is requesting the modification because providing extra width would require either encroaching into the buffer on the west side of the property or removing the sidewalk located between the driveway and the building. The developer has worked with the City's Traffic Engineer to limit one of the parallel parking spaces in front of the building to a restricted loading space for the commercial and office uses. By doing so, the number of large vehicles entering the parking lot is limited and, therefore, staff is supportive of this modification.

The variances, which were approved by the Planning and Zoning Commission following a quasi-judicial hearing on December 3, 2008, are:

1. A variance to the requirement (Section 7-8-25(f)(12)b.) that pedestrian entrances be provided every 45 feet along the primary building façade. The proposed plans show 4 entrances along Sulphur Springs Road (two residential and one on each end for the commercial and office uses). The distance between the northeast commercial end of the building and the northeast entrance to the residential courtyard is 50 feet; the distance between the residential courtyard entrances is 115 feet; and the distance between the northwest office entrance and the northwestern residential entrance is 50 feet. The staff is supportive of this request due to the residential nature of this project. This URD standard anticipates more commercial activity along the first floor at street level.
2. A variance to the requirement (Section 7-8-25(f)(12)d.) that windows make up at least 60% of the area of the street facing first story façade. The proposed design provides for 38% openings in the first floor façade. Staff is supportive of this variance again, because of the residential nature of this project and also because the design of the project, with the courtyard openings, provides the pedestrian interest that is the purpose of this requirement.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.** The project, if approved, must meet all the technical standards set forth in the City's UDO and Standards and Specifications manual. The developer has been closely working with staff to ensure compliance and has recently revised the site plans to meet and correct many of the Technical Review Committee's conditions.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The developer, in designing a URD project has worked to create a project compatible with the surrounding area. The project should serve as a transition between the Haywood Road mixed use area and the single family home neighborhoods to the south.

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The project is designed to serve as an appropriate transition between the Haywood Road commercial /office corridor and the single-family neighborhood to the south of the property. The property is currently in a derelict state and the redevelopment of this property as a transition, higher density property should increase, but definitely not injure the values of surrounding properties.

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

Although the project presents a greater density than development to the south, it is in an area that transitions from commercial/office to single-family. It is an ideal location for a small, mixed-use project that transitions between the higher intensity uses along Haywood Road and the single-family neighborhoods to the south of the project.

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

The proposed use supports the 2025 goals and vision as follows: (1) Providing affordable housing; (2) Promoting compatible, mixed-use infill development; (3) Permitting and encouraging transit supportive density (8-16 units per acre minimum) at transit nodes; and (4) Supporting green building.

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The proposed use is located .1 miles off of a major corridor in the City. Infrastructure and services are available to serve this development.

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

The proposed project has been reviewed by the City Traffic Engineer and it should not cause undue traffic congestion along the existing street infrastructure. The anticipated traffic at full build-out conditions is expected to be less than one hundred (100) vehicles per hour during the morning and afternoon peak hours during a typical weekday

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The project offers affordable units, aligning with City Council's goals.
- The proposed development provides housing in a transit-served area.
- Higher density infill development furthers the goals and objectives of the comprehensive plan.
- The project will be designed to qualify for Healthy Built Homes certification or LEED certification.

Con:

- The project presents a density that is greater than that found in the immediate residential areas.

This conditional zoning request was recommended for approval by a 5-1 vote of the Asheville Planning & Zoning Commission. Three people spoke at the meeting – all were opposed to the development mostly due to traffic concerns.

She received an e-mail from a neighbor concerned about lighting in the area from the project. The standard condition on the project is they must meet the City's lighting plan. They will have to submit a detailed lighting plan to address that.

Mr. Gerald Green, representing the developer, explained the specifics of the project. He explained that several members of the development team have been involved with a number of projects in west Asheville. For this site, some of their eco concepts development's goals include (1) beautiful design; (2) context sensitive design; (3) pedestrian and transit oriented; (4) build community; (5) affordability; (6) accessible for all ages; (7) Healthy Built certified; (8) Energy Star Certified; and (9) sustainable design and construction. They held four community meetings beginning in August to ensure that all concerns were addressed. He said they tried to incorporate as many of the community's desires into the project. They also asked for concerns, some being (1) the building itself; (2) buffers; (3) scale with the neighborhood; and (4) site location. Some were concerned with speeding in

Sulphur Springs Road and the need for traffic calming. They have worked with the City's Traffic Engineer with on-street parking and road width adjustment to help slow traffic down. He showed examples of the architectural design of the building in relationship to other homes in the area. He said they meet the following goals of the City's Comprehensive Plan (1) green building; (2) transit-oriented development; (3) pedestrian-oriented development; (4) mixed-use corridor development; (5) infill development; (6) affordable, mixed-income housing; (7) LID and BMP stormwater features; and (8) accessible design for all ages. Using a site plan, he showed the formation of the units. He then explained the unit mix and estimated pricing, noting that they are working with the City's Housing Trust Fund and other public subsidy money to try to reduce the pricing even further and get more affordable units. He explained the need for their modification and variance requests. He urged the Council to support this project that will be sustainable and serve the residents of west Asheville and the City of Asheville as a whole.

Mayor Bellamy closed the public hearing at 5:37 p.m.

There was a brief discussion, initiated by Councilwoman Cape, regarding a bike lane on Sulphur Springs Road. She suggested that a review of the Comprehensive Bicycle Plan be included in the Technical Review Committee's responsibilities.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3693 for the conditional zoning request for the project identified as Sulphur Springs Condominiums, located at 22 Sulphur Springs Road, with the modification to the buffer on the west side of the building and the modification to the driveway with, and subject to the following conditions recommended by City staff and the standard conditions: (1) Uses shall be limited to twenty-seven (27) dwelling units and commercial and office uses permitted in the Urban Residential District; (2) The project shall include a minimum of eighteen (18%) percent units complying with the City of Asheville's affordable housing standards. For dwelling units that are for sale, this requires that the units be sold at or below the City's price points for affordable units and be sold to income qualified individuals; (3) The project will be designed and constructed to meet Healthy Built Homes standards; (4) The project shall comply with all conditions outlined in the TRC staff report; (5) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (6) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (7) This project will undergo final review by the TRC prior to issuance of any required permits; and (8) The developer shall concentrate the required western buffer landscape evergreens into the area between the balcony and the western property line. This motion was seconded by Councilman Russell and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **C. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED AROUND 152 BLEACHERY BOULEVARD FROM URBAN VILLAGE DISTRICT AND RIVER DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT**

#### **ORDINANCE NO. 3694 - ORDINANCE TO REZONE PROPERTIES LOCATED AROUND 152 BLEACHERY BOULEVARD FROM URBAN VILLAGE DISTRICT AND RIVER DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT**

Mayor Bellamy opened the public hearing at 5:56p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to rezone properties located around 152 Bleachery Boulevard from Urban Village District and River District to Commercial Industrial District. This public hearing was advertised on January 16 and 25, 2009.

Ms. Cogburn said that this rezoning request is the consequence of a recent conditional zoning for the Altamont at Riverbend Village project, which rezoned more than 15 acres from Urban Village to RM16/Conditional Zoning. As a result, the remaining neighboring area of land zoned Urban Village totals less than four acres, and Section 7-8-23 of the Unified Development Ordinance (UDO) states that the minimum area for an Urban Village District shall be five acres. Six Oaks, LLC, the owner of the Altamont site as well as the subject property on the east side of Bleachery Boulevard, was informed during their application process that this rezoning request would be required to address the creation of a non-conforming situation.

Commercial Industrial (CI) was proposed as an alternative by staff due in part to the area of land southwest of the subject area already zoned CI. Staff considered a rezoning of the CI area and roadway to Urban Village to assemble an area adding up to more than five acres to achieve conformity, but the slope of the land on the west side of the road (around 25%), the location of the road dividing the area, and the presence of a detention pond on the east side indicate too little usable land for a viable urban



village design.

The three LLCs that own the 1.3-acre parcel (part of which is zoned Urban Village) on the west side of Bleachery Boulevard are also a party to the rezoning request, and have indicated their support of staff's execution of the proposed rezoning.

The stated purpose of the Commercial Industrial district is "to provide areas for a wide range of commercial and industrial uses including: light manufacturing, wholesale, warehousing, services, retail sales, offices, and residential uses. The district is established where environmental conditions and urban infrastructure are adequate to support commercial and industrial development."

The Urban Village (UV) District was "established to create mixed use development that is economically vital, pedestrian-oriented and contributes to the place-making character of the built environment. The Urban Village District offers the unique opportunity to provide quality and long lasting retail, office and residential uses in an organized layout that encourages the full range of access by patrons and users, and offers innovative high quality design of structures, public amenities and pedestrian facilities."

The recent conditional zoning decision effectively removed the possibility of an urban village development in this area. While the remaining area zoned UV does have development potential, it does not possess the physical characteristics needed for a successful urban village. The Commercial Industrial classification would allow for a varied mix of uses, consistent with the neighboring development on the roadway. And although the industrial uses permitted in CI would be unlikely choices on this corridor, the proposed zoning district could invite types of employment that are not available as permitted uses under the current zoning.

As of this writing, staff has received no communications from the public regarding this rezoning.

On January 7, 2009, the Planning & Zoning Commission voted unanimously to recommend approval.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- Rezoning would achieve compliance with the UDO.
- Proposed Commercial Industrial zoning is compatible with the surrounding area.

Con: None noted.

Staff feels the proposed rezoning is appropriate for the situation and recommends approval.

Mayor Bellamy closed the public hearing at 5:59 p.m.

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

Vice-Mayor Davis moved for the adoption of Ordinance No. 3694. This motion was seconded by Councilman Mumpower and carried unanimously.

**ORDINANCE BOOK NO. 25 – PAGE**

**D. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF 131 OLD CHARLOTTE HIGHWAY TO COMMUNITY BUSINESS I DISTRICT**

**ORDINANCE NO. 3695 - ORDINANCE TO ZONE 131 OLD CHARLOTTE HIGHWAY TO COMMUNITY BUSINESS I DISTRICT**

Mayor Bellamy opened the public hearing at 6:01 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to zone 131 Old Charlotte Highway to Community Business I District. This public hearing was advertised on January 16 and 25, 2009.

Ms. Cogburn said that the City of Asheville recently completed the voluntary annexation (effective December 31, 2008) of a .85 acre tract located at 131 Old Charlotte Highway in eastern Buncombe County (approximately 1.9 miles from the current City limits). A single-family home is located on the property which has been purchased by the Asheville ABC Board for the

development of a new ABC store. The property is at the edge of the Olde Eastwood Village community.

The property, along with surrounding properties in the area, is zoned NS (Neighborhood Service) District by Buncombe County. Staff proposes a similar City zoning classification, CBI (Community Business I) District for this parcel.

Pro:

- Zones property recently taken into the City of Asheville in consideration of the surrounding zoning and land use and the City's comprehensive plan.

Con:

- None noted.

This initial zoning was recommended for approval (7-0) by the Asheville Planning & Zoning Commission at their January 7, 2009, meeting. No one spoke at the meeting.

Based on the above findings and the analysis provided in the report, staff and the Planning & Zoning Commission recommend this initial zoning request to be reasonable.

Mr. Jack Sorrells, resident in the Reynolds High School area, questioned whether the location of this ABC store has met all the location requirements established by the State, e.g., avoidance near schools and churches. He said Old Charlotte Highway is a very narrow road with a small bridge. He said that Reynolds High and Reynolds Middle Schools are across the road and there are 3-4 churches in the area. He said that they are not opposed to an ABC store, but just this particular location.

Mayor Bellamy closed the public hearing at 6:04 p.m.

In response to Councilman Mumpower, Ms. Cogburn said that the City does not review the ABC store standards but only reviews City standards. City Attorney Oast said that review of ABC stores is a matter is governed by the State ABC Commission and he felt sure they could not open the store unless they complied with the law.

City Attorney Oast reminded Council that if this property is rezoned, any use allowed in the Community Business I District would be accepted on the property. In response to Councilman Mumpower, Ms. Cogburn noted other uses and limitations in the Community Business I District.

Since there was no representative of the petitioner to respond to questions raised, Councilman Mumpower was concerned about taking action.

Ms. Cogburn said that in discussions about several different stores that the local ABC Board is contemplating opening, she believed that this has received approval from the State, which would seem to her to indicate that they have met the state requirements.

Councilwoman Cape felt Council is being asked if we are going to continue the practice of allowing people who voluntarily annex into the City to petition us for what they think the best use is. Ms. Cogburn said that staff does ask the petitioners what zoning would work for them with regard to what their plans are and at that time they would indicate to them any concerns even before instituting a voluntary annexation. She said that this property was zoned by Buncombe County to Neighborhood Services which is very comparable to Community Business I District.

Councilwoman Cape felt that Asheville is so hungry to participate with people on voluntary annexations rather than involuntary annexations that it's hard pressed for the City to turn them away.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3695. This motion was seconded by Councilman Newman and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no".

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **E. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTY LOCATED ON 1498 SAND HILL ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT**

Mayor Bellamy said that this public hearing was originally scheduled for January 13, 2009, but was continued to this date

at staff's request. She then opened the public hearing at 6:13 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to rezone property located at 1498 Sand Hill Road from RM-16 Residential Multi-Family High Density District to Institutional District. This public hearing was advertised on January 2 and 9, 2009.

Ms. Cogburn said that the subject property is located off of Sand Hill Road (NC 112) just past the intersection with US 19/23. Access to the property is via a private road, Chapel of Faith Drive. The property is 38.8 acres in size and is used as a cemetery with related operations/ buildings. The property is currently zoned RM-16 (Residential Multi-Family High Density District) and is in the City of Asheville's extraterritorial jurisdiction. The petitioner seeks a rezoning to Institutional.

The property is bordered by various uses and zoning district designations. To the west is the Vulcan Quarry operation (zoned Industrial); to the north are a variety of commercial, residential and institutional operations (zoned CBII and RM-8); to the east is vacant property zoned Urban Village for the proposed Main Street at Enka Village; and, to the south are multi-family dwellings (zoned RM-16).

The property is bordered by creeks and streams, although only one stream is located on the property at the northern property line. A rail line is located immediately north of the property between the northern property line and US19/23. The property is mostly flat.

Although the rezoning results in the loss of multi-family zoning, as there is presently a cemetery on the property, it is highly unlikely that any such development would be proposed. More intense uses than are present would be allowed under either zoning district. The rezoning does allow for additional development of the cemetery operations on site.

Pros:

- Allows for more intense development in an area off a major corridor.
- Conforms to the City's goal of allowing appropriate non-residential uses in suitable locations.

Con:

- None noted.

Based on the analysis provided in this report, staff and the Planning & Zoning Commission find this request to be reasonable. This rezoning was recommended for approval by a 5-0 vote by the Planning & Zoning Commission. One person (the property manager) spoke in favor of the rezoning. Since the Planning & Zoning meeting some concerns have been expressed by owners of the Urban Village District property adjoining this property.

Mr. Dan Funchess, representing from Forest Lawn Memorial Park, asked Council to support the rezoning to allow them greater flexibility on what they would like to do with the property. They acquired the property in 2003 and would like to clean it up.

Mr. Wes Rinehart, Director of Marketing of FIRC Group, owners of Main Street at Enka Village, said that they own the 2 tracts of land (east and south) that adjoin the cemetery. They are opposed to the rezoning in that it will have a detrimental impact on the Main Street at Enka Village project. The rezoning will allow the cemetery to install and operate a pet crematorium within feet of their urban village. They find that use so close to the proximity of their development to be undesirable. Such use would negatively impact their tenants, residences and patrons. FIRC received Master Plan approval for their site which will encompass over 100,000 square feet of retail, 30,000 square feet of office and approximately 500 residential units. Their proposed development is deep in the design and planning stage and they are primarily concerned about the visibility of a crematorium structure and the emissions and by-products of such use. Using a map, he showed the general area of the proposed pet crematorium in relationship to their site plan. While he was sure that today's crematory technology is advanced with safety and efficiency, the fact is that it will generate by-products and particulate matter, and they are concerned about the operational failure of pollution and odor controls. When FIRC purchased the property in February of 2007, they did so after significant due diligence and the understanding that the cemetery was zoned RM-16. Furthermore, a rezoning to institutional could be a stepping stone to a human crematory or other impactable zoning uses. Such uses would negatively affect the value, character and quality of the life of their development.

Mr. Rick Jackson, counsel for the FIRC Group, spoke against the proposed pet crematory with it's proposed location next to a high density residential development. He said the owner has ample opportunity, within his existing land, to relocate, preferably closer to the existing industrially zoned land and further away from existing residential lands. The owner was unwilling to talk with them about relocating the crematory within his land or even a possible land-swap for the purpose of relocating the crematory further away from their development. The crematory is to sit in a modular home which could be easily relocated within the site. The owner has chosen to locate the crematory in that corner mainly because it can't be seen from the human cemetery. Even to

the extent to which that proposed crematory doesn't emit odor and there is no visible smoke, based on the manufacture's description of such equipment, it will emit particulate matter. The impact on this particulate matter on the residents in the adjoining development, based on its close proximity, is a real concern. The proposed location of the pet crematory will jeopardize the adjoining urban village development and respectfully requested Council deny the rezoning.

City Attorney Oast reminded Council that this is not a conditional zoning, even though Council has received information about the intended use from people on both sides of the issue. If the property is rezoned, then any use that is available within that District could be placed on that property and the particular location of the proposed pet crematory is not something that Council can attach as a condition in this rezoning.

In response to Councilman Russell, Ms. Cogburn said that a Unified Development Ordinance amendment was recently brought before Council concerning animal crematories and animal cemeteries. For a rezoning, staff looks at what zoning is good for the property as a whole, but does not examine anyone's particular plans.

Mayor Bellamy closed the public hearing at 6:23 p.m.

Councilman Russell supported the urban village district on a major corridor and he was concerned that the location of the proposed pet crematory would be right next to residential property.

In response to Councilman Mumpower, Mr. Funchess said that it was not uncommon that when a crematory is located within an area to have concern about emissions. Numerous studies have been done on emissions and noted that there is more particulate matter emitted by fireplaces or a flame broiled hamburger grill than there is a crematory.

Mr. Funchess said that they are trying to create a natural buffer between the human burial aspect of the cemetery and their pet care initiative, out of respect to families and in compliance with the Cemetery Commission. He said they have interacted with the FIRC Group who would have been willing to not oppose the location if the cemetery was willing to enter into an agreement to give up their right-of-way into the cemetery or do something different with their right-of-way. He said that if they had to relocate the pet crematorium, it would kill their project as they must build it on a periphery part of the cemetery with a dedicated access. He noted that in that location now is a vacated maintenance building which is far more unsightly than a nice modular building. He said they are a small business trying to find an initiative to create revenue for the City. He noted they do have the support of the Humane Society and other agencies. In addition, he noted that the crematory will only be run one day a week.

Councilman Newman said that this is one of the uses allowed in the Community Business I District and noted that these kind of crematories around the country are located in highly developed urbanized areas with no adverse affects on neighboring properties.

Vice-Mayor Davis would have preferred this come to Council as a conditional zoning request. He wondered if both parties couldn't meet and arrive at a win/win solution.

When Assistant Planning & Development Director Shannon Tuch said that we don't typically buffer with a straight rezoning between two high density uses, but we could with a conditional zoning request. Ms. Cogburn explained that the way our landscape ordinance works now is that buffering is between zones and not uses. Mayor Bellamy felt that should be addressed, as the uses have significant differences.

Mayor Bellamy felt she could support a conditional use request with additional landscaping and buffer requirements.

In response to Mayor Bellamy, Mr. Funchess said that to relocate the pet crematory in a different area on their property causes a problem with ingress and egress. Where the site is proposed is a perfect setting for a low impact type of development of a pet care area. The other areas of the cemetery offer more value for human development than pet care development. He said that they are willing to buffer, noting that the location is 45 yards from the point of the building in the housing development. In addition, he noted that the property swap mentioned by Mr. Jackson was to move the modular in a 100-year floodplain, which would inhibit their modular structure.

Councilwoman Cape was also interested in a conditional zoning request as we find that most problems are encountered when we are not sensitive to neighboring issues.

Upon inquiry of Mayor Bellamy, both property owners said that they would be willing to work on a compromise.

Councilman Mumpower moved to table this item indefinitely with the suggestion that the applicant work with the adjoining property owner and staff in order to refine their request. This motion was seconded by Councilwoman Cape and carried on a 6-1

vote, with Councilman Newman voting "no."

**F. PUBLIC HEARING TO CONSIDER THE APPLICATION FOR NEIGHBORHOOD STABILIZATION PROGRAM FUNDS THROUGH THE N.C. DEPT. OF COMMERCE**

**RESOLUTION NO. 09-12 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR NEIGHBORHOOD STABILIZATION PROGRAM FUNDS THROUGH THE N.C. DEPT. OF COMMERCE**

Mayor Bellamy opened the public hearing at 6:48 p.m.

Planning & Development Director Judy Daniel said that this is the consideration of a resolution authorizing the Mayor to approve the City's application for \$3 Million of Neighborhood Stabilization Program (NSP) funds - a program initiated by the US Department of Housing and Urban Development and implemented by NC Division of Community Assistance. This public hearing was advertised on January 16 and 25, 2009.

On September 26, 2008, the U.S. Department of Housing and Urban Development (HUD) allocated \$3.92 billion to all states and direct grants to particularly hard-hit areas trying to respond to the effects of high foreclosures and home abandonment. This Neighborhood Stabilization Program (NSP) is designed to provide targeted emergency assistance through HUD's Community Development Block Grant (CDBG) Program under the Housing and Economic Recovery Act of 2008 (HERA).

In conjunction with this program HUD allocated \$52 million dollars of NSP funds to the North Carolina Division of Community Assistance (NC DCA) to be allocated to greatest needs areas of the state; and another \$5 million as a direct entitlement to Mecklenburg County, reflecting an extraordinary need. According to NC DCA, these allocations were based on foreclosure statistic analysis by HUD. Buncombe County became eligible to apply for a portion of DCA's allocation as a result of DCA's need assessment that indicated that Buncombe was in one of the 23 qualifying counties.

In response to the NSP grant opportunity, staff has developed a proposal to utilize an estimated \$3 million of grant funding to address the local foreclosure problem. This proposal seeks to strategically acquire foreclosed or abandoned properties that are demonstrating a negative impact to the surrounding neighborhood. Through the redevelopment for rental or resale of these high impact properties, the goal is to foster market recovery of the greater neighborhood. Research performed via the NC Department of Commerce has illustrated that the 28806 zip code has a greater concentration of sub-prime mortgages and foreclosed properties; therefore staff intends to target strategic properties in this area.

She said that the resale or rental of the redeveloped properties will be targeted toward persons and families of low to moderate income levels. Mountain Housing Opportunities (MHO) and OnTrack Financial Education and Counseling have agreed to partner with the City to implement this program. MHO will serve as redeveloper for selected properties, as well as assisting with the financing options available to qualified homebuyers to include Down Payment Assistance that will also be funded through this program. OnTrack will provide the 8 hours of required Housing Counseling to these potential homebuyers. Within the designated scope of this grant, 70% of the grant funding must target an end-user beneficiaries group up to 120% area median income, while 30% of the grant funding must be used to serve those below 50% area median income.

This action complies with the Strategic Operating Plan in that applying for NSP funding shows that Council is proactively pursuing strategies supporting aspects of the comprehensive affordable housing plan to increase the supply of affordable workforce housing.

**Pros:**

- Asheville is awarded \$3 Million by HUD to create affordable housing.
- Local non-profits with experience implementing programs with the use of CDBG funds have agreed to partner with the NSP. This greatly increases the likelihood of this program's success
- Administrative and staff costs for program provided by HUD as a part of grant award.
- Stabilizes and or improves public safety in neighborhoods already identified as having issues with crime.

**Cons:**

- Very competitive application process with other cities and non-profits in NC. Buncombe County has lower need than other areas of the state, therefore, funding award is questionable
- This is not a foreclosure prevention program, funds are only used post foreclosure

If awarded, positive impact that CDBG funds will increase by \$3 Million.

Ms. Daniel said that this is a very competitive process. She said that City staff recommends City Council adopt a

resolution authorizing the Mayor to approve the City's application for \$3 Million of Neighborhood Stabilization Program funds; a program initiated by the US Housing and Urban Development Department and implemented by NC Division of Community Assistance.

Ms. Nikki Reid, the City's Real Estate Manager, said that the intent of this grant is to address neighborhood destabilization specifically as it relates to the foreclosure crisis. Within the given scope of the grant, staff has developed a proposal that seeks to strategically acquire properties that have been foreclosed or abandoned, resulting in a negative impact to the surrounding neighborhood. Through the redevelopment of these high impact properties, the goal is to foster stabilization of the greater neighborhood.

Research performed by the N.C. Dept of Commerce has illustrated that the 2006 zip code area has a greater concentration of sub-prime mortgages and foreclosed properties; therefore, staff intends to target strategic properties in this area.

The success of this application depends on the strength of our local partnerships. The City has partnered with MHO and OnTrack Financial Education and Counseling to implement this program. The City of Asheville, utilizing the CDBG program administration expertise, will function as stewards of the grant and also provide the administration and assist with site selection and approval. MHO will perform the property acquisition. Please note that the grant requires that the property be purchased at a 15% below appraised price. MHO will also provide for the redevelopment of the properties and the resale or rental of the properties, as well as work with potential homebuyers on financing. OnTrack will provide the 8 hours of required homebuyer counseling to these potential buyers.

As required by the grant guidelines, 30% of these funds must target an end user beneficiary group at 50% or below area median income. The remaining 70% of the funds should be targeted to an end user group from 51% up to 120%.

To realize the intent of this grant, the awarded funds must be obligated within 18 months of the award grant. The date of notification for those entities receiving funds is February 16, 2009. Therefore, she recommended authorization to submit this application.

Mayor Bellamy closed the public hearing at 6:52 p.m.

In response to Councilman Mumpower, Ms. Reid said that the grant allows for up to 5% over and above the requested award to be utilized toward administration costs, which is approximately \$150,000.

Councilman Mumpower spoke against this action as this will be paid for by (1) borrowed dollars that our children or grandchildren will have to pay for; or (2) tax dollars. He felt for the City to participate in this initiative (which is appealing) at this stage in our economic dilemma is not appropriate.

Councilwoman Cape felt this is an approach to deal with the dramatic things going on in our country, and in the long run the foreclosures are impacting neighborhoods terribly. She felt if there is \$52 Million going to the State of North Carolina and we have a need in our community of people who are losing their homes and those who need homes, we would not be fulfilling our duty if we didn't participate in this process. As difficult as things are, we have an obligation to invest in ourselves.

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

Councilman Newman moved for the adoption of Resolution No. 09-12. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no".

#### **RESOLUTION BOOK NO. 31 – PAGE 410**

#### **V. UNFINISHED BUSINESS:**

##### **A. RESOLUTION NO. 09-13 - RESOLUTION ADOPTING THE CITY OF ASHEVILLE'S LEGISLATIVE PROGRAM FOR 2009 SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY**

City Attorney Oast said that the 2009 legislature convenes on January 28. Usually, one of their first orders of business is to establish the deadlines for submission of local legislative requests; those deadlines are usually in early to mid March.

There was considerable discussion regarding the conflict of interest law, especially as it relates to Councilman Miller. City Attorney Oast said that City Council is very conscientious about recognizing potential conflicts and consulting him in advance. He said that conflict issues are often situational and fact specific. Each potential conflict is reviewed on a case by case basis. He has

spoken with the School of Government and has met with Councilman Miller regarding his roles and responsibilities with regard to the Chamber of Commerce and the Buncombe County Tourism Development Authority. Regarding the particular issue of the hotel/motel tax, it was his opinion that Councilman Miller does not have a disqualifying conflict of interest. Mayor Bellamy was acutely aware of the conflict of interest provisions when she was employed with Mountain Housing Opportunities while serving on Council and as Mayor. She wanted to make sure that we are transparent for the public trust.

Discussion and voting results occurred on the following topics (prior to votes taken, Mayor Bellamy asked for public comment and received none):

- a. A one percent dedication of hotel/motel tax revenue to be used for debt service on a near term upgrade of the Asheville Civic Center, consistent with the recommendation of the Task Force for the Future of the Civic Center. Should the one percent be beyond what Council is comfortable in asking, at least a half percent should be requested for the Civic Center Capital Improvement Program. It is a fair and normally dedicated tax that will help alleviate the burden of the local taxpayer as is done throughout the country, and, particularly, North Carolina. Recognizing the downturn in the economy, we may not be successful in this session but the request must be persistently included in our legislative agenda.

After considerable thought, Councilman Miller suggested the following language, in lieu of Vice-Mayor Davis' language: "Actively engage Buncombe County tourism leaders and local delegation officials to develop possible taxable policy options designed to improve the overall health and awareness of the Asheville area grand experience."

As Vice-Mayor Davis appreciated Councilman Miller's effort in crafting different language, he explained why he preferred his language be included in the State legislative package.

Vice-Mayor Davis said that research done by the Task Force for the Future of the Civic Center confirmed almost all arenas, conference, convention and performance centers throughout the state enjoy a percentage of hotel/motel room tax, either in the initial construction or through the life of the facility for capital improvement. The percentage varies from a half to three percent but an increment of room tax is consistently applied to the communities' public gathering places. Once again, Asheville is treated uniquely; other venues are not required to garner room nights as a condition to receive proceeds from room tax. He also remains firmly convinced that the Asheville Civic Center is directly responsible for many room nights and, at the very least, is a direct contributor to the vibrant downtown and the destination it has become.

Councilman Newman moved to adopt the language proposed by Vice-Mayor Davis above. This motion was seconded by Vice-Mayor Davis and carried on a 4-3 vote, with Councilman Miller, Councilman Mumpower and Councilman Russell voting "no."

- b. Repeal of Sullivan Acts.
- c. Renew request (last proposed in 2005) to facilitate voluntary annexation of properties near the airport (proximity to Fletcher issue).
- d. Authorization and funding for "quality of life (nuisance court)" enforcement program, similar to other N.C. cities.
- e. Address issue of municipal incorporation of rural areas (this may be done in connection with review of annexation law).
- f. Provide / clarify authority to regulate vehicle towing from parking lots.

Councilwoman Cape moved for the adoption of letters b – f above. This motion was seconded by Councilman Mumpower and carried unanimously.

- g. Legislation allowing for a broader range of implementation of local affordable housing programs.

Councilwoman Cape moved for adoption of letter g above. This motion died for lack of a second.

Councilman Newman asked City Attorney Oast to look into this broad issue regarding any legislation that has already been enacted.

- h. Clarifying authority of City to place conditions on sale of certain property.

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

- i. Strengthen local authority regarding illegal immigration.

Councilman Mumpower moved for the adoption of letter i above. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilwoman Cape voting "no."

- j. Support creation by N.C. Utilities Commission of an organization to design and implement statewide plan for energy efficiency and conservation (NOTE: legislative action may not be needed).

City Attorney Oast said that more information on this item will be available soon and asked Council to delay action on this issue.

- k. Asheville First will be voted on at a later date since Council does not have language on this.

City Attorney Oast said that since submitting that report, Council has specifically expressed interest, at the retreat and other occasions, in legislation regarding the hotel tax, towing regulation, enhanced "quality of life" ordinance enforcement support (graffiti, litter, noise, etc.).

Discussion and voting results occurred on the following issues (prior to votes taken, Mayor Bellamy asked for public comment and received none):

1. The initiative being pursued by some cities (notably Durham) to design and implement Statewide plans for energy efficiency and conservation will require legislation.
2. The recent vacancy on Council revealed the need to more closely align our charter provision with State law, or simply repeal it.
3. The N.C. League of Municipalities has adopted its legislative agenda for 2009.

Councilwoman Cape moved for the adoption of item 3 above. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

4. The Asheville Chamber of Commerce will soon be adopting its 2009 Legislative Agenda, and Council may wish to review it as well.

City Attorney Oast said that as always, we will continue to review legislation proposed or introduced, on behalf of other municipalities, and to explore ideas that may require legislative support, and bring those suggestions to you for consideration.

Mayor Bellamy said that if Council approves this today, Council reserves the right to see on-going legislation as its drafted and have an opportunity to take a position on those. She said that the last date Council can add or delete items will be early to mid-March.

At 7:50 p.m., Mayor Bellamy announced a short break.

#### **RESOLUTION BOOK NO. 31 – PAGE 411**

#### **B. RESOLUTION NO. 09-14 - RESOLUTION ESTABLISHING THE CITY OF ASHEVILLE'S FEDERAL PRIORITIES AND FEDERAL FUNDING REQUESTS FOR FISCAL YEAR 2010-11**

Economic Development Director Sam Powers said that this is the consideration of a resolution authorizing the City Manager to submit the City's priorities, appropriations requests and legislative requests to Asheville's congressional delegation and staff for consideration in the 111<sup>th</sup> Congress.

The 111<sup>th</sup> Congress convened on Jan 8<sup>th</sup>, 2009. Congressional staff usually wishes to receive any funding requests from municipalities in early February to allow time for research and placement.



Of note of existing priorities, the legislation that has adversely affected Asheville Transit funding has finally been amended in favor of the City and other similarly sized systems. The bill allows transit systems serving urbanized areas whose population went from under 200,000 to over 200,000 in population in the 2000 census to use a portion of their (Fiscal Year) 2008 and 2009 urbanized area formula grants for operating costs. Transit systems in these areas can use an amount equal to 50 percent of the urbanized area formula grants received in Fiscal Year 2002.

This action complies with the following City Council Strategic Operating Plan goals: (1) Ensure financial accountability by matching resources with strategic initiatives and creating meaningful performance measures; and (2) Proactively pursue funding opportunities with state and federal economic stimulus packages.

City staff recommends City Council adopt a resolution authorizing the City Manager to submit the City's priorities, appropriations requests and legislative requests to Asheville's congressional delegation and staff for consideration in the 111<sup>th</sup> Congress.

Below are the City Council's currently adopted federal funding priorities:

- **W.C. REID CENTER**

Extensive renovation to or rebuilding of both interior and exterior and utilities of the W.C Reid Center for Creative Arts, a 37,000-square foot community center to support a full-service, community based recreation program and multi-disciplinary arts program with an emphasis on providing services to at-risk youth and their families.

Amount requested: \$4 to \$6 million.

- **ENERGY CONSERVATION RETROFITS FOR CITY BUILDINGS**

The Building Energy Conservation Retrofits appropriations will allow the City of Asheville to install programmable thermostats, light occupancy sensors, high energy efficient lighting in all 51 city owned buildings after which a holistic social marketing campaign will be conducted to encourage employee behavior change. The retrofits will provide significant cost savings through utilities and decrease the carbon footprint of the city organization, while providing a strong foundation for a social marketing program to effectively create sustainability behavior change.

Amount requested: \$749,200.

- **TRAFFIC SIGNAL PREEMPTION**

A Traffic Signal Preemption System is an electrical device(s) that allow a traffic control signal to respond by giving priority to approaching response vehicles that are outfitted with special equipment. Such systems are designed to increase the safety of the public and responders, reduce emergency response times, and enhance public transit operations.

Amount requested: \$495,000.

- **REGIONAL PUBLIC SAFETY TRAINING FACILITY**

The Regional Public Safety Training facility is a partnership between WNC local governments, state government and AB Tech. The facility will include an emergency vehicle driving pad, burn building, and a rescue tower. The project is a modular project and can be done in phases.

Amount requested: \$4 million.

- **BUS REPLACEMENT**

The project entails the purchasing of fifteen (15) 30-foot hybrid buses to replace 75% of the fleet which are reaching their life-cycle, with more than ten (10) years in operations. This is a multi-year project that intends to replace the fleet in a three year period. The City is recommending buying hybrid buses, or buses using other energy efficient technology, instead of diesel. The use of alternative fuels will help the City to achieve the carbon emission reduction goals adopted by City Council. The project will affect positively the Western North Carolina population that lives in Asheville, Weaverville and Black Mountain and depends on transit to perform the daily activities, providing a more reliable and comfortable service. At the same time will bring benefits to the environment, reducing pollution and improving the quality of life.

Amount requested: \$7,875,000 over three (3) years (\$2,625,000/year).

Below are the federal legislative priorities:

- Senate Bill 1738 “Combating Child Exploitation Act of 2007” to improve the Internet Crimes Against Children Task Force to increase resources for regional computer forensic labs, and investigate and prosecute predators.
- HR 1692 “The Fighting Gangs and Empowering Youth Act of 2007” which contains many things that focus on making sure that our youth have alternatives from gangs as well as increase penalties for gang activity.
- Senate Bill 1745 “Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2008” for support of our Weed and Seed program that is funded under this Act.
- “The Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003” (1) Sec. 9002 – extension of the highway-related taxes and trust fund; (2) Sec. 9003 – extension of tax benefits for alcohol fuels; (3) Sec. 9004 – private activity bonds for surface transportation infrastructure; and (4) Sec. 9005 – all alcohol fuel taxes transferred to highway trust fund.
- PL 110-140 “The Clean Energy Act of 2007” (HR 6) to reduce our Nation’s dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy.
- S. 1675 “Local Community Radio Act of 2007” to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.
- S. 234 “Wireless Innovation Act” to make broadband available to unconnected neighborhoods and communities – especially rural and mountainous areas – by exploiting unused frequencies in the broadcast spectrum known as “white spaces.”
- Support to fund the expansion of the ERC broadband and fiber optic network in the region for education, medical and emergency service support.
- Lend support to the Land of Sky Regional Council of Government request for funding for a Comprehensive Economic Development Strategy – Regional Growth Management Planning Initiative for Western North Carolina.
- Support funding for energy efficiency and conservation block grants.
- Continued prioritization of the completion of I-26 components through Asheville.
- Accelerated use of Federal resources in local action on Asheville’s drug distribution network.
- Enthusiastic Federal enforcement of existing laws affecting illegal immigration in Asheville.

Mayor Bellamy recommended the following items be removed from the federal package as both are moving forward: (1) W.C. Reid Center; and (2) Senate Bill 1738.

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

Vice-Mayor Davis moved to adopt Resolution No. 09-14, with all legislative items outlined by Mr. Powers excluding (1) W.C. Reid Center and (2) Senate Bill 1738. This motion was seconded by Councilman Miller.

Mr. Greg Borom, Director of Advocacy and Community Engagement for Children First, asked Council to (1) expand federal funding for child care subsidy programs; and (2) state child health insurance funding program.

Vice-Mayor Davis and Councilman Miller supported amending their motion to include the two items requested by Mr. Borom to the City’s federal legislative agenda.

At Councilwoman Cape’s request, Assistant Director of Transportation & Engineering updated Council on the status of the traffic signal preemption program.

In response to Councilwoman Cape, Vice-Mayor Davis, Chair of the Public Safety Committee, said that the regional public safety training facility is moving forward.

Councilman Mumpower felt that since all of these federal legislative items involve premium dollars, he could not support

the motion.

The amended motion made by Vice-Mayor Davis and seconded by Councilman Miller carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

## RESOLUTION BOOK NO. 31 – PAGE

### VI. NEW BUSINESS:

#### **A. RESOLUTION NO. 09-15 - RESOLUTION REGARDING RECOMMENDATIONS FOR ECONOMIC STIMULUS PACKAGE**

Mayor Bellamy said that Ms. Julie White, Director of the N.C. Metropolitan Mayor's Coalition, suggested Council adopt the following resolution in support of cities playing a role in the federal stimulus package. Their efforts are to put forth a list of ready to go projects to demonstrate cities ability to spend stimulus dollars quickly on worthy public infrastructure projects that will create jobs. They plan to collect all signed resolutions and distribute them to our congressional delegation and state elected officials. read the following resolution: "WHEREAS, The United States economy entered into a recession in December 2007 and it is widely agreed that economic stimulus is critical; and WHEREAS, To stimulate the economy, President-elect Barack Obama is working closely with Congress to prepare an economic stimulus package of up to \$1 trillion they hope to pass soon after the President-elect's inauguration; and WHEREAS, previous stimulus bills have proven most effective if legislation is enacted soon after the recession is identified, funds are spent quickly while unemployment is high and new jobs are created when needed; and WHEREAS, North Carolina's jobless rate soared in December to 7.9 percent, the highest in 25 years; and WHEREAS, on December 19<sup>th</sup>, the North Carolina Metropolitan Mayors Coalition, representing the 26 largest city mayors, released a \$2.8 billion list of shovel-ready public infrastructure projects that will immediately put citizens to work in construction, public safety, office, and retail jobs; and WHEREAS, academic research indicates that the list of upgrades for roads, public buildings, water systems, and other essential infrastructure would create nearly 100,000 jobs; and WHEREAS, the most efficient way to distribute federal funding is through existing federal programs; and WHEREAS, economic stimulus legislation should allow for a substantial role for municipal government, making it as easy as possible for local funding recipients to access and spend stimulus funds. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT the City of Asheville recommends that Congress consider the following recommendations as it begins work on an economic stimulus package, to (1) Include Funding for The Economic Development Administration's Public Works and Infrastructure Program, and Economic Adjustment Assistance; (2) Include Funding for HUD's Community Development Block Grant Program (CDBG); (3) Include Funding for Energy Efficiency and Conservation Block Grant Program (EECBG); (4) Distribute State Revolving Loan Fund Dollars as Direct Grants; (5) Do Not Limit The Corps of Engineers' Ability to Spend Stimulus Funds; and (6) Distribute Transportation Stimulus Funds Through The Surface Transportation Program (STP). FURTHERMORE, BE IT RESOLVED THAT the City of Asheville recommends that the State of North Carolina strongly partner with cities when deploying these funds to spur our local economies and choose a wide range of local infrastructure projects that will create long-term positive benefits for our citizens."

Mayor Bellamy said that Council has been provided with information on some staff initiatives. She said this is not an issue Council will need to debate tonight as the federal government will spend time debating the merits or not. What is before Council tonight is a list of shovel-ready projects that could move forward. Since there has not been any grant or loan applications (which will be brought before Council), all Council is saying what can we use the shovel-ready money for. Staff compiled a list for Council review and if we want to participate, do we like what staff has put before us. She is asking if the City would like to participate in the economic stimulus package that is being put together.

Councilman Mumpower felt it was not the Mayor's place to instruct Council on how to debate an issue. There should have been a discussion on the policy question of whether the Mayor and City staff should have acknowledged the City's willingness to participate for \$122 Million in special interest projects or sent out any list. He felt to distribute this list without public illumination was wrong.

Mayor Bellamy said Council can talk about the direction they would like to take and if this something they would like to pursue if, and when, that comes forward. Staff can then be prepared to put together grant applications for shovel-ready projects. We cannot deny the City of Asheville has a lot of capital needs. We have an aging water and transportation system. If we put together all the capital needs we have, the number would be staggering. To act like we don't have shovel-ready projects or a list of capital improvement projects is wrong. She noted that every year our Capital Improvement Plan is deliberated throughout the budget discussions.

Councilman Newman moved to give direction to City Manager Jackson to work with staff to identify capital projects that could be eligible for the types of infrastructure investments that will be forthcoming in the economic stimulus package developed by Congress and to share information with Council and our legislators about projects that may meet that criteria in Asheville; and,

while City Council has the opportunity to disapprove any projects they don't want to fund, it is the intent for Asheville to participate in the infrastructure improvements that are likely to be forthcoming through the economic stimulus bill being developed by Congress. This motion was seconded by Councilwoman Cape.

Mr. Greg Borom, representing Children First Communities and Schools of Buncombe County, provided Council with their requests for inclusion in the economic stimulus bill: (1) improvement of our infrastructure and transportation services in lower income communities; (2) create job opportunities for people who live in lower income communities; (3) investment in transit; (4) encourage and partnership with Asheville GO and other job training programs to create a local green workforce; and (4) sidewalk on Louisiana Avenue to Emma Road.

Councilman Mumpower felt Council would be supporting a discredited idea and didn't believe the City should participate in it.

Councilman Newman said this is not an endorsement of any stimulus bill, but if there are investments forthcoming, we are directing the City Manager to make sure that any of our capital projects that may meet that criteria be reviewed for potential participation.

Councilman Miller felt that as a community Asheville needs to be at the table and ready to move forward.

When Mayor Bellamy asked for a friendly amendment to the motion to ask for an e-verify component to ensure that we are putting local people to work and being transparent as possible, Councilman Newman was not opposed to adding the language, however, he felt it was a different than the intent of his motion.

Mayor Bellamy said when she was in Washington meeting with mayors on this particular issue, they heard about the number of job losses on that particular day – 30,000 Americans lost their jobs. The Chief of Staff talked about making sure we employ Americans and that main street is impacted positively. It would be her hope that as we put together shovel-ready projects that we make the commitment to hire local people. If we created a list of all our capital needs, it would far exceed the \$122 Million, e.g., infrastructure repairs; two floors in the City Hall building that aren't being used to their highest level because they need to be repaired; Council is working on the water system infrastructure (which is one of the oldest in the state); the Civic Center, etc. Every other year we elect congressmen, every six years we elect our senators and every four years we elect our president and that is the group of people who are deciding how they are going to direct our country. We need to see how we can work with them. We need to hold ourselves accountable and be transparent to our citizens.

After Mayor Bellamy asked for public comment and received none, the motion made by Councilman Newman and seconded by Councilwoman Cape carried on a 6-1 vote, with Councilman Mumpower voting "no."

Mayor Bellamy felt that we needed an e-verify component in our applications and contracts that will verify the status of individuals who are working on our projects to make sure they are local people. City Attorney Oast said that the use of the e-verify system may be a condition of projects that are funded with federal grants.

Councilman Mumpower moved to direct the City Manager to employ e-verify for any projects that come to Asheville out of the economic stimulus package. This motion was seconded by Councilman Russell.

After Mayor Bellamy asked for public comment and received none, the motion made by Councilman Mumpower and seconded by Councilman Russell carried unanimously.

Councilman Miller moved to adopt Resolution No. 09-15, recommending that Congress consider the following recommendations as it begins work on an economic stimulus package, to (1) Include Funding for The Economic Development Administration's Public Works and Infrastructure Program, and Economic Adjustment Assistance; (2) Include Funding for HUD's Community Development Block Grant Program (CDBG); (3) Include Funding for Energy Efficiency and Conservation Block Grant Program (EECBG); (4) Distribute State Revolving Loan Fund Dollars as Direct Grants; (5) Do Not Limit The Corps of Engineers' Ability to Spend Stimulus Funds; (6) Distribute Transportation Stimulus Funds Through The Surface Transportation Program (STP); and (7) Funding Infrastructure Improvements to our Nation's Arts and Cultural Institutions. This motion was seconded by Vice-Mayor Davis.

Councilwoman Cape asked for a friendly amendment to add the appropriate language, that is located in the stimulus package, regarding infrastructure funding for public school systems and education. Councilman Miller and Vice-Mayor Davis accepted the friendly amendment.

The Co-Director of Asheville GO (Green Opportunities) supported job training in that we need to ensure that those

individuals have the training they need to access the jobs.

Councilwoman Cape indicated she would like to add workforce development to the resolution.

Councilman Mumpower felt we are spending money that does not exist and felt adoption of this resolution was a mistake.

The amended motion made by Councilman Miller and seconded by Vice-Mayor Davis carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

Upon inquiry of Vice-Mayor Davis, City Manager Jackson said that the Azalea Road project will be reviewed to see if it meets the criteria for the final list for Council approval.

## **RESOLUTION BOOK NO. 31 – PAGE**

### **B. BOARDS & COMMISSIONS**

Regarding the Board of Adjustment, Councilwoman Cape moved to (1) reappoint Robert Middlemas as a Regular Member; (2) reappoint James Sheeler as an Alternate Member; and (3) appoint Janet Whitworth as a Regular Member. This motion was seconded by Mayor Bellamy and carried unanimously. It was the consensus of Council to interview Phillip Hardin, Juma Jackson and Eugene Britton for two alternate positions.

Regarding the Community Relations Council, Councilwoman Cape moved to reappoint Jill Fromewick. This motion was seconded by Mayor Bellamy and carried unanimously. It was the consensus of Council to interview Marvin Kent Purser and William Moore.

Regarding the Downtown Commission, Councilman Newman moved to (1) reappoint Brad Galbraith and Kitty Love; and (2) reappoint Pat Whalen's term to expire April 1, 2009. This motion was seconded by Councilman Mumpower and carried unanimously.

Regarding the Sustainable Advisory Committee on Energy & the Environment, Councilman Mumpower moved to (1) reappoint Ashley Featherstone; and (2) appoint Matthew Raker. This motion was seconded by Councilman Newman and carried unanimously.

Regarding the Firemen's Relief Fund, Councilman Newman moved to reappoint Leesa Gibbs. This motion was seconded by Councilwoman Cape and carried unanimously.

Regarding the Greenway Commission, Councilwoman Cape moved to reappoint Marc Hunt. This motion was seconded by Councilman Russell and carried unanimously.

Regarding the Metropolitan Sewerage District Board, Councilman Newman moved to reappoint Councilman Russell. This motion was seconded by Councilman Mumpower and carried unanimously.

Regarding the Tree Commission, Councilwoman Cape moved to (1) reappoint Starr Silvis and Bob Gale. This motion was seconded by Councilman Miller and carried unanimously. In addition, Councilwoman Cape moved to appoint Brandee Boggs. This motion was seconded by Councilman Newman and carried unanimously.

Regarding the School Board, Councilwoman Cape moved to reappoint Gene Bell and Al Whitesides to the Asheville School Board. City Clerk Burleson was instructed to place this item on the next City Council meeting agenda. It was the consensus of Council to send the questions from the prior School Board process to eligible candidates for response.

Regarding the vacancies left by former-Councilwoman Holly Jones, it was the consensus of Council (1) that Councilman Mumpower be the liaison to the Firemen's Relief Fund; (2) that Councilman Miller be the liaison to the Greenway Commission; (3) that Councilman Mumpower be the ex-officio non-voting member to the Buncombe County Tourism Development Authority; and (4) that the member to the Pack Place Board of Trustees be discussed at the next City Council Boards & Commissions Committee meeting.

It was the consensus of Council that the City Council Public Safety Committee's make-up be: Vice-Mayor Davis (Chair), Mayor Bellamy and Councilman Newman. It was noted that the Public Safety Committee would be moving their regular date and time to the 3<sup>rd</sup> Tuesday of each month at 3:30 p.m. in the 4<sup>th</sup> Floor Training Room of the Municipal Building. This date and time change will be confirmed by City staff.

It was the consensus of Council that the City Council Boards & Commissions Committee will change to the 2<sup>nd</sup> Tuesday of each month at 4:15 p.m., in Room 209 of the City Hall Building, however, the February 10, 2009, time will change, due to interviews.

It was the consensus of Council that the City Council Finance Committee's make-up be: Councilman Russell (Chair), Mayor Bellamy and Councilman Miller.

## **VII. OTHER BUSINESS:**

### **Miscellaneous**

Councilwoman Cape announced there is only one more night to submit an application for the 33<sup>rd</sup> Year Building Bridges Program in our community.

Councilman Miller reminded the public that the best stimulus package we can provide is to shop and eat locally. Mayor Bellamy urged the public to buy locally.

Councilman Russell thanked Mayor Bellamy and Vice-Mayor Davis in lobbying a group that is looking at relocating their convention to Asheville.

### **Claims**

The following claims were received by the City of Asheville during the period of December 9, 2008, through January 22, 2009: AT&T (Water), Arleen Holliday (Traffic Engineering), Paul Presley (Water), Progress Energy (Parks & Recreation), Ann E. Wilder (Water), and AT&T (Water).

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

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

Mr. Gene Hampton spoke to Council about the need for quality education, as quality education and quality government equals quality of life for all.

Mr. Brian Festa spoke to Council about the need for a conscious evolution in the way we teach in the public school system.

## **IX. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 9:25 p.m.

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CITY CLERK

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MAYOR