

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

Budget

Chief Financial Officer Ben Durant briefed Council on the following overview: (1) second quarter results and current year budget trends show a \$754,000 revenue shortfall; (2) short-term “stop-gap” measures have been implemented in the current year to close the gap; and (3) Fiscal Year (FY) 2009-10 budget numbers continue to indicate an imbalance between revenues and expenditures.

He then reviewed the current General Fund budget of \$90,549,715.

General Fund revenue highlights include (1) property tax projections have improved (a) FY 2008-09 tax base grew 4.2% vs. 10-year average of 3.3%; and (b) revenue will exceed budget by \$100,000; and (2) sales tax projections have been lowered (a) sales tax revenue through December down 3.1%; (b) revenue will fall short of budget by \$1.5 Million; (c) one-time state utility payment of \$300,000; and (d) overall General Fund revenue (a) initial projected shortfall of \$1.0 Million; and (b) revised projected shortfall of \$754,000.

General Fund expenditure reduction strategies include (1) selective hiring program - \$250,000; (2) delay equipment and vehicle purchases until spring - \$225,000 (3) divert Civic Center capital project savings - \$100,000; and departmental line item reductions - \$425,000. This would be a total savings of \$1 Million.

He then reviewed the FY 2009 current year trends in Fund Balance, with the year-end estimate of 19.7%.

In response to Mayor Bellamy, City staff explained the General Fund budget amendments (expenses) adopted since the start of the fiscal year.

He provided Council with the FY 2008-09 Second Quarter Report. He reviewed the fall outlook for the initial General Fund gap. Initial budget assumptions include (1) 1.5% overall growth in revenue (a) property tax growth of 2.0% in FY 2008-09 and FY 2009-10; and (b) sales tax growth of 0% in both FY 2008-09 and FY 2009-10; and (2) expenditures (a) continue market-based pay adjustments and merit program; (b) 10% increase in health care budget; (c) 5% increase in operating costs due to inflation in key areas; and (d) no increase in debt service or capital outlay.

The current outlook regarding budget assumptions include (1) property tax projections have improved (a) FY 2008-09 tax base grew 4.2% vs. 10-year average of 3.3%; and (b) growth is expected to slow to 2.0% in FY 2009-10 due to recession; (2) sales tax projections have been lowered (a) sales tax revenue through December down 3.1%; (b) revenue will fall short of budget by \$1.5 Million in current year; and (c) sales tax revenue likely to remain flat in FY 2009-10; (3) Airport Road and Ridgefield annexations (a) become a part of the City on March 31; (b) additional FY 2009-10 revenue of \$900,000; (c) additional FY 2009-10 costs of \$575,000 (ii) 3 firefighters and payments to rural departments; (ii) 2 police officers; (iii) Airport Road sewer installation; and (iv) sanitation costs; (4) net revenue gain of \$325,000; (5) suspend market adjustments - \$1 Million; (6) eliminate merit pay (salary freeze) - \$750,000; (7) reduce Housing Trust Fund transfer - \$300,000; (8) reduce Transit Fund transfer - \$500,000; (9) re-engineering, streamlining (a) 20 General Fund positions eliminated - \$1 Million; (10) increase cost recovery from fees - \$500,000; (11) reduce Fund Balance from 19% to 18% - \$1 Million; (12) cost savings opportunities (a) shift to volunteers; (b) private sponsorships; (c) service level reductions, e.g., once vs. twice monthly brush collection - \$500,000; and (13) Council strategic priorities (a) downtown cleanliness program; and (2) Pack Square Park operations - \$250,000.

He then reviewed the current outlook of the General Fund budget gap of \$375,000.

Regarding the budget forecast, Council policy direction is needed as follows (1) staff recommends Council review and consider current forecast assumptions; (2) is Council comfortable with current property tax, sales tax, and overall revenue assumptions; and (2) is Council comfortable with the budget balancing mix (a) cost controls; (b) re-engineering; (c) salary freeze; (d) Fund Balance usage; and (e) other expenditure assumptions.

Regarding the budget process, Council policy direction is needed as follows (1) staff recommends submittal of the Manager's Recommended Budget on May 12; (2) between now and April 14, staff recommends that the Council Finance Committee review major policy issues; (a) revenues/fees; (b) capital maintenance and improvement priorities; (c) outside agency contracts; and (d) service reduction and volunteer/sponsorship opportunities; and (3) Council may also wish to schedule a public input opportunity during a regular March meeting.

Throughout discussion, Council members voiced their suggestions for ways to cut the budget while Mr. Durant responded to various questions/comments from Council (noting that those he could not respond to would be furnished to Council in the near future). Some questions/comments include: how confident are we with the revenue picture; comments regarding the use of Fund Balance; how deep are we projecting to go into Fund Balance; what other monies are available for the Transit Fund and the Housing Trust Fund; information on the Fund Balance decline which was an accounting issue regarding health care; information on the use of Fund Balance when contracts are entered into prior to June 30, but bills are not received until after July 1; what has Fund Balance been used for in the past few years; additional information on plans for personnel compensation regarding across the board freeze on salaries vs. considering some strategic areas that might suffer from that approach; additional information on what kinds of fee increases are proposed; how is the City meeting the standards regarding firefighter staffing on trucks (responded to by Fire Chief Greg Grayson); additional information requested on all the budget balancing mix presented by staff; does the proposed budget still maintain the current 401-K contribution for all employees; analysis of putting the 5% 401-K contribution in paychecks instead of the retirement system; additional information on the increase cost recovery from fees; and information on how this budget will make the City organization be healthier in the long run.

Councilman Russell, Chair of the Finance Committee, asked for Council's direction if they are comfortable with the general budget balancing mix of (a) cost controls; (b) re-engineering; (c) salary freeze; (d) Fund Balance usage; and (e) other expenditure assumptions. He encouraged Council to contact members of the Finance Committee on any issues they would like reviewed.

City Manager Jackson said that this budget has been a management team effort and they are prepared to list priorities for further reduction. He asked for Council direction on what sequence they would like for staff to bring the additional information forward - the Finance Committee and/or City Council. He didn't feel that any one meeting would allow for a complete review of the specific information requested. He suggested some follow-up effort by the Finance Committee to schedule the individual topics out and in what order.

After discussion, it was the consensus of Council to obtain all requested information in two weeks and then make a determination of the budget balancing mix.

At the request of the Finance Committee, it was the consensus of Council to move the outside agency requests from the Finance Committee responsibility to the Housing & Community Development Community.

Councilman Russell noted that the Finance Committee will be reviewing the fees and charges in the next 30 days so if Council has any specific interest, please contact a member of the Finance Committee.

Councilman Russell noted that in the assumptions, \$3 Million out of the \$5 Million is coming from the City's employee base.

City Manager Jackson said that we are making extra efforts to communicate with our employees and are inviting their input. In addition, he said that Mayor Bellamy has asked for continuing updates on the economic stimulus package at each of our Council meetings.

Mayor Bellamy said that it's imperative that we look at what makes Asheville work – its employees. We need to make sure that people have jobs so they can buy goods and services in our community. She will consider making cost cuts in other areas that are important to her in order to save someone's job. We need to make sure we have good staff and that they feel secure in their job.

City Attorney Oast said the adoption of the budget schedule will be considered by Council at their March 10, 2009, meeting.

At 4:30 p.m., Mayor Bellamy recessed the meeting for 30 minutes.

Tuesday – February 24, 2009 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis (left meeting at 9:58 p.m.); Councilwoman Robin L. Cape; Councilman Kelly M. Miller; Councilman R. Carl Mumpower (left meeting at 9:47 p.m.); 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

Ms. Sue Ross, teacher, and students from the Odyssey School led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Miller gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY 2009 AS "AMERICAN HEART MONTH"

Mayor Bellamy read the proclamation proclaiming February, 2009, as "American Heart Month" in the City of Asheville. She presented the proclamation to Dr. Caldwell, representing WNC Hypertension and Wellness Center, who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING FEBRUARY 2009 AS "NATIONAL CHILDREN'S DENTAL HEALTH MONTH"

Mayor Bellamy read the proclamation proclaiming February, 2009, as "National Children's Dental Health Month" in the City of Asheville. She presented the proclamation to Mr. Bill Murdock, representing the Eblen-Kimmell Charities, who briefed City Council on how the Children's Dental Health Program started and some of the activities taking place during the month.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Items "D" and "J" were removed from Council's consideration.

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

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 10, 2009

B. ORDINANCE NO. 3702 - ORDINANCE DISSOLVING THE FILM COMMISSION

Summary: The consideration of an ordinance dissolving the Asheville Film Commission.

The Asheville Film Board was created in 1998 by Ordinance of the Asheville City Council. Since the years of its creation, the Board has undergone some changes including a name change in 2001 to the Asheville Film Commission (AFC). The AFC's mission, composed of 13 members, is to support the City as a "film friendly" town and to support media arts in the area. The AFC has had difficulty attracting and maintaining members. In reviewing its mission and the declining interest of its membership, the Commission at its June 18, 2008, meeting, determined that its mission would be more effectively delivered and expanded into media arts by transitioning into a stakeholder group with assistance from the Office of Economic Development, which has been endorsed by the City Council Boards and Commission Committee.

Pros:

- Greater access to additional digital and media arts stakeholders to support City of Asheville in its effort to be a "film friendly" town.
- Reduction in staff time with more flexibility in scheduling meetings
- Continued interest from former AFC members

Con: None.

There is no budgetary impact at this time. Staff time for meetings would be reallocated for other economic development activities.

City staff recommends that City Council adopt the ordinance dissolving the Asheville Film Commission.

ORDINANCE BOOK NO. 25 – PAGE 184

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WALKER PARKING CONSULTANTS FOR WALL STREET AND RANKIN AVENUE PARKING GARAGES RESTORATION

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

D. RESOLUTION APPOINTING A REPRESENTATIVE OF THE ASHEVILLE AREA ARTS COUNCIL TO THE PUBLIC ART BOARD

At staff's request, Vice-Mayor Davis moved to remove this item from Council consideration. This motion was seconded by Councilman Russell and carried unanimously.

E. RESOLUTION NO. 09-36 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXCHANGE SPECIALIZED FIRE APPARATUS WITH BRINDLEE MOUNTAIN FIRE APPARATUS LLC FOR THE ACQUISITION OF A CUSTOM HEAVY DUTY RESCUE TRUCK

Summary: The consideration of a resolution authorizing the City Manager to dispose of surplus and used specialized equipment used by the Asheville Fire and Rescue Department (AFR) in a no cost exchange for other specialized equipment to be used by AFR.

Typically city government uses publicsurplus.com or govdeals.com to dispose of worn out and surplus fire apparatus and equipment. Given city government's challenging budget situation and current economic conditions, AFR proposes to trade current surplus and used equipment for another piece of used equipment that will best meet the department's current needs, without having to incur any additional costs. Because we currently have several vehicles to dispose of, we can receive a much higher value by packaging the vehicles together for an even trade than we could by selling the vehicles individually. We are also reducing our overall fleet size and maintenance costs by using this disposal method.

North Carolina General Statute sec. 160A-271 allows city government to exchange property in order to acquire new property. An advertisement of the city's intent is required. This required advertisement has been properly posted for action at this Council meeting.

We have received appraisals of the vehicles to be disposed of. The following vehicles to be disposed of and their disposal value are as follows:

<u>Property:</u>	<u>Value:</u>
1999 International Tanker	\$55,000
1994 Volvo/American Eagle Heavy Rescue	\$12,000
1992 Grumman 102' Aerial	\$20,000
1994 KME 55' Quint	\$ 5,000
1992 KME 52' Snozzle	\$10,000
1997 Freightliner 3D Hazmat	\$35,000
1994 KME 75' Firestix Aerial	\$22,000
1993 KME 75' Firestix Aerial	<u>\$17,000</u> (not available until after 9-1-09)
	\$176,000

The following vehicle is proposed for exchange as an even trade for the above listed equipment: 1996 Pierce All Wheel Drive Heavy Duty Rescue Truck with a Fair Market Value of \$176,000.

The above vehicle has been thoroughly evaluated by city staff and determined to be in sound mechanical condition with 30,000 miles. This vehicle is planned to serve as a reserve rescue truck for AFR as well as a city hazmat truck. To purchase a similar vehicle as brand new would cost in excess of \$500,000.

Regarding the Strategic Operating Plan, this action falls under the focus areas of (1) Safe - By providing appropriate reserve equipment for AFR, it will aid in making Asheville the safest city in America based on approved metrics for similarly sized cities; and (2) Fiscally Responsible – This action generates the highest value for the equipment that the city needs to dispose of. This is an even trade and taxpayers will not encumber additional costs to provide this piece of reserve equipment.

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

Pros:

- This process will provide the highest value possible for the equipment that the department will dispose of – aiding our current budget situation.
- This is an even trade that will not cost taxpayers additional funds in order to procure the new to us equipment.
- This equipment will meet the department's current void for a reserve rescue and city hazmat truck.
- This new to us equipment will be immediately available to serve Asheville residents and businesses.

Con:

None identified at this time.

There is no adverse fiscal impact associated with this action. Value of similar vehicles using the typical disposal methods are much less than the value that we receive by packaging the equipment together for a trade.

City staff recommends that City Council adopt the resolution authorizing the manager to dispose of specialized equipment as an exchange.

RESOLUTION NO. 31 – PAGE 444

F. RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO CREATE A POLICY FOR AWARDING RETIRING POLICE OFFICERS THEIR SERVICE WEAPONS

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

G. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDED PROFESSIONAL SERVICES AGREEMENT WITH MCGILL & ASSOCIATES TO PREPARE ENGINEERING AND CONSTRUCTION DOCUMENTS FOR THE SANITARY SEWER INSTALLATION IN THE SARDIS ROAD AREA OF THE 2007 ANNEXATION

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

H. RESOLUTION AUTHORIZING THE MAYOR TO APPROVE A GRANT OFFER FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE NORTH GENERAL AVIATION EXPANSION

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

I. RESOLUTION NO. 09-40 - RESOLUTION AUTHORIZING EXECUTION OF AN EASEMENT ACROSS CITY PROPERTY ON RESERVOIR ROAD – MCCAULEY DRIVE (WHITE PINE RESERVOIR)

Summary: The consideration of a resolution granting a utility easement over City property at White Fawn reservoir.

The City of Asheville owns the property known as White Fawn reservoir, as well as property coming down from the ridge on the west side. There are two towers on this property; these towers are used by various telecommunications service providers pursuant to licenses or lease agreements with the City. The towers receive electrical power from Progress Energy.

Progress Energy needs to upgrade its service to one of the towers (the western or lower one) from secondary to primary, and requires an easement for this purpose. Though this service line has been in place for many years, as far as we can determine, there is no recorded easement for it. This is not unusual in older areas of town.

The easement that is being requested would be 30 feet in width, and Progress Energy would be permitted to construct and maintain its line, including poles which would(increase from 30 to 40 feet in height), guy wires and anchors, and to keep the area cleared of trees and undergrowth. The location would be the same as the current service line. Progress Energy would be required to restore any area disturbed by its work to its previous condition. The lines and poles, even at the increased height, would not project higher than the tree line or ridge line, and would not intrude on the City's property any more than it currently does. The last 40 feet (from the supply line to the base of the tower) would be underground.

This area has been identified as having potential for future park or recreational use and the tower itself may be removed or

relocated at some point. The line would not interfere with current use of the property, and in fact would improve service to the City's lessees and licensees, who in turn provide a needed service to many businesses and citizens. However, the degree of compatibility with future use is more difficult to gauge. With this in mind, the easement could be structured to permit the underground installation of the line at such time as the property is developed for recreation purposes. The cost of this could be included as part of the lease or license agreements.

The requested action complies with the City Council's Strategic Operating Plan in that it (a) supports a service that many businesses and individuals rely on to conduct their daily affairs; (b) provides critical infrastructure.

The requested action complies with the 2025 Plan and Parks Master Plan in that it does not interfere with any current recreational use of the property, and may facilitate such use by keeping path clear of undergrowth, and limiting conflicting uses.

Pros:

- Continues and improves existing telecommunications service to tenants / licensees of City facilities
- Formalizes a previously undocumented arrangement for use of City property

Cons:

- May require periodic trimming / removal of vegetation within easement area
- No use by City in a manner that interferes with easement
- Potential for incompatibility with future uses (but this can be addressed)

The fiscal impact is indirect; facilitates City's ability to continue leasing of towers.

If Council approves of the easement, City staff recommends adoption of the resolution authorizing the City Manager to execute the easement, subject to approval of the City Attorney.

RESOLUTION NO. 31 – PAGE 448

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A SECOND ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT WITH BUNCOMBE COUNTY DATED SEPTEMBER 2, 2003, TO ESTABLISH AN OPERATIONAL AGREEMENT FOR THE CONSOLIDATED 911 CALL CENTER

At staff's request, Vice-Mayor Davis moved to remove this item from Council consideration. This motion was seconded by Councilman Mumpower and carried unanimously.

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.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

Councilman Newman moved to approve Consent Agenda Items "C", "F", "G", and "H." This motion was seconded by Councilwoman Cape.

C. RESOLUTION NO. 09-35 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WALKER PARKING CONSULTANTS FOR WALL STREET AND RANKIN AVENUE PARKING GARAGES RESTORATION

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Walker Parking Consultants to provide engineering services for Wall Street and Rankin Avenue parking garage restorations.

The City of Asheville owns and operates three parking garages; Civic Center, Rankin Avenue, and Wall Street. The Civic Center deck was built in 1976 and the others in 1988. Like any structure, these parking decks deteriorate over time and require restorative maintenance. This normally consists of waterproofing, concrete repairs, and re-caulking of joints between concrete slabs but a detailed assessment is required to be sure. The City of Asheville commenced a multi-year program to accomplish restoration of the garages in 2007. The restoration work was completed in Civic Center garage in 2008. Plans are for restoration

work on Wall Street Parking Garage in fiscal year 2008/2009 and in Rankin Avenue Parking Garage in fiscal year 2010/2011. City staff recommended, and Council approved, including restoration work on Wall Street garage for inclusion in the Capital Improvement Plan for fiscal year 2008/2009.

Included in Parking Services' operating budget for the current fiscal year is \$500,000.00 for debt service on the proposed parking garage on Biltmore Avenue. As construction of that facility has not yet started, this money will not be needed for debt service. Combining those funds with money in the Capital Improvement Plan will provide adequate funds to complete the restoration of both garages. This action will prevent the City from having to fund Rankin Avenue Parking Garage restoration work and debt service on the proposed Biltmore Avenue deck simultaneously next fiscal year. Combining the work will also significantly reduce the engineering services fees and expenses.

During fall of 2008 Parking Services sent out a Request for Proposal to interested firms to provide engineering services for the restoration of Wall Street Parking Garage. The scope of work included a detailed assessment of the condition of the facility, preparation of working drawings, preparation of bid package for general contractors, and supervision of the restoration work. Five firms responded to the request for proposal. An internal review committee consisting of the Assistant Director, Transportation & Engineering, Minority Business Outreach Coordinator, and the Parking Services Manager selected Walker Parking Consultants as the most qualified and responsive of the five.

Walker Parking Consultants' fee for engineering services for the Wall Street Parking Garage restoration is \$82,000.00. Parking Services requested, and received a quotation for a combined fee for engineering services for the Wall Street and Rankin Avenue parking garages restoration at \$116,750.00; a significant per garage reduction. The primary savings will be on travel and lodging expenses. Staff is requesting authorization to sign a contract with Walker Parking Consultants, 1850 Parkway Place, Suite 730, Marietta, Georgia, for no more than \$125,000.00; \$116,750.00 for the contract and \$8,250.00 for contingencies.

This action complies with the City Council Strategic Operating Plan in that it addresses a plan to maintain the City's aging facilities.

Pros:

- Combining the engineering services for both Rankin Avenue and Wall Street garages significantly reduces the overall cost than if they were done separately.
- The advantage of this to the City is by correcting problems in the deck now will prevent more costly repairs later and will extend the useful life of the parking facilities.
- Precludes the City from having to fund a large debt service and restoration project in one fiscal year.

Con:

- Completing both garages at the same time can be administratively cumbersome but is not insurmountable.

Funds were approved in the fiscal year 2008/2009 Operating and Capital Improvement Plan budgets.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a contract with Walker Parking Consultants in an amount not to exceed \$125,000.00 for engineering services to complete Wall Street and Rankin Avenue parking garages restorations.

When Councilman Mumpower asked what provisions we have to ensure the contractor is hiring legal citizens, City Manager Jackson said that our contracts have boilerplate language that requires all our contractors comply with each and every federal regulatory requirement.

Councilman Mumpower could not support this action in that he felt City government is not making a responsible effort to make sure our contractors and their subcontractors hire legal citizens.

As noted after the Consent Agenda, Councilman Newman moved for the adoption of Resolution No. 09-35. This motion was seconded by Councilwoman Cape. This motion then carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 443

F. RESOLUTION NO. 09-37 - RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO CREATE A POLICY FOR AWARDING RETIRING POLICE OFFICERS THEIR SERVICE WEAPONS

Summary: The consideration of a resolution authorizing the City Manager or his designee to create a policy for awarding retiring police officers their service weapon.

North Carolina General Statute sec. 20-187.2 provides that surviving spouses, or by surviving children if widowed of a law enforcement officer killed in the line of duty or who was a member of a law enforcement agency at the time of death, and retiring law enforcement officers shall receive upon request and at no cost, the badge worn or carried by the deceased or retiring officer. The statute further provides that the governing body of a law enforcement agency may also award to a retiring member or surviving relative as provided above, upon request, the service side arm of the retiring or deceased officer.

As is the practice of most police departments, for convenience and efficiency, the Chief of Police, has customarily awarded service side arms to retiring officers and to surviving family members of deceased officers. The department's Chiefs of Police have made such awards in consideration of the officers' many years of loyal and dedicated service to the City.

A law enforcement officer's badge and service side arm are more than just tools necessary for the performance of his or her duties; they are symbolic of service as a law enforcement officer. In recognition of this belief years ago, North Carolina passed, General Statute 20-187.2.

For honoring the dedicated service of a career police officer most police departments in the United States and in North Carolina including CALEA accredited agencies such as Raleigh, Charlotte, Burlington, Winston-Salem, Greensboro, Durham, High Point, Fayetteville, Greenville, Cary, Kannapolis, New Bern, NCALE, NCSHP, Monroe, Clayton, Albemarle, Rocky Mount have the Chief of Police or City Manager award service side arms to retiring officers or to surviving family members of deceased officers. This is a common and cherished tradition across the United States. Some municipalities and counties charge a token \$1.00; others require no cost to the retiring officer or surviving spouse. North Carolina General Statute 20-187.2 provides for this.

Neither the City of Asheville nor the Asheville Police Department has ever awarded to retiring officers, or to qualifying surviving family members of deceased officers, the service side arm of the retiring or deceased officer. The loyal and dedicated service of the officer who has completed years of service to the City of Asheville and is eligible to retire under the North Carolina Local Law Enforcement Retirement system with the City of Asheville has gone without any award of their service side arm.

On February 17, 2009, the Public Safety Committee reviewed this request and endorsed it.

Pros:

- Positive recognition by the City of Asheville for a difficult career with many sacrifices
- Long term appreciation by the retiring officer
- High morale booster for current personnel

Con:

- Minimal budget impact

There will be minimal financial impact for the replacement of a handgun. Replacing weapons is an ongoing part of the budgeting process and weapons in the department are in varying stages of life expectancy and diminishing value.

Chief William A. Hogan and any subsequent Chief of Police at the time of retirement award the service weapon with the official credentials to said officer. Chief William A. Hogan and any subsequent Chief of Police at the time of the death of an officer award the service weapon with the official credentials to the survivor of said officer. This in accordance with North Carolina General Statute 20-187.2, for officers retiring after February 1, 2009. The retiring officer must have completed 20 years of credible service with the City Of Asheville and meet the requirements under the North Carolina Retirement System for Local Law Enforcement Officers. If an officer retires with less than 20 years of service with the city and retires on a service related physical disability, the officer will be awarded the service weapon and official credentials in the same manner.

Officers retiring in good standing with 10 - 20 years creditable service with the City of Asheville can request the award of the service weapon for a cost of \$ 250.00. Any retirements under 10 years can request the award of the service weapon for fair market value.

Non physical service related disability retirements will be evaluated based on individual circumstances with a determination to be made by the Chief of Police.

City staff recommends City Council authorize the City Manager or his designee to create a policy for awarding retiring police officers their service weapon.

At the request of Councilman Mumpower, Police Chief Hogan explained the reasoning behind the policy request, in that it

is a way of recognizing employees.

In response to Councilman Mumpower, Chief Hogan said that the policy could be made retroactive.

As noted after the Consent Agenda, Councilman Newman moved for the adoption of Resolution No. 09-37. This motion was seconded by Councilwoman Cape.

After a brief procedural discussion, Councilman Mumpower moved to amend Councilman Newman's original motion for a separate vote on Consent Agenda "F". This motion was seconded by Councilman Russell and carried on a 4-3 vote, with Mayor Bellamy, Councilwoman Cape and Councilman Newman voting "no."

Councilman Mumpower moved to approve Resolution No. 09-37, with the City Manager (1) exploring the potential for retroactive consideration for our police retirees at the discretion of City operational staff; and (2) reporting back to Council on any logistical or practical concerns. This motion was seconded by Councilman Russell and carried unanimously.

Vice-Mayor Davis was pleased to note that the Secretary of State honored the Asheville Police Department for their participation in apprehending almost \$1 Million in counterfeit merchandise this past year.

RESOLUTION NO. 31 – PAGE 445

G. RESOLUTION NO. 09-38 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDED PROFESSIONAL SERVICES AGREEMENT WITH MCGILL & ASSOCIATES TO PREPARE ENGINEERING AND CONSTRUCTION DOCUMENTS FOR THE SANITARY SEWER INSTALLATION IN THE SARDIS ROAD AREA OF THE 2007 ANNEXATION

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to an existing professional services contract with McGill & Associates to prepare the required documents to install sanitary sewer as outlined in the 2007 annexation services plan.

In June of 2008, a Request for Qualifications (RFQ) was solicited from several engineering firms for the engineering services required to design and construct the proposed sewer service in the Sardis Road area, as described in the 2007 annexation services plan. Several firms submitted RFQ's and a committee selected McGill & Associates (located at 55 Broad Street, Asheville, N.C.) as the firm to negotiate terms with first. Their initial fee was higher than estimated, but McGill & Associates suggested that they might be able to reduce the fee with a more detailed review of the sewer alignment. Therefore, the initial scope of work was reduced to include only preliminary surveying and engineering. The reduced fee was \$20,200.00, and was executed on September 16, 2008. McGill & Associates determined that the proposed alignment could be changed such that the number of easements could be reduced substantially, therefore reducing the overall cost of the design and construction accordingly.

In addition to these costs savings, the Transportation and Engineering Department has re-examined this contract to determine what components could be done with City staff. Based on this evaluation, several tasks have been omitted from the proposal, and re-assigned to the Engineering Services Division, further reducing costs. The total estimated cost reduction equals \$103,000.00.

This contract amendment will allow for the design, right of way acquisition, and construction of the sanitary sewer for Sardis Road area that was part of the 2007 annexation. The original contract allowed McGill & Associates to proceed with the preliminary surveying and engineering, and is nearing completion.

This action complies with the City Council Strategic Operating Plan in that it will enhance the infrastructure within our municipal limits, and fulfill the City's obligation outlined in the 2007 annexation of the Sardis Road area.

Pros:

- Will allow for the ultimate construction of approximately 6,455 linear feet of new sanitary sewer within the Asheville City limits.
- Will fulfill the City's obligation of the 2007 annexation of the Sardis Road area.

Con:

- The City will not receive any financial return directly from installation of the sewer, as it will be turned over to MSD upon completion.

This will cost the City \$164,490.00 in fees for professional services.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an amendment to an existing professional services contract with McGill & Associates.

Councilman Mumpower could not support this action in that he felt City government is not making a responsible effort to make sure our contractors and their subcontractors hire legal citizens.

As noted after the Consent Agenda, Councilman Newman moved for the adoption of Resolution No. 09-38. This motion was seconded by Councilwoman Cape. This motion carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 446

H. RESOLUTION NO. 09-39 - RESOLUTION AUTHORIZING THE MAYOR TO APPROVE A GRANT OFFER FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE NORTH GENERAL AVIATION EXPANSION

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of \$1,889,029.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of \$1,889,029 is for the North General Aviation Expansion Project No. 3-37-0005-034-2009.

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-034-2009.

Councilman Mumpower felt that he could not support spending \$2 Million at our airport during this economic climate. He also questioned if there was any policy to make sure the workers are legal citizens.

As noted after the Consent Agenda, Councilman Newman moved for the adoption of Resolution No. 09-39. This motion was seconded by Councilwoman Cape. This motion carried on a 6-1 vote, with Councilman Mumpower voting "no."

City Attorney Oast said that the use of the E-Verify System is a requirement of all federal contracts. He noted that there has been legislation introduced in the General Assembly to require the E-Verify System in state contracts as well.

After a brief discussion on the City's efforts to hire and require contractors and subcontractors to verify and hire legal citizens, it was the consensus of Council to instruct City Manager Jackson to update the information provided to Council earlier and explore other audit practices.

RESOLUTION BOOK NO. 31 – PAGE 447

III. PRESENTATIONS & REPORTS:

A. QUARTERLY REPORTS

Boards & Commissions Committee Chair Report

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, provided Council with an update of their activities during the last quarter. He thanked his other Committee members of Mayor Bellamy and Councilman Mumpower for their hard work on this Committee.

Strategic Operating Plan

Assistant City Manager Jeff Richardson reviewed with Council the 2008-09 Strategic Operating Plan.

In the affordable focus area (1) Community Development Block Grant (CDBG) and HOME funds as of December 31, 2008 (a) 54 projects; (b) 584 affordable units; (c) served 6,000 citizens; (d) 40 micro-businesses; and (e) 29 applications received (1/1/09); (2) Housing Trust Fund as of December 31, 2008 (a) \$1.6 Million allocated; and (b) 76 affordable units; (3) Ten Year Plan to End Homelessness (a) \$500,000 in CDBG and HOME funds as of December 31, 2008; and (b) promotional campaign for "Spare Change for Real Change; and (4) Employer of Choice (a) implemented 3 tiered health insurance plan; and (b) expanded flexible work schedules - condensed work weeks, with no service reductions.

In the green focus area (1) Public Works (a) collected 7,838 tons of recyclable material in 2008; (b) constructed 6.08 miles of sidewalks in 2008; and (c) CNG sales are 60% higher than projected (1/1/09); (2) Engineering & Transportation (a) transit received \$2.1 Million for five hybrid buses and a Federal Transit Administration Grant; (b) 1.5 Million transit passengers (12/31/08); and (c) two "Hop and Ride" locations; (3) Water Resources; (a) Water Resources re-certified as ISO 14001; and (b) Water Production upgrades as part of the bond project are complete; (4) Office of Economic Development (a) acquired property along Swannanoa River Road for floodplain/river protection (Wilma Dykeman Riverway Plan); and (5) Building Safety (2/1/09) (a) 36 sustainable fee waivers issued totaling \$11,800 in fee waivers for green building efforts.

In the safe focus area of Asheville Fire and Rescue (AFR) (1) 94% customers rate AFR services as excellent/good in citizen survey; (2) extended 2008 responding to 15,377 calls; (3) AFR benchmarked performance with ICMA, AFR's workload is comparative to cities with populations 150,000 people; and (4) secured property for a future fire station in west Asheville.

In the safe focus area of the Asheville Police Department (APD) (1) APD responsible for mutual aid to U.S. Secret Service for dignitary protection at numerous political events; (2) police bicycles bought with funds from the West Riverside Operation Weed & Seed Project; and (3) graduated more than 100 adults and nearly 40 teenagers from the Citizens Police Academy and Junior Police Academy in 2008. Service calls for 2008 for 911 calls is 33,096; wireless calls is 2,107; for a total number of service calls of 113,570 (includes officer initiated).

In the sustainability focus area (1) River District Brownfields Program - financial assistance application for Phases I and II began on December 1 (applications due March 13); (2) One Stop Shop (a) staff site visit to Columbia, S.C.; and (b) next steps include identifying key functions to relocate to Public Works; (3) Transit Master Plan (a) completion of first phase and (b) next steps; (4) Water Bond Project - Water Bond projects are approximately 70% complete; (5) City Manager's Development Forum (a) discussion on economic issues facing area; and (b) Planning & Zoning Commission; (6) Neighborhood Stabilization Grant (a) reduce vacant properties; and (b) available affordable housing; and (7) Expand Partnership with UNC-Asheville (a) UNC-Asheville and City of Asheville staff collaboration; and (b) five areas of focus.

Fire Chief Greg Grayson responded to various questions from Council, initiated by Councilwoman Cape, regarding the AFR's 15,377 calls in 2008 and how the AFR's workload is comparative to cities with populations 150,000 people. Councilman Mumpower felt that if we are processing double the calls based on national statistics, then Council should have some policy deliberation about what we can do to address that workload.

Mr. Richardson responded to Councilman Kelly explaining that improved customer experience and better efficiencies over time will result in cost efficiencies with the one-stop shop.

Mr. Richardson said that Council has been provided with an economy report for FY 2008-09 (2nd Quarter). He reviewed charts on (1) employment change by major industry; (2) unemployment rates; (3) monthly home sales - units; (4) monthly home sales - average price; (5) residential building permits - units; (6) residential building permits - value; (7) City business licenses; and (8) special focus of total employment - Asheville MSA.

He said that Council has been provided with the Asheville Police Department's outreaches/actions for January 2009. He said that January was a very successful month for the APD, particularly in terms of key arrests and drug interdictions. Detectives in the Criminal Investigations Division (CID) cleared several first-degree residential burglaries ("home invasions") and made an arrest for second-degree murder in a homicide cold case that was nearly 20 years old. CID also in January arrested two women for a string of eight armed robberies that had plagued local hotels and convenience stores, as well as two men who were posing as law enforcement officers and robbing people. In addition, our K-9 Unit and Drug Suppression Unit (DSU) made key interdictions of large supplies of marijuana and cocaine that would otherwise be on the streets. He reviewed the following most notable arrests/actions from January: (1) APD charges man in 1990 homicide; (2) arrests made in home invasions; (3) DSU seizes nearly 2 kilos; (4) man pleads guilty to sexual battery; (5) two charged with impersonating law enforcement officers, robberies; (6) APD top 10 arrestees of 2008; (7) CID/crime stats; (8) Support Services Division calls; (9) Patrol Division charges/seizures; (10) K-9 Unit makes key seizure; (11) outreach; and (12) staff and other recognitions.

In response to Councilman Mumpower, Police Chief Bill Hogan explained what their efforts have been to eliminate the open air drug market, noting that they have not let up in their efforts to reduce drugs. He agreed with Councilman Mumpower in that there are not sufficient resources for the judicial system.

Councilman Mumpower urged the citizens to take ownership of their neighborhoods and work with the Police Department to eliminate the open air drug market.

In response to Councilwoman Cape regarding the homeless population, Mayor Bellamy noted that the service providers are tracking where people are coming from and City Council will be hearing a report on the homeless initiative in the very near future.

B. TRANSIT MASTER PLAN UPDATE

Director of Transportation and Engineering Cathy Ball said that the following report is to provide an update of the development of the Transit Master Plan.

The City of Asheville is analyzing existing transit services, assessing current and future needs, determining future equipment and operational requirements, and determining how existing bus transit services can be streamlined to provide improved service levels through the development of a Transit Master Plan.

The City hired HDR Engineering, Inc. of the Carolinas as the firm to provide services for the development of the City of Asheville Transit Master Plan (TMP).

The scope of work identified seven specific tasks as follows: Task 1: Data Collection; Task 2: Public Involvement; Task 3: Impacts to Existing Ridership; Task 4: Impacts to ATS Operations; Task 5: Transit Facility Locations; Task 6: Recommendations and Implementation Plan; and Task 7: Funding.

To date the consultants have finished with the data collection and the first phase of the public involvement tasks.

The data collection consisted of data gathering and application of several surveys. During the data gathering the consultants reviewed relevant studies and data collected from other sources. Such sources included the Comprehensive Transportation Plan, Long-Range Transportation Plan, any relevant issues from the latest Federal Transit Administration (FTA) Triennial Review or North Carolina Department of Transportation (NCDOT) reviews, or other studies conducted by the City and the Metropolitan Planning Organization.

Three different surveys were applied to get input from riders and non-riders, and included:

- On-board survey to gather travel information, rider profile information and rider attitudinal information.
- Ride check survey to determine origins and destinations, identifying busiest areas and more used bus stops.
- Survey Monkey, an on-line tool which aims to identify potential new riders and barriers that prevent them from riding the bus, as well as current riders and the potential for improvements.

This task was completed with a public meeting held on January 22nd at the Civic Center. 176 persons signed in and gave their input to the consultants and staff.

The analyses showed that most of the rider's trips originate and end at home (35%), 20% are work related trips and 11% are for shopping.

Regarding frequency, most of the riders ride six days per week (54%), and 40% have been riding for five years or more.

The analysis showed that two thirds of the riders are transit dependant and one third are choice riders.

The ethnicity analysis showed that 48% of riders are white/non-Hispanic and 40% are black/African-American.

The surveys allowed identifying the most needed improvements, shown below:

- Sunday service (25%)
- More frequent service (16%)
- More evening service (14%)

When riders were asked to choose only one of these improvements 53% identified Sunday service as the most needed improvement.

During the public meeting a dot voting system was implemented. The analysis showed that 22% of the riders want more frequent service, followed by a tied between Sunday service and more sidewalks (18%).

Non-riders who participated in the SurveyMonkey identified more frequent service (32%) as the main reason to consider riding the bus. Riders considered the same as a needed improvement (30%) in the on-line survey.

The next steps involve the development of tasks 3 to 7 and completion of the public involvement process. The consultants will be developing recommendations, implementation plan, cost analysis and funding.

Staff expects to have the draft plan ready by mid-May and bring the final plan for Council approval by the end of June.

The Transit Commission supports the development of the Transit Master Plan.

Regarding the Strategic Operating Plan, the TMP will support the areas of environmental sustainability, promoting emission reductions through transit and identifying a sustainable funding structure for transit.

The project complies with the City Development Plan – 2025, Transportation Goals and Strategies, as follows: (1) Goal VI: Develop a transit system that is capable of meeting the needs of all residents of and visitors to the region; and (2) Goal X: Develop a comprehensive set of implementation strategies intended to reduce local vehicle miles traveled in accordance with the State of North Carolina transportation policies.

Pros:

- The development of the transit master plan provides the tools to reshape the transit system accordingly to current ridership and development.
- The TMP will identify future opportunities for growing in a planned and organized way.
- The TMP will make recommendations related to technology, transit facilities and funding opportunities.

Con:

- None.

The project cost is \$89,245 and 10% contingency for unforeseen expenses during the development of the master plan.

Ms. Ball summarized by saying that the study objectives for the Transit Master Plan include (1) assess current conditions; (2) project future system needs - equipment and operational requirements; (3) streamline and improve service levels; and (4) identify funding opportunities.

The scope of work entails (1) data collection; (2) public involvement; (3) impacts to existing ridership; (4) impacts to Asheville Transit System (ATS) operations; (5) Transit facility locations; (6) recommendations and implementation plan; and (7) funding.

Work completed includes (1) data collection (a) ride check and analysis; (b) on-board survey; and (c) survey monkey (on-line); and (2) public involvement (a) public forum.

Key findings consist of (1) 35% of the trips are to/from home, followed by work related trips (20%) and shopping (11%); (2) most of the riders ride six days per week (54%); (3) 40% have been riding for 5+ years; (4) one-third of the riders choose to ride the bus instead of taking a car; and (5) 48% of riders are White/Non-Hispanic, 40% are Black/African American.

Riders are satisfied or very satisfied with all service aspects except hours of operation. The best attributes are safety and fire. The worst attributes are hours of operation, frequency, and on-time.

She reviewed the requested service improvements of (1) Sunday service; (2) increased service frequency; (3) more evening service; (4) new routes; (5) more sidewalks; (6) better on-time performance; (7) more shelters; and (8) express buses.

Next steps include (1) development of recommendations to be presented to the Steering Committee and operators; (2) second public meeting is April 2; (3) implementation plan; (4) cost analysis and funding; (5) draft plan; and (6) presentation to City Council for adoption in June 2009.

This report is to provide an update to City Council; no action is recommended at this time.

Councilwoman Cape stressed the need for on-time performance.

After a brief discussion about concerns (or perceptions) of buses speeding through neighborhoods, Ms. Ball said that one of their goals is to design the route so that the buses can go slower (so they are not perceived as going faster) and still make the route. She felt they can also do some random checks, if Council desires.

C. EMERGENCY PREPAREDNESS SYSTEM

Fire Chief Grayson introduced Mr. Doug Hoell, Director of North Carolina Emergency Management (NCEM); Mr. Mike Cook, Western Branch Manager for NCEM; Mr. Jimmy Ramsey, NCEM Area 14 Coordinator; Mr. Jerry VeHaun, Buncombe County Emergency Services and Homeland Security Director; and Dr. Martha Salyers, Director of Region 6 Public Health Team.

Chief Grayson said that the system component representatives include (1) City government efforts; (2) County government efforts; (3) NC Emergency Management efforts; (4) non-profit agencies as partners, such as American Red Cross, United Way 211 and a host of others.

The NC's system is an all-hazards approach to emergency assistance (1) severe weather (hurricane, snow, tornado, flood, drought); (2) technological (hazardous materials/radiological, fixed nuclear facilities); (3) man-made (weapons of mass destruction, cyber-terrorism); and (4) lost person search/rescue.

Emergency management traditional phases include (1) preparedness (a) training; and (b) equipment); (2) response; (3) recovery; and (4) mitigation.

Chief Grayson then reviewed the flow chart of the NC Emergency Management System when disaster strikes in Asheville.

The City's primary emergency services include (1) Fire and Rescue; (2) Police; (3) Public Works - fleet and streets); (4) Water; and (5) support departments such as Finance, Information Technology, Engineering, Public Information and Building Safety.

Key emergency roles for Asheville include (1) City Manager keeps all elected officials apprised of emergency situations and obtains policy direction from elected officials when necessary; (2) Fire and Rescue has the key coordinating role to ensure that unified command and control is in place and operates in concert with Buncombe County and NC Emergency Management efforts; and (3) all other operating departments perform specific services as needed for the emergency.

Buncombe County's primary emergency services include (1) emergency medical services; (2) emergency management; (3) Sheriff's Department; (4) Human Services departments; (5) health; and (6) support departments.

Transition from County to State Emergency Management includes (1) all 100 counties have an Emergency Management Director whose position is partially funded by state government; (2) the state has three geographical districts that the County directors connect with. The Western North Carolina branch headquarters is located in Conover; and (3) North Carolina operates an Emergency Operations Center in Raleigh 7/24/365 and upgrades when needed for all significant emergencies.

In response to Councilman Miller, Chief Grayson and Dr. Hoell updated Council on plans for future fuel shortage problems.

In response to Councilwoman Cape, Chief Grayson and Mr. VeHaun stressed the importance of individuals to be prepared (for at least 72 hours) and outlined the various ways they can make a plan, e.g., visiting the various links on the City website, Buncombe County website, watching programs on the City Government Channel, contacting the Red Cross or Hearts with Hands, etc. Even some digital billboards help advise people on what they need to have in case of an emergency.

When Councilwoman Cape asked if any changes are made to prepare for climate adaption, Mr. VeHaun said that they are keeping abreast of changes and adapting where necessary. Dr. Hoell also explained how the NCEM is preparing for multi-hazards.

In response to Vice-Mayor Davis about nuclear transportation, Fire Chief Grayson and Assistant Fire Chief Gary Cornett and member of the Hazardous Materials Team, explained how Asheville is more prepared than many other cities our size. Our greatest resource is Asheville being a regional hub and because of that we have Dr. Salyers and her team. He also noted that Asheville is one out of 7 teams in North Carolina that houses a Hazardous Materials Team.

In response to Mayor Bellamy regarding the excellent collaboration of public involvement at the grassroots level, Dr. Salyers said that Mr. Chris Emory with Buncombe County Health Center Preparedness Coordinator, is working on a vulnerable populations initiative. This is a means to get all of the organizations agencies in the City and Buncombe County to figure out a consistent way to identify the populations that we're worried about and help them produce a more prepared population so that when things do happen, we can look to ourselves and our neighborhoods. Mayor Bellamy said that this plan will be coming before Council once it's completed.

Mayor Bellamy, on behalf of Council, thanked the individuals for coming in and helping Council and the public understand the emergency preparedness system we have in place and what is forthcoming.

Budget/Personnel Issues

Due to the number of speaker requests regarding the budget and a personnel issue, Mayor Bellamy noted that at the Informal Discussion and Public Comment portion of the meeting Council does allow public comment on any item not on the agenda. However, Council does not consider personnel matters in open session. City Attorney Oast said that to the extent public comments deal with specific personnel recommendations, Council may limit the comments.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING ORDINANCE FOR WEIRBRIDGE VILLAGE (PHASE II) AT 1741 HENDERSONVILLE ROAD TO REDUCE THE NUMBER OF BUILDINGS AND DWELLING UNITS; REDUCE THE HEIGHT AND WIDTH OF THE BUILDINGS; AND CHANGE THE LOCATION OF BUILDINGS

ORDINANCE NO. 3703 - ORDINANCE AMENDING THE CONDITIONAL ZONING ORDINANCE FOR WEIRBRIDGE VILLAGE (PHASE II) AT 1741 HENDERSONVILLE ROAD TO REDUCE THE NUMBER OF BUILDINGS AND DWELLING UNITS; REDUCE THE HEIGHT AND WIDTH OF THE BUILDINGS; AND CHANGE THE LOCATION OF BUILDINGS

Mayor Bellamy opened the public hearing at 7:20 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to amend the conditional zoning ordinance for Weirbridge Village Phase (II) at 1741 Hendersonville Road to reduce the number of buildings and dwelling units; reduce the height and width of the buildings; and change the location of the buildings. This public hearing was advertised on February 13 and 20, 2009.

Ms. Cogburn said that the subject property, 15.86 acres of a 20.66 development, is located within the city limits, at the corner of Hendersonville Road and Racquet Club Road. The property previously contained a few homes and accessory buildings, which have now been demolished. Surrounding properties are both residential and commercial. To the north is the Racquet Club (a recreational facility) and the Racquet Club Village condominiums. Applebee's restaurant is on the northwestern corner at the intersection of Racquet Club and Hendersonville Roads. Across Hendersonville Road are apartments and commercial properties. To the south, a low density multi-family development (Crowfields Condominiums) abuts the development and to the east another condominium development, South Oaks, is located. Two banks have been constructed on the commercial portion of the project. There is one remaining outparcel that has yet to be developed. The zoning in the area reflects the development; to the north and east, RM16 and HB, and to the south and west, RM6.

The applicant received conditional zoning approval in November of 2006 for the property to be zoned Highway Business Conditional Zoning. The site plan that was approved with the rezoning presented a mixed use development with commercial outparcels to the east (along Hendersonville Road) and 336 residential dwellings located on the middle and western portions of the property (the subject of the requested amendment). The applicants received approval for an amendment to the conditional zoning ordinance in May of 2008. This amendment approved a coordinated sign package for all phases of the development.

As approved in 2006, the residential portion of the development was proposed to contain 336 residential dwellings (112 one-bedroom units, 176 two-bedroom units, and 48 three-bedroom units) in 16 buildings. The developer is now proposing 280 units (86 one-bedroom units, 163 two-bedroom units, and 31 three-bedroom units) in 10 buildings. Both plans show a clubhouse with pool and open space in the center northeast of the property. Buildings have been shifted; they are now further away from the property lines, except to the east. Additional changes from the previously approved plans for Phase II of Weirbridge Village are the following:

- Parking is no longer proposed to be provided within the residential structures. Surface, carport, garage, and on-street parking is shown. The parking complies with the City's parking standards.
- The impervious surface is reduced in the new development proposal. The original impervious surface calculation was for 8.67 acres of impervious surface. Impervious surface under the new development proposal will be 8.49 acres.
- Two entrances to the residential portion of the project from Racquet Club Road have shifted. The originally proposed entrance to the west of the project has been moved closer to the center and the originally proposed entrance in the center has been shifted eastward to align with the drive into Racquet Club Village.
- The developer is proposing to meet Healthy Built Home Standards in the development of the project as opposed to seeking LEED certification.
- The height of the buildings is reduced under the new proposal. The buildings in the original proposal were 51'6 ¾ "in height. The new proposal contains buildings that are 40'6 ¾ "in height.
- Whereas the previous plan showed three stories of dwelling units with structured parking below, the new submittal shows

residential buildings with 3-4 split to fit the topography found on the site.

The developer is still planning on providing 5% of the units (14 units) at affordable rates per the City of Asheville's guidelines. The developer, as previously approved, is designing the project to provide stormwater controls suitable to handle a 25-year storm and using Best Management Practices in the design of their stormwater measures. Landscaping is provided to meet the City's ordinance as before with the "Type C" buffers to the south and west still shown.

A number of conditions were placed on the property at the time of the initial conditional zoning approval. The signage conditions were amended with the submittal of the sign package.

Amendments to Conditional Zoning approvals come directly to the Asheville City Council so this matter has not been previously heard by the Planning and Zoning Commission. The Technical Review Committee (TRC) reviewed this project informally at their meeting on 2 February 2009. At that meeting, the Committee found no reason to review the project in detail prior to it returning to Council for consideration of the changes. The project will return to TRC for detailed technical review of all aspects of the project, should Council approved the proposed amendment.

Pros:

- The proposed development supports the 2025 goals of: promoting transit supportive density, pursuing infill development, utilizing greenbuilding techniques, providing affordable housing, and developing and using BMPs to address the effect of development on stormwater runoff and water quality.
- The developer has and continues to work on the improvement of Racquet Club Road and its intersection with Hendersonville Road.
- The reduction in and movement of the residential structures should allow for the saving of additional mature trees on the site.
- Changes result in a small reduction in impervious surface (2%).

Cons:

- Reduces the total number of units and overall density, including the number of affordable units offered (reducing density could be viewed as a "pro.")
- Removes the structured parking; however, no additional impervious area is proposed.

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

Staff recommends approval of the amendment to the conditional zoning approval for Weirbridge Village with the conditions previously adopted with the following changes: (1) Condition 7 will be changed to read, "The project shall be designed to meet Healthy Built Homes standards." and (2) Condition 13 statement that concerns signage shall be changed to read, "Signage shall conform to the sign package approved by Asheville City Council on June 24, 2008."

She said that the development team has met with representatives of South Oaks Subdivision and Crowfields Subdivision.

Mr. Clay Moody, Landscape Architect with Design Associates, explained that this amendment is only for the residential part of the project and not the commercial part. He explained some of the completed components of the project to date. Due to the economy, he explained in detail the requested revisions. He felt they have improved the project in many ways and urged Council for their support.

Mayor Bellamy closed the public hearing at 7:37 p.m.

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. 3703, to approve the proposed changes to the development of Weirbridge Village and to approve amending the conditional zoning ordinance in accordance with the site plan presented for the residential phase of the project and the conditions in the original approval with the following changes (1) Condition 7 will be changed to read "The project shall be designed to meet Healthy Built Home standards" and (2) Condition 13 statement that concerns signage shall be changed to read "Signage shall conform to the sign package approved by City Council on June 24, 2008." This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 185

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 09-41 - RESOLUTION ADOPTING THE PARKS, RECREATION, CULTURAL ARTS AND GREENWAYS MASTER PLAN

Parks & Recreation Director Roderick said that this is the consideration of a resolution adopting the Parks, Recreation, Cultural Arts and Greenways Master Plan.

Based on the direction from City Council, the City of Asheville contracted with GreenPlay, LLC, at a cost of \$120,000, to lead the process to develop a master plan for parks, greenways, recreation and cultural arts. GreenPlay, based out of Broomfield, Colorado, operates as a consortium of experts to provide services for parks, recreation, open space and related agencies.

GreenPlay worked with staff and a volunteer steering committee to guide development of the plan and gather public input. Over 1,000 people participated in the public input process January through July 2008 via seven focus groups, eight stakeholder meetings, nine public meetings, three board and commission meetings, and a direct mail survey.

The consultant 1) analyzed the existing level of services in parks, recreation, cultural arts, public art, festivals and greenways, 2) inventoried and assessed existing assets and services, 3) inventoried and analyzed recreation programs, 4) developed recommendations for goals, strategies and action steps.

The preliminary recommendations were presented to the Master Plan Steering Committee on June 10, 2008. Based on feedback, GreenPlay refined the recommendations and presented it to the public at a public meeting on July 17, 2008. GreenPlay presented the master plan and recommendations to City Council at a work session on November 18, 2008, with the intent for the plan to come back to Council at a later date for action. The master plan is a long-range planning document presented in goals, strategies and action steps that creates a vision and a guideline for a coordinated effort to deliver parks, greenways, recreation and cultural arts services over the next 10 to 15 years. The master plan does not obligate nor commit City Council to a funding timeline for implementation. The recommendations in the plan will be implemented as funding opportunities become available.

This action complies with the City Council Strategic Operating Plan and the Asheville City Development Plan 2025.

This item was reviewed on November 7, 2008, by the Council appointed boards. The Recreation Advisory Board and the Public Art Board voted unanimously to recommend the adoption of the master plan to City Council. The Greenway Commission voted unanimously to abstain from voting to support the master plan as drafted. While the Greenway Commission supports the intention to simplify and streamline communications among Council appointed boards and commissions as well as other committees associated with the Parks, Recreation & Cultural Arts Department, the Commission thinks the structure laid out in the plan is unnecessarily complex and hierarchical.

Staff agrees with the master plan and the recommendations as presented, but recommends:

- 1) Goal # 2: Improve administrative effectiveness and transparency as it pertains to the role of citizen boards, commissions and committees and relationship with staff, each other and to City Council. Staff recommends that staff and the Recreation Advisory Board further assess citizen board, commission and committee development to determine a model that is a best match for operations, which will be brought back to Council at a later date for consideration.
- 2) Timetable for Capital Improvement Projects: Rather than assign Capital Improvement Plan (CIP) projects to a five-year incremental timeline, staff recommends prioritizing the projects based on expressed community interest and a plan to preserve the existing infrastructure of parks and recreation facilities which may be adjusted and implemented as funding becomes available.

Pros:

- Establish a clear direction and a coordinated effort to guide staff, advisory boards and commissions and elected officials in efforts to enhance Asheville's parks, recreation and cultural arts programs, services and facilities.
- Prioritize capital projects in a manner to allow for adjustment as funding becomes available
- Help meet the recreational needs of Asheville citizens by positioning Asheville to build on the community's park and recreation assets and identify new opportunities.

Con:

- None

The financial impact of implementing the plan will be determined by future capital improvement planning processes.

Staff recommends City Council adopt a resolution adopting the Parks, Recreation, Cultural Arts and Greenways Master

Plan with direction to 1) assess board, commission and committee development at the Council's Boards & Commissions Committee, and 2) prioritize capital improvement projects for future consideration and implementation as CIP funding becomes available.

In response to Councilman Mumpower regarding cost, Mr. Simmons said that there was not a detailed analysis for cost and that a projection over a period of time at today's dollars would be approximately \$40 Million.

Councilman Mumpower questioned the realism of the plan coupled with no budget. He felt we don't have enough dollars to take care of our existing facilities.

Mr. Marc Hunt, Chairman of the Tree Commission, noted that the Greenway Commission did not vote to approve the plans noting 3 concerns, two of which Mr. Roderick addressed. The third concern is that projects in the Wilma Dykeman RiverWay Plan would not be supported by the department. Those plans are mentioned and highlighted as priorities, but it clearly states that the department will not actively engage in the development of greenways in that district. That is a mistake. Their suggestion would be for Council to direct staff to reconfigure the plan so as to address the entire City, not just the City except for the River District. Regarding funding, we do need to be proactive and definite about funding plans and some day when the economy recovers they feel a General Obligation Bond is the strategic way to get projects implemented on a manageable program timeline. Finally, they encourage Council to direct staff to expand the planning for greenways to include pedestrian and bicycle amenities around the City. He feels there needs to be one plan that brings these segments together.

In response to Councilman Newman, Mr. Hunt was not suggesting the Greenway Commission have broader authority for the pedestrian and bicycle plans, but it should be looked at in the context of a multi-department approach.

Mr. John Pomeroy, representing some local businesses in the River District, urged Council to adopt the Plan with the inclusion of the development of greenways in the River District.

Mr. Michael Soule, founder of Asheville on Bikes, encouraged Council to adopt a plan for multi-modal infrastructure.

Mr. David Madera, represent developers on River District, spoke in support of adopting the Plan with the inclusion of the development of greenways in the River District.

Ms. Karen Cragnolin, Director of RiverLink, urged Council to adopt a plan that includes the development of greenways in the River District with the Wilma Dykeman RiverWay Plan.

Mr. Darryl Searcy did not support adopting this plan in that we are trying to balance the budget and this plan has no budget associated with it.

Mr. Mike Fryar could not support the plan in that it has no budget associated with it.

Ms. Jean Webb noted Council is not voting on spending \$40 Million but voting on a vision. She urged the plan be approved and that the Wilma Dykeman RiverWay Plan, which is a vital part of this plan, be prioritized in this plan.

Ms. Leesa Kulba was concerned about adopting the plan with the proposed revenue sources.

Mayor Bellamy closed the public comment period at 8:03 p.m.

In response to Councilwoman Cape, Mr. Simmons stressed this is a guiding tool and that everything in the plan having to do with fees or taxes has to come back before Council for approval. Anything implemented that is a policy decision has to come back for Council approval, through the Recreation Board.

Mr. Simmons said that in response to the Wilma Dykeman RiverWay Plan, he said that plan is not left out, but this plan isn't to enhance the Wilma Dykeman RiverWay Plan. The Wilma Dykeman RiverWay Plan is a part of the City because it was adopted. There are other things in place to move the Wilma Dykeman RiverWay Plan along. In order to advance our park system, we have to build on the rivers. He said the Wilma Dykeman RiverWay Plan is a valuable tool. In addition, this Plan will be updated as we move along and if there are elements left out or needed to be added, this Plan can be amended.

Councilwoman Cape confirmed that we are not leaving out the Wilma Dykeman RiverWay Plan out of the overall master plan for the City of Asheville.

In response to Councilman Newman, Mr. Simmons explained that the Wilma Dykeman RiverWay Plan was not developed

by the City, but by community partners coming together. We don't have ownership of it, but we can include that in our planning so we don't overlap in the development of the build-out of the riverways.

Councilman Newman said there is a lot of support for the inclusion of the Wilma Dykeman RiverWay Plan in this Plan. He asked that if this Plan is approved, that we ask the Parks & Recreation Department, RiverLink and others interested in the Wilma Dykeman RiverWay Plan to have a follow-up meeting with the goal of making some adjustments to this Plan. We would like to make it clear that we view this as an integral part of the City and that the Parks and Recreation Department is fully supportive of the Plan and wants to provide resources to help make that happen as part of our overall park development plan moving forward.

Councilman Miller agreed with Councilman Newman regarding the Wilma Dykeman RiverWay Plan. He noted that the 2025 Plan, which Council references frequently, does not have prices attached to the different elements.

Councilman Mumpower was concerned that this is a \$52 Million vision with no direct plan for implementation. He explained how he felt this is a waste of resources.

Vice-Mayor Davis explained why he could not support this Plan in the form presented.

Mayor Bellamy noted there are several strategies in this Plan. Usually when we get a large Master Plan staff breaks it down into different phases. She suggested the Plan be broken down into phases and be brought back to Council. Each phase can have short-term goals. This is a multi-year vision for our City. She did note that the bulk of this Plan is to maintain our existing facilities and acknowledges that many of them are in disrepair or have no connectivity.

Councilman Russell felt to walk away and have no vision is not the right answer, even though it may be years before we can move forward with some of these projects. He agreed with comments regarding the Wilma Dykeman RiverWay Plan and only one sentence in this Plan is misleading.

Councilman Miller offered to work with GreenPlay to amend the Executive Summary in order to have a little more continuity.

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

Councilman Newman moved for the adoption of Resolution No. 09-41, with the two recommendations outlined by staff and that staff be directed to report back to Council on how the Plan can be implemented in phases. This motion was seconded by Councilman Miller and carried on a 5-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 31 – PAGE 450

B. RESOLUTION NO. 09-42 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A SAFE ROUTES TO SCHOOL DEMONSTRATION PROJECT

Summary: The consideration of an resolution authorizing the City Manager to execute a municipal agreement with the N.C. Dept. Department of Transportation (NCDOT) to receive \$250,000 for a safe routes to school demonstration project.

In November 2007, City Council authorized the City act as lead agency on a Safe Routes to School Demonstration Grant application for sidewalk improvements in the Emma Community. In February 2008, City Council adopted a resolution of support for the grant application. The \$250,000 Safe Routes to School Demonstration grant was awarded to the City. This requested council action will allow the City Manager to execute the grant agreement with the NCDOT. These actions are required to follow-through on implementation of the grant.

Safe Routes to School (SRTS) is a federally-funded grant reimbursement program providing an opportunity for communities to improve conditions for bicycling and walking to school. The grant requires no local matching funds.

This grant complies with the City Council 2009-10 Strategic Operating Plan within the Affordable and Sustainable Focus Areas by supporting a strong commitment to infrastructure maintenance and capital improvements, and the safety focus area by implementing a Safe Routes to School projects.

Pro:

- The project will provide more and safer transportation options to Emma Elementary students and to other people in the

Emma Community.

-
Con:

- The use of City staff to administer the program and oversee the contracts will add additional work load. This aspect can be compensated through the use of a 15% administration fee from the Safe Routes to School grant.

The City will receive \$250,000 through the Safe Routes to School Program.

-
Staff recommends that City Council adopt a resolution authorizing the City Manager to execute a municipal agreement with the N.C. Dept. Department of Transportation (NCDOT) to receive \$250,000 for a safe routes to school demonstration project.

Ms. Ball said that the goal of the Emma Community Safe Routes to School Demonstration Project is to improve conditions for children to walk or bicycle to Emma Elementary School. Prior Council actions include (1) in November 2007, Council authorized the City to act as project lead agency; and (2) in February 2008, Council adopted a resolution of support for the project.

The description of the project is a 0.4 mile of sidewalk and crosswalks along North Louisiana Avenue from Emma Road north to Mosswood Mobile Home Park. Grants include (1) in-school encouragement programs to promote walking and biking to school; and (2) materials allowance to upgrade existing roadside trails on private property.

She then reviewed the scope of the project, which is all located in Buncombe County.

Regarding funding (1) this grant requires no local match; and (2) this is part of a planned larger sidewalk project extending south to Patton Avenue (a) Community Development Block Grant and federal Job Access grant funds, which require no local match, have been secured for the larger project; and (2) further grant funding is being sought to complete the larger project.

Councilman Mumpower could not support this action as it is nice, but not necessary.

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

Councilman Newman moved for the adoption of Resolution No. 09-42. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 450

ORDINANCE NO. 3704 - BUDGET AMENDMENT TO SET UP PROJECT BUDGETS FOR THE RIDE, AUTOMATED VOICE ANNUNCIATION SYSTEM AND EMMA COMMUNITY (N. LOUISIANA AVENUE) PEDESTRIAN INFRASTRUCTURE PROJECTS

Summary: The consideration of a budget amendment, in the amount of \$893,412, to set up the project budgets for the RIDE, Automated Voice Annunciation System, and Emma Community (North Louisiana Ave.) Pedestrian Infrastructure projects. Funding for these projects will come from Job Access and Reverse Commute and New Freedom grants, the Safe Routes to School (SRTS) grant, Community Development Block Grant funds, and Buncombe County.

In 2006, the Federal Transit Administration (FTA) initiated two new formula grant programs, the Job Access and Reverse Commute (JARC) and the New Freedom programs, to improve and enhance accessibility to public transportation to low-income individuals and individuals with disabilities.

JARC, previously a discretionary program, is a formula grant program oriented to provide job access in the urbanized and suburbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas. New Freedom is also a FTA formula grant program for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990. These funds are intended to assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

To be eligible, both programs required an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization, Buncombe, Henderson and Haywood Counties (MPO), human services agencies, public and private transportation providers, the N.C. Dept. of Transportation (NCDOT) and general public to assess current transportation needs, identifies gaps and sets goals. The plan was adopted on April 17, 2008, by the French Broad River MPO's governing body, the Transportation Advisory Committee, which is made up of elected

representatives from each of the eighteen local governments which make up the MPO. They include Buncombe, Haywood, and Henderson County, and each of the incorporated municipalities in the three counties.

The City will be responsible for the Program Management and, as designated recipient, to oversee the utilization of the grant funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use 10% of the grant funds for administration purposes, which will cover the program management expenses. Therefore, the City will receive \$47,643 for grant administration over the period of three years. The CTP-HSTP set the rules to apply for projects; all the projects that applied for funds responded to these assessment. Three projects were selected for funding, as follows:

New Freedom project:

RIDE: Program ridership independence for the disabled and elderly – Mountain Mobility, Buncombe County. This project will cost \$417,024, half of which will be paid by Buncombe County. The City will receive and pass through to Buncombe County the New Freedom grant amount of \$208,512.

Job Access and Reverse Commute projects:

- **Automated Voice Annunciation System** – Transportation Management Division, Transportation and Engineering Department, City of Asheville. This project will cost \$147,400. The City will receive JARC grant funding of \$117,920 for this project, and the remaining cost of \$29,480 will be covered by Buncombe County.

Emma Community (North Louisiana Ave.) Pedestrian Infrastructure Project – Engineering Services Division, Transportation and Engineering Department, City of Asheville. This project will cost \$537,500. The JARC grant funding is for \$187,500. In the addition to the JARC funding, the City has also received two other grants for this project. In February of 2008 City Council adopted a resolution supporting a grant application to the Safe Routes to School Program for \$250,000 for pedestrian infrastructure improvements in the Emma community. The City was awarded the grant. In April of 2008, City Council was also awarded \$100,000 in Community Development Block Grant Funds for this project.

These actions comply with the City Council 2009-10 Strategic Operating Plan within the Affordable and Sustainable Focus Areas by offering a standard of living that is affordable and attainable for citizens of Asheville; and supporting a strong commitment to infrastructure maintenance and capital improvements.

Pro:

- The subject projects will provide more and safer transportation options to low-income individuals and individuals with disabilities, improving Asheville citizen's quality of life.

-
Con:

The use of City staff to administer the program and oversee the contracts will add additional work load. This aspect can be compensated through the use of the 10% administration fee from the JARC and New Freedom projects, and a 15% administration fee from the Safe Routes to School grant.

- The total budget for these three projects is \$893,412. Funding in the amount of \$863,932 will come from grant sources. Buncombe County will provide \$29,480 in funding. The impact to the City's general fund is the in-kind services contributed for administration of the projects.

- Staff recommends that City Council adopt a budget amendment to set up the project budgets for the RIDE, Automated Voice Annunciation System, and Emma Community (North Louisiana Ave.) Pedestrian Infrastructure projects.

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

Councilman Newman moved for the adoption of Ordinance No. 3704. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 188

C. WATER AND ANNEXATION FOLLOW-UPS

City Manager Jackson said that the purpose of this information is to respond to a City Council request for more information

and staff recommendations regarding annexation policy.

On January 27, 2009, the Asheville City Council held a work session to discuss the status and background of annexation policy for the City of Asheville. That discussion led to a request for further information from staff on the following items:

- **Water Utility Financial Information:** Information including a benchmark comparison of water system rates for city residents and non-residents, fund balances, costs, and condition of water infrastructure as well as a summary report of independent, third-party analysis of the water utility is below;
- **Sullivan Acts and Voluntary Annexation:** Information outlining the fiscal and growth impacts to the City resulting from the inability to use waterline extension as an incentive for voluntary annexation is below;
- **Annexation Agreements/“Spheres of Influence”:** A proposal for long-term managed growth through agreements with other county municipalities and the County using the “Spheres of Influence” model pioneered in Mecklenburg County is outlined below, and
- **Municipal Financial Structure:** A benchmark comparison of the financial structure of the City and the revenue diversification of the North Carolina metropolitan areas.

The annexation limitations included in the legislation collectively known as the “Sullivan Acts” have led to the anomaly of Asheville having a substantially lower population growth rate than the residual and less urbanized portions of Buncombe County. In addition, the City’s inability to control the extension of water and sewer leaves Asheville in the position of not being able to offer these benefits to potential developments as an incentive to secure growth at long term, fiscally supportable densities.

As a result, Asheville’s residents have been forced to support lower density, suburban growth patterns in the County by paying higher taxes to compensate for: (1) the lost water revenue that would normally come from differential water rates and (2) the increased stress on city services and infrastructure caused by non-city residents coming into the Asheville for employment, services, recreation and tourism, as evidenced by Asheville’s daytime to nighttime population ratio. This growing burden on city taxpayers has been compounded by the lack of other revenue options (i.e., hotel tax, food and beverage tax, improvement district tax, etc.) available to Asheville.

The unique set of circumstances described above has culminated in a continually growing and unsustainable demand on the city’s property tax revenue, and one that is gradually weakening the city’s ability to deliver high quality core services at a cost that is reasonable and affordable for Asheville citizens. To meet this challenge, the city has shifted resources and streamlined operations; however, Asheville has experienced below average citizen satisfaction with core services because it remains limited in its capacity to address increasing needs with consistent service delivery models supported by adequate funding.

This situation is comparable to circumstances in other states where cities have been unable to use annexation as a tool to achieve prudent and planned growth, thus increasing the tax burden on a core population in the urban center. As a result of an increasing tax burden and a decreasing quality of municipal services, citizens have left those urban centers, causing the cities to deteriorate and creating a less sustainable pattern of suburban growth.

Despite the challenges created by the Sullivan Acts, Asheville has continued to operate according to the legislation. Asheville has worked to systematically address the financial stability of the water utility as well as the long-term viability of the system’s infrastructure. Asheville has instituted a capital improvement plan and dedicated funding source to ensure the system’s capacity to serve the region in future generations. The City has also improved the utility’s financial standing and associated bond rating, partially through building a fund balance for unplanned needs that can arise from an aging water system in challenging topography. Many of these efforts have been recommended and/or validated by independent, third-party experts.

Given the information and analysis presented in this report, staff would make the following recommendations:

- Seek a negotiated legislative remedy for the financial limitations Asheville has experienced as a result of the Sullivan Acts, including alternatives to diversify the City’s revenue opportunities, to provide a more equitable position for city tax payers;
- Seek a regional approach to plan for future growth and annexation beginning with an annexation agreement process similar to Charlotte-Mecklenburg County “spheres of influence” model, and;
- Continue to operate the water system according to best management practices and professional engineering analysis conducted to ensure the long term viability of the water system.

Water Utility Financial Information

Mr. Robert Griffin, Interim Director of Water Resources Director summarized the following (1) the water utility is in good financial condition; (2) the City of Asheville is systematically addressing critical infrastructure needs through a comprehensive capital improvement program; and (3) water rates and the utility's fund balance are comparable to State benchmarks and verified by independent engineering analysis.

He provided Council with the following benchmarking data and financial performance indicators for the City of Asheville Water Resources Department and our water system. Using charts, he reviewed the five year trend from Fiscal Years 2003/04 through 2007/08 for each of the following: (1) Revenue versus Expenditures; (2) Maintenance Costs; (3) Water Demand (or Consumption); (4) Water Rates and Fees Comparison; (5) Total Water Meters and Customers, and (6) Reserve Fund (Fund Balance).

He then reviewed with Council the independent information on key financial management of the water system compiled from various sources.

The observations and recommendations from independent third-party assessments of the water system, separated into key areas of interest:

- **Engineering/Physical Condition**

- "These credit strengths are offset by water loss the system will continue to experience, mainly attributed to the geography of the mountainous region..."(Standard & Poor's Rating Report, October, 2007)
- "A consideration to be made is that [the system] has such dramatic system pressure ranges." (Brown and Caldwell Water Audit, August, 2005)

- **Capital Improvement Plan (CIP)**

- "Development fees have not been updated since 1988 and need to be adjusted to fit current conditions." (Brown and Caldwell Water Rate Recommendations Report, September, 2005)
- "System requires \$57 million in improvements within the next five years. The existing rate structure is unable to support this schedule." (QualServe Peer Review Report, March, 2006)

- **Rates**

- "Although the city's water system rates are above average at \$38.03 per 1,000 cubic feet, they are still competitive with other cities within the state. The city is planning 4% annual rate increases for five years, beginning in 2008. The rate increases will affect the administrative and volume charges." (Standard & Poor's Rating Report, October, 2007)
- "In order to meet future revenue requirements documented in this report, a moderate annual rate increase of 3 percent per year of the next seven years will be required." (Brown and Caldwell Water Rate Recommendations Report, September, 2005)

- **Financial/Credit-worthiness**

- "The upgrade to Aa3 [Water Revenue Bonds Rating] reflects a strong track record in the two years since the system has been solely a city enterprise, particularly the implementation of a capital charge which will be used to address deferred maintenance, including paying debt service on the current issue. The upgrade also reflects the continued economic vibrancy and sustainable growth in the customer base, modest levels of debt, healthy financial position and legal framework which satisfactorily protects bondholders." (Moody's Investor Service Rating Report, October, 2007)
- "Sound financial performance, evidenced by a strong liquidity position and debt service coverage levels" (Standard & Poor's Rating Report, October, 2007)

- **ISO 14001 certification**

- "Environmental Management Program(s): Obj[ectives]/targets excellent" (ISO 14001 Readiness Review Report, October 2004)
- "City of Asheville Water Resources Department continues to maintain an excellent environmental management system (EMS) that has resulted insignificant improvements to the department environmental performance." (ISO 14001 Surveillance Report, January 2009)

Sullivan Acts and Voluntary Annexation

Planning & Development Director Judy Daniel summarized the following report by outlining the growth impacts of the Sullivan Acts (1) Asheville annexation policy has been very conservative but has led to lengthy and expensive legal battles; (2) cities like Asheville provide the benefits of urban living to residents of the surrounding County, but do not receive revenues from those areas (a) City residents pay both city and county taxes; (3) Asheville has been accused of “aggressive” annexation but the City of Asheville – 11th in population – is 19th in total acres annexed and 20th in acres annexed as a percentage of total city area; (4) Asheville is one of only two cities where less than half of the population lives in a municipality (a) Buncombe County’s population is the 7th largest; (5) rational growth management allows a city to (a) annex where density is sufficient to warrant urban levels of services; and (b) determine where water and sewer service should be extended and at what density; (6) rational fiscal management allows a city to set rates for services that reflect the cost to serve those areas; and (7) other choices that are available and need to be considered as the City evaluates how to attain long term fiscal and environment stability.

In summary of the annexation agreements (1) legislative authority for cities to enter into agreements delineating areas where they would and would not annex; (2) provides certainty over growth boundaries; and (3) if Council is interested in pursuing such agreements, staff recommends regional meeting facilitated by the Land of Sky Regional Council of Governments (a) staff of the various governments would map the proposed “spheres of influence; and (b) proposed areas would be presented to the governments for approval and public process.

The following outlines a history of the City’s annexation policy, the evolution of annexation in America and its’ impact on taxes, and the impact of these factors on Asheville’s growth and fiscal challenges. It offers recommendations for a preferred annexation policy, and suggestions for considering alternate development patterns for areas already in the City, that would be more environmentally and fiscally sustainable. Finally, it outlines what the fiscal impacts of alternate annexation policy would be, and the detrimental impact of the existing situation to the City.

Because the City of Asheville has had to use a statutory (involuntary) annexation approach since 1999 annexation has been very conservative, taking in only areas clearly urban in nature that are not difficult or complicated to serve from a service provision standpoint, that enhance the city’s ability to provide efficient and effective municipal service, and areas that can clearly benefit from enhanced urban services. Even these very rational annexations have too often led to protracted and expensive legal battles.

This careful, measured, approach to annexation has led to moderate growth, but the surrounding County has grown much faster, expanding into the surrounding mountains as well as more easily developed areas, subsidized by Asheville taxpayers, and stunting the ability of the City to require more density on less land and build a more fair and stable tax base. Compounding the detrimental impact to City taxpayers is the seemingly legal, but fiscally unsound and inherently prejudicial and unfair, requirement to provide water service to any area where it is requested without setting rates reflecting the true cost of service. The City is legally bound to provide water service regardless of topographic challenges or proposed density. How should a City be able to annex? Why has that normal urban function come to such a distorted place in North Carolina?

Annexation as a Normal Aspect of Urban Growth - Cities have traditionally annexed as a means of extending urban services to unincorporated areas. Throughout most American history this was the means of differentiating between urban and non-urban places. During the growth of suburban America during the post WWII era, those distinctions began to blur as vast stretches of rural lands were converted to low density residential suburbs. Over time, those suburbs often began to be served with public water or even public sewer service, formerly critical parts of the municipal services template.

In some cases, people living in unincorporated areas near cities enjoyed these urban services and the many benefits of nearby urban areas (entertainment, cultural attractions, special events, etc.) without having to pay for the city taxes used to support those benefits. This is the situation in which Asheville finds itself. Alternately, in areas which allowed easier annexation, cities annexed both fairly dense suburbs and stretches of open land to accommodate future growth. They later (especially since the 1970’s) allowed substantially low density development on public water and sometimes even public sewer. In recent years the fiscal flaws in both these models have been revealed and have led to difficult fiscal issues for many (if not most) cities.

Cities like Asheville are providing the benefits of urban living to residents of the surrounding county, but not receiving the taxes sufficient to fully support the urban institutions necessary for a clean and safe urban environment. Cities that included extensive areas of low density development found themselves paying more in services to these suburban areas than they received in taxes. That led to an endless cycle of annexation of new suburbs to get more tax revenue, but poor service to existing residents. Both situations led to increasing resentment of taxes which seemed to take more and more, but provide less and less.

What is a balanced model? What would be a rational concept for this City to reach in terms of balancing growth and fiscal stability? Due to the topographical constraints of Asheville’s location, it has never been susceptible to the type of fiscally insupportable annexation practices of taking in large areas of low density development. And that practice is what has led to some of the annexation strangulation legislative initiatives that North Carolina now debates. The fiscal woes of Asheville’s past (from the

30's) did, however, lead to the strangulating tentacles of the Sullivan Acts which prevent both rational annexation of urbanized areas, or higher water rates for areas expensive to serve, or use of water and sewer as the tools and services of urban places.

The models for what to annex that the City has been following in recent years are philosophically strong: taking in properties clearly urban in nature, avoiding vacant land or sparsely developed properties, and annexation of areas not difficult or complicated to serve from a service provision standpoint. Areas clearly urban in nature due to moderate to high density development should be in a city for both fiscal and public safety reasons. Similarly, property owners who wish to develop with moderate to high density should be looking for annexation to secure the urban level of services they need – water, sewer, trash removal, fire, and police.

Because of the complicated past history of this area, the City of Asheville has been blocked from normal and rational methods of growth. The inability to charge more for water service to areas that clearly require far more dollars per tap to support puts a fiscal burden on the City residents living at higher densities, forcing them to support County residents living in remote, low density, topographically challenged, suburban developments. The inability of the City to control the extension of water and sewer leaves the City in the unfortunate position of not being able to offer these benefits to potential development as an incentive to secure growth at densities fiscally supportable over the long term.

Asheville's residents support the low density suburban lifestyles in the County by paying higher taxes to compensate for the lost water revenue that would normally come from differential water rates. County residents, enjoying urban services without urban taxes, cannot be blamed for wanting to keep this system in place. They have much to gain and little to lose, until these fiscal stresses impact the City that provides the cultural and other amenities they value in this area.

But certain accusations leveled at the City are manifestly false and should be addressed. For example, the City has been accused of "aggressive" annexation. This is patently untrue. The staff studied the 25 largest North Carolina cities (by population), sorted by their recent "annexation aggressiveness", measuring annexation area as a percentage of total city area. The study found that Asheville -- 11th in population -- is 19th in total acres annexed and 20th in acres annexed as a percentage of total city area. This clearly highlights that far from being an aggressive leader in annexation, Asheville is near the bottom of the list.

Further, the inability to annex substantially developed areas has also led to the anomaly of Asheville having a substantially lower population than the residual portions of Buncombe County. The staff looked at all cities in North Carolina with a population of 50,000 to 100,000, comparing their county to city population, and found Asheville's ratio of City population to County population is the lowest. Asheville is one of only two cities where less than half of the population lives in a municipality, and Buncombe County's population is much higher than most of the others — the seventh largest county in NC by population. Clearly this is an abnormal situation.

Rationally, the City should be allowed to more easily annex in areas where density is sufficient to warrant urban levels of services and protection. Rationally, the City should be allowed to determine where water and sewer service should be extended as these are traditional urban services. Rationally, the City would extend services only where density and topography make it sensible and fiscally and environmentally sustainable to extend such services. Rationally, the City should have rates for services that reflect the cost to serve those areas. But rationality has been denied, and fiscal constraints hamper the provision of services desired by City residents.

Beyond these rational choices denied to the City of Asheville there are, however, other choices that are available and need to be considered as the City evaluates how to attain long term fiscal and environmental stability. For example, another path for the City (and a worthwhile path for most American cities) is to consider incentives for the redevelopment of some of the incorporated areas at substantially higher densities. Multiple commercial properties, especially retail properties, are currently "underbuilt" and substantially "underutilized" in terms of their actual "highest and best use". These sites offer great potential for future redevelopment as mixed use neighborhood centers. Adding mixed uses at moderate urban densities in these areas will also begin to build the level of density required to support a mass transit system that can provide more frequent service and with more frequent use by a wider range of our residents. This in turn will increase the fiscal and environmental sustainability of the City.

Annexation Agreements – "Spheres of Influence"

In 1984, the North Carolina General Assembly first approved the ability of municipalities to enter into agreements delineating areas in which one or more of the cities could not annex. The legislation was a local bill, applying only to cities and towns in Mecklenburg County. The purpose of such legislation was to get cities in that County to agree upon their respective annexation "spheres of influence" in order to enhance orderly planning by such cities as well as the residents and property owners in areas adjacent to such cities. In 1989, the General Assembly extended this authority statewide.

Statutory Authority and Requirements

The statutory authority, founding NCGS §160A-58.21-58.28 allows two or more cities to enter into binding agreements concerning future annexations. The agreeing parties delineate one or more areas in which one or more cities *may not* annex. An agreement applies to both voluntary and involuntary annexations. Such agreements can be designated to last for any term up to twenty (20) years. Unless all cities involved in an agreement concur, a city may prematurely terminate the agreement only after five (5) years notice to the other parties. If all are in agreement, the agreement may be terminated at any time. While in effect, an annexation agreement prohibits annexations in violation of the agreement.

An annexation agreement must describe “clearly the area or areas subject to the agreement.” (There are no specifics on this; one just must be able to locate boundaries on the ground). Even though the agreement describes areas in which one or more cities may not annex, in the usual case, the annexation agreement provides each participating city with an area, or “sphere of influence” in which it alone can annex property. The statute requires each city to give the other municipalities that are party to the agreement notice of any annexation undertaken at least sixty (60) days prior to the adoption of an annexation ordinance. Parties to an agreement can stipulate otherwise concerning notification. An agreement can state anything else that the parties think is necessary or proper. Some agreements have included provisions about whether cities may extend utility lines in each other's spheres of influence and about the operation of these lines. “Spheres of influence” often follow extraterritorial jurisdiction boundaries.

In order to adopt an agreement, the city (or town) council of each municipality must hold a public hearing on the agreement. A joint hearing may also be held. Notification is the same as for voluntary annexation – publication in a newspaper having general circulation in the municipality at least ten (10) days prior to the date of the public hearing. If any sphere of influence is greater than three (3) miles out of the corporate limits, the county commissioners must also approve the agreement.

Suggested Next Steps

Before staff members of any jurisdiction begin work on recommended “spheres of influence”/annexation agreements, the applicable governing boards of the pertinent jurisdictions must sanction the effort. Therefore, the first step in pursuing annexation agreements with other municipalities surrounding Asheville should have the Mayor (or other Council representative) meet with representatives of the other local governments and Buncombe County. The purpose of this meeting (or meetings), which perhaps could be facilitated through the Land of Sky Regional Council of Governments, would be to evaluate interest in and commitment to examining the development of annexation “spheres of influence”. This meeting should include representatives of Woodfin, Weaverville, Black Mountain, Biltmore Forest, Montreat, Asheville, and Buncombe County. While all these areas may not want to consider annexation agreements, the staff recommends that the initial invitation should be extended to all noted. Although it might seem prudent to include representatives of Leicester and Swannanoa in such meetings, as there are no official governments or representatives at this point, the staff does not recommend including them at this time. The proposed boundaries for these areas should, however, be part of the discussion. The staff also recommends that consideration be given to including the towns of Fletcher and Mills River in Henderson County.

Should agreement be reached on pursuing one or more annexation agreements, staff from the respective jurisdictions can begin mapping suggested “spheres of influence.” In determining boundaries, consideration should be given primarily to efficiency of service provision. It should also be recommended that each party to an annexation agreement establish internal annexation policies. Such policies would detail the principles for annexation established by that municipality and the service delivery that can be expected to those annexed. The staff further recommends that extraterritorial jurisdiction be discussed as part of each annexation agreement. Since Buncombe County now has zoning, they would need to agree to any changes to jurisdiction as part of this proposal.

Once “spheres of influence” have been preliminarily determined, the staff of agreeing municipalities can present such areas for approval by their governing boards. Following any approval received, a formal public hearing for consideration of an agreement should be held, following all statutory requirements.

Questions for Discussion

- Should Fletcher and Mills River (and perhaps Henderson County) be invited to the initial meeting? The staff recommends their inclusion.
- Is there any way to tie service provision into the discussion? This would involve the legislature. Staff research has revealed that a major benefit found in annexation agreements that are in place across the State of North Carolina is in planning for service provision.
- Will such discussions precipitate additional calls for incorporation? Should this be a concern?
- Do those involved in previous discussions with Fletcher or Woodfin have information to contribute prior to moving forward?

Municipal Financial Structure

Chief Financial Officer Ben Durant summarized the following report by saying that the service demand and revenue diversification (1) Asheville has the highest ratio of daytime to residential population in the state; (2) the demand for services and pressure on infrastructure grows as a result of daytime influx; and (3) yet Asheville's revenue "tool-box" for meeting increased service and infrastructure demands is limited compared to cities with lower day-time populations; (4) "Tools" used by other cities (but unavailable to Asheville) include maximized occupancy tax rates, food and beverage taxes, and differential water rates; (5) despite revenue limitation, Asheville still has the fifth lowest property tax rate out of the 15 largest cities in the state; and (6) impact high day-time population and low revenue diversification (a) growing and unsustainable burden on property taxpayers; (b) gradual weakening the City's ability to deliver high quality core services at a reasonable rate and affordable cost; and (c) community survey results that show below average citizen satisfaction with core services.

Staff recommendations are (1) seek a negotiated legislative remedy for the financial limitations Asheville has experienced as a result of the Sullivan Acts, including alternatives to diversify the City's revenue opportunities, to provide a more equitable position for city taxpayers; (2) seek a regional approach to plan for future growth and annexation beginning with an annexation agreement process similar to Charlotte-Mecklenburg County "spheres of influence" model; and (3) continue to operate the water system according to the best management practices and professional engineering analysis conducted to ensure the long term viability of the water system.

The purpose of this staff report is to present a benchmark comparison of city & CDB service demands and the revenue diversification of North Carolina metro areas. It is also structured to serve as a response to a recent report by The John Locke Foundation that claims that the City of Asheville has the second highest combined city and county costs per capita.

The residential population of a city is a key indicator of demand for city services. A better measure of service demand, however, is a municipality's daytime population. The daytime population of a city center can be much higher than resident populations due to the influx of a large daytime workforce.

Daytime Population

Based on the latest official census data, Asheville has the highest ratio of daytime-to-residential population in the state for large cities (i.e. cities with populations over 50,000):



Asheville is expected to continue being at the top of the day-time population list in future years.

Service Demand

Demand for both the quantity and quality of Asheville's services grows significantly as a result of its large daytime influx of population. Examples of increased demand are as follows:

- Increases and different mixes of criminal activity
- Increased traffic congestion, requiring alternative mobility options
- More demands on parks, community and recreational/entertainment facilities

Accelerated maintenance requirements for streets, sidewalks and water & storm water systems that deteriorate at a faster pace.

Local revenues used to fund operations are being stretched as a result of this increased demand. Asheville's two largest sources of revenue for general government services are property taxes and sales taxes. The John Locke Foundation states that Asheville has the second highest sales tax burden and the fifth highest property tax burden in the state. Both assertions are misleading.

Consider the claim that Asheville has the second highest "sales tax burden" in the state. One obvious problem with this argument is that sales tax rates are set by the state, not by local government, and the rates are identical for cities across the state. The Locke Foundation points out that the sales tax in Asheville produces more revenue, on a per capita basis, than other cities. That is not because our rate is higher. It is because Asheville has more tourists and visitors than most other cities, reflective of a vibrant economy rather than a "burden".

Using these same methods of analysis, if the Locke Foundation were studying two grocery stores that charged the same prices for their groceries, but one of the stores had more customers and therefore produced more revenue, the Locke Foundation would report that the more successful store has placed a "greater burden" on their customers.

The assertion that Asheville has the fifth highest property tax rate in the state is also inaccurate. In fact, of the fifteen largest cities in the state, the City of Asheville's rate is 11th, with only four cities having a lower rate. This ranking can be seen in the Property Tax Comparison section of this document. Families in Asheville must also pay County property taxes. People in some Asheville neighborhoods also pay the supplemental school tax, which is also set by the County Commissioners. Currently, the combined rate of these three property tax rates is \$1.095 per \$100 of assessed value.

There are other fees for government charges, but the rates set by Asheville tend to be in-line with other communities. One fee that is higher in Asheville than the state average is our water/ sewer rate. Our mountain topography makes this infrastructure more expensive to build and maintain than in the flatlands. City Council and MSD have increased rates to make up for years of previous neglect. More information on water fees is presented later in this report.

As an alternative to excessive reliance on property taxes, it is generally accepted that cities need a well balanced and diversified set of taxes and revenue options to fulfill the increased service demands created by high day-time populations. A review of the revenue diversification of North Carolina metro cities is provided below.

Revenue Diversification

The major types of revenues available to North Carolina municipalities are local taxes, state-shared revenues, user charges, other local fees and charges, and federal and state grants. With few exceptions, large North Carolina municipalities utilize all revenues that are statutorily available to them to support their various services. Thus, revenue diversification is not necessarily achieved by cities identifying new and unique revenue sources; rather, it is accomplished through a city's ability to establish revenue structures that maximize the use of what is already available to us and earmark those proceeds through a local act to support specific municipal needs.

To compare Asheville's revenue diversification with that of other metro cities, the finance department gathered benchmark data on the rates and the use of the tax proceeds for the 1) Room Occupancy Tax and 2) the Food & Beverage Tax. These revenues were chosen in particular because their rates and usage vary considerably among jurisdictions; consequently they offer significant revenue enhancement and diversification possibilities for Asheville through the adoption of local acts. Our review focused on the 15 cities (and encompassing counties) surveyed in the preceding day-time population analysis. Key findings are listed below:

Occupancy Tax:

- Buncombe County's county-wide room occupancy rate of (4%) is the second lowest of the 15 cities survey in the benchmark study.
- In several instances in the survey, the general assembly has authorized both a county and a city within that county to levy an occupancy tax. Approximately 50% of the cities in the survey have a city levied room tax.
- Currently, Asheville does not have legislative authority levy a city occupancy tax.
- Usage of occupancy tax proceeds varies considerably among jurisdictions. Examples of current usages include providing

funds for product development, operating and debt service support for civic centers and coliseums, design of a performing arts center, financing of a NASCAR Hall of Fame museum and economic development grants.

- Over the past several years, there has been a greater effort to make occupancy taxes uniform. Generally, the county occupancy tax rate cannot exceed 6% and the city occupancy rate, when combined with the county rate, cannot exceed 6%.

He provided Council with detailed results of the occupancy tax benchmarking data.

Food & Beverage Tax. Currently only four counties in North Carolina have a prepared food & beverage tax. They are Cumberland, Dare, Mecklenburg and Wake counties. None of the 15 cities in the survey levy a food & beverage tax. Currently, the only municipality with a food & beverage tax is the town of Hillsborough. A uniform rate of 1% is charged by the aforementioned jurisdictions. In general, usage of these proceeds is for Convention & Visitor Bureau activities, convention center financial support and various special capital projects.

Water Revenue. Water Resources staff compared water rates for the 15 large cities in the benchmark analysis. The chart below provides an inside/outside water rates comparison. Because some cities use different tiers for their rate structures, in order to provide for a consistent comparisons rates are presented using typical residential water usage of 5 CCF or 3,740 Gal per month. Data is shown in CCF and Gallons:

	Water Rate Per CCF (Based on 5 CCF Usage)		Water Rate Per 1,000 Gallons (Based on 3,740 Gal Usage)	
	Inside Rate	Outside Rate	Inside Rate	Outside Rate
Asheville	3.45	3.45	4.61	4.61
Wilmington	1.95	1.95	2.61	2.61
Winston-Salem	1.09	1.64	1.46	2.19
Jacksonville	1.80	3.60	2.40	4.81
Greensboro	2.30	4.60	3.07	6.15
High Point	2.19	4.39	2.93	5.87
Raleigh	1.96	3.91	2.62	5.23
Charlotte	1.56	1.56	2.09	2.09
Rocky Mount	1.69	3.39	2.26	4.53
Gastonia	2.03	4.07	2.72	5.44
Greenville	2.21	3.43	2.95	4.58
Fayetteville	1.65	2.06	2.20	2.75
Durham	1.98	3.96	2.65	5.29
Concord	3.67	4.41	4.90	5.89
Cary	2.45	7.36	3.28	9.84

Key findings are as follows:

- Twelve of the 15 cities in the survey (or 80%) charge differential (higher rates) for customers outside of the city limits.
- Of the preceding 12 cities, 8 of them charge double or higher rates to customers outside of the city limits.
- Asheville is prohibited through local legislation from charging differential rates.

Property Tax Comparison

The North Carolina Department of Revenue (NCDOR) collects data on property tax rates for all North Carolina municipalities. In order to accurately compare property tax rates among multiple cities, the effective tax rate must be used. The effective property tax rate is calculated by multiplying the sales assessment ration by the current tax rate. The sales assessment ratio is defined as the percentage of market value represented by the current property tax rate and is calculated by the NCDOR for each city. This allows from comparative tax rates even though revaluation of property occurs at different times among cities. It makes for a “fair” comparison:

Property Tax Rate Comparison

City	Effective Rate
Greensboro	59.11
High Point	58.44
Durham	53.29
Jacksonville	53.16
Greenville	51.86
Gastonia	50.14
Fayetteville	47.51
Winston-Salem	46.99
Charlotte	43.00
Concord	42.97
Asheville	41.92
Raleigh	36.74
Cary	35.48
Wilmington	30.97
Rocky Mount	24.23

Based on the data above, 10 of the fifteen cities with populations over 50,000 have property tax rates that are higher than Asheville's.

Conclusions - Asheville has the highest day-time population for cities with populations of 50,000 or above, yet it has less revenue diversification to support the resulting increased demand for services. The county-wide room occupancy tax in Buncombe is the second lowest in the survey; Asheville currently does not have legislative authority to levy its own occupancy tax rate. Furthermore, Asheville is prohibited by the Sullivan Acts from charging differential water rates to customers outside of the city boundaries, and is thereby limited in its ability to address critical infrastructure needs. Despite these limitations, Asheville continues to have a relatively low property tax rate.

Proposal to Settle the Sullivan Act Dispute

Councilman Newman, working with Mayor Bellamy and Vice-Mayor Davis (per Council's direction at the City Council retreat), briefed Council on the following proposal to settle the Sullivan Act dispute:

Proposal. (1) City of Asheville agrees there will be no differential rates charged for water customers inside and outside the city limits; (2) 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 is open to policies to assure voluntary annexation will not be abused. Potential policies could include (a) no more than 5% of the city properties could be non-contiguous with the primary city limits unless specifically authorized by state legislation (such as the airport property). Existing state law allows cities to have up to 10% non-contiguous; (b) no properties could be voluntarily annexed into the city unless they are within one-half mile of the city limits. However, Asheville could still require other developments that are more than a half mile from the city limits to sign a Voluntary Annexation agreement with the city if they wish to connect to city water lines, so that the city can bring them into the city once the city has grown outwards to the point that the development is within one-half mile of the city; (c) developments of less than eight residential units or 10,000 square feet of commercial space would not be required to enter into a Voluntary Annexation agreement with Asheville in order to access municipal water services; (d) no existing customers of the water system could be required to sign an Annexation Agreement as a condition of continuing to receive water service. The policy would apply only to new developments; and (e) new developments that are located closer to another incorporated town or city than Asheville could not be required to sign a Voluntary Annexation agreement with Asheville unless there is a "sphere of influence" agreement between Asheville and the other town or city; (3) 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); and (4) City and County continue discussions about opportunities to work together to be partners on infrastructure and facilities that serve the larger region. The previous water agreement included the following City/County partnerships (a) County reimbursed Asheville about \$1.7 Million annually for law enforcement services provided outside the city limits that are not provided in the City; and (b) the County was financially responsible for the Nature Center, McCormick Field and the golf course.

The Sullivan Acts II and III. In 2004, the City Council decided to dissolve the Water Agreement that had governed management of the system since the early 1980's. In response, members of the legislative delegation passed Sullivan Acts II and III. Sullivan Act II prohibits the city from charging differential water rates. Sullivan Act III prohibits the city from using Water Funds

for any purposes unrelated to management of the water system and prohibits Asheville from using Voluntary Annexation of new developments that wish to access City water services.

“Benefits of the proposed settlement. 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. Benefits of the settlement to Asheville include (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; and (3) the city will have additional funds to upgrade streets and sidewalks as part of the process for replacing old water lines. Benefits of the 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; and (3) assurance that payments made for water services cannot be diverted to the City’s General Fund. Benefit to the water system is the assurance that the infrastructure will be fixed as funds cannot be diverted to non-water system programs.”

Councilman Newman said that unfortunately the Sullivan Act litigation was not resolved in a way the City hoped they would be. But in spite of that we have a sense that there is some openness amongst our legislators to changing the Sullivan Acts in ways that might make them more fair to Asheville and address some of the issues that staff has about the unique limitations that Asheville has on the management of the water system. Mayor Bellamy, Vice-Mayor Davis and he would like Council’s support of putting this proposal forward for discussions with our legislators. In summary, we want to put forward a proposal that the Sullivan Acts should be modified to allow Asheville the ability to grow as other cities do. Across the State, the normal and non-controversial way that cities grow in terms of growth outside the existing city limits is through voluntary annexation. He reiterated the voluntary annexation agreement proposal as outlined above in the proposal. As part of this, we will have discussions with our neighboring municipalities around questions of “spheres of influence.” There also seems to be some genuine openness to is the ability to use some of our water resource funds to fix infrastructure in our community that is directly associated with water line repairs.

Mayor Bellamy would like to present this proposal to our legislators and begin dialogue with Buncombe County about how we move forward, prior to the deadline for writing a bill.

Councilman Mumpower said that the N.C. Supreme Court validated the power of our local legislators to steal Asheville’s water system. They have taken away from Asheville a \$1 Billion asset. He felt this negotiated proposal does nothing more than sell out the people of Asheville and that’s wrong.

Councilwoman Cape said that even if we had won the Sullivan Act litigation, we would still be up against this negotiation process about annexation. She commended Mayor Bellamy, Vice-Mayor Davis and Councilman Newman for helping us try to get to a better place. She supported the proposal, except in order to be fair, she suggested deleting the clause “Developments of less than eight residential units or 10,000 square feet of commercial space would not be required to enter into a voluntary annexation agreement with Asheville in order to access municipal water services.”

Vice-Mayor Davis said that no one on Council is pleased with the outcome of the lawsuit. Regarding Councilwoman Cape’s concern, he said that after discussions with our legislators, they wanted a density portion, but that can still be negotiated. The legislators do recognize we are good stewards of our water system. We have up until March 3 for any kind of an amendment to the Sullivan Act to take place. The proposal is at least a position and an opportunity to amend the Sullivan Act to where at least we have some benefits beyond what we have. The legislators do recognize that for Asheville to be healthy, they must have some reasonable way to grow. He felt this proposal is a gain.

Vice-Mayor Davis moved to adopt the proposal outlined by Councilman Newman. This motion was seconded by Councilman Miller.

Councilman Russell was concerned that this is the first time Council has seen the proposed settlement. We do need to work with our legislators, but didn’t want to rush into a proposal.

Councilman Newman apologized for not circulating the proposal sooner, but realized there are some deadlines in the legislature quickly approaching. He was asking for Council’s support in moving in this direction, noting that he is not asking Council to approve the specific language.

Mayor Bellamy said the proposal is the beginning of conversation. She believes that the legislators realize Asheville is going a good job with management of their water system. It is incumbent upon Council to spend time educating the community letting them know how Asheville is moving the water system forward. She feels the community wants elected officials who will work together and leadership on issues that affect our community. She urged Council to support this proposal to move our community forward, acknowledging that this is an opportunity to make some changes.

The 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."

VI. NEW BUSINESS:

A. RESOLUTION NO. 09-43 - RESOLUTION AUTHORIZING THE USE OF DOWNTOWN ASHEVILLE STREETS FOR THE LAYOUT OF THE BELE CHERE FESTIVAL ON JULY 24-26, 2009.

Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this is the consideration of a resolution authorizing the use of downtown Asheville streets for the layout of the Bele Chere Festival on July 24 – 26, 2009.

The City of Asheville via the Parks, Recreation, and Cultural Arts Department produces the annual Bele Chere Festival in downtown Asheville. The festival requires many downtown streets to be closed prior to and during the three-day event. As downtown Asheville continues to develop, adjustments to the festival layout are necessary.

She showed a map which showed the streets that will have festival activities as well as street closings.

The most significant changes to the festival include (1) the elimination of using College Street (between Biltmore Avenue and South Charlotte Street) and other surrounding streets due to the ongoing construction of Pack Square Park, and (2) the addition of the Asheville Civic Center; and (3) reduced number of contracted stages from six to four.

Festival staff developed the festival layout and has been approved by representatives from the Asheville Fire Department and the Asheville Police Department. Staff has also spoken with newly impacted members of the downtown community and the initial feedback was very positive.

This action does not comply with the City Council Strategic Operating Plan or other City master plans.

This item was reviewed the by the Bele Chere Advisory Board at its regular meeting on January 28, 2009, and by the Recreation Advisory Board and at its regular meeting on February 9, 2009. Both boards support the action and recommend City Council approve the proposed festival layout.

Pro:

- Establishes the Bele Chere festival layout with advance time to communicate information to the community.

Con:

- None

There is no fiscal impact.

-

Staff recommends City Council adopt a resolution authorizing the 2009 Bele Chere festival layout and indicated by the festival map.

In response to Vice-Mayor Davis, Ms. Ruggiero said that staff has met with members of the Mt. Zion Church to share this footprint and they were excited. City staff will continue to work with representatives of the Eagle/Market Street.

Councilman Miller said that since July and October are our busiest months, he suggested that long-term staff look at holding Bele Chere in September to extend sale tax business over a very difficult month.

Councilman Russell thanked the Bele Chere Committee for their commitment and the number of hours they devote to this festival.

In response to Councilwoman Cape, Ms. Ruggiero explained why Lexington Avenue was deleted from the footprint.

Mayor Bellamy said that the Bele Chere Festival was born at a time when we needed to get people downtown. She urged the Committee to focus on local artists and local merchants.

When Mayor Bellamy asked for public comments, none were received.

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

Councilman Russell moved for the adoption of Resolution No. 09-43. This motion was seconded by Councilman Mumpower and carried unanimously.

RESOLUTION BOOK NO. 31 – PAGE 451

B. RESOLUTION NO. 09-44 - RESOLUTION APPROVING HOUSING TRUST FUND LOANS FOR THREE AFFORDABLE HOUSING DEVELOPMENTS

Mr. Randy Stallings, Community Development Analyst, said that this is the consideration of a resolution allocating \$700,000 in Housing Trust Fund (HTF) loans for three (3) affordable housing developments.

The following three (3) Housing Trust Fund applications have been evaluated by the HTF review panel and recommended for approval by the Housing and Community Development Committee at its January 28th meeting. As of February 18th, \$718,600.39 is available in the Housing Trust Fund. The HCD Committee has recommended partial funding of three loan applications, due to insufficient funds to meet all requests in full.

1. Mountain Housing Opportunities Inc. (MHO) - Westmore

MHO requested a \$470,000 loan, but the HCD Committee has recommended a loan of \$300,000 at this time. The loan is for the development of 72 apartment rental units in West Asheville. The property is located near Deaverview and Pisgah View Roads. If approved, the developer does anticipate requesting the additional \$170,000 at a future date. The second subsidy would be contingent upon the receipt of an early repayment on the Crowell Park development estimated to be \$480,000. The Housing and Community Development Committee (HCD) reviewed the project and recommended that \$300,000 be approved at the present time, and that additional funding be considered at a future date upon receipt of the Crowell Park repayment by the City.

In addition, the HCD committee supports the additional amount of \$170,000 to Mountain Housing Opportunities Inc. when the Crowell Park funds are returned to the Housing Trust Fund.

Terms Requested: 2% Interest, permanent financing, 30 year term.

Pros:

- Receipt of State Tax Credits will ensure 30 years of guaranteed affordability for families below 60% AMI.
- Per-Unit subsidy is extremely low at \$4,166.
- Large number of affordable units.
- Project will be Energy Star certified.
- Public transit and employment centers are within close proximity.
- Track record of the developer is exceptional
- Complies with the Mayor's Task Force recommendation that rental housing be prioritized.

Cons:

- The property does require a partial rezoning from CI-RM16
- The large appropriation will more quickly deplete available funds.

2. Mike Figura, Eco Concepts Development, LLC – Sulphur Springs.

Mr. Figura requested \$250,000; and is recommended for a \$200,000 loan for the development of a 27 unit mixed-use development in West Asheville. The property is located at 22 Sulphur Springs Road on the Haywood Road Corridor. The project will contain a total of 10 affordable condominium units and 17 market rate units. The project also includes 3,577 feet of lower level commercial space. The developer has agreed to a Memorandum of Understanding with Mountain Housing Opportunities to find qualified buyers for the affordable units. The project will have an elevator and will be either LEED or NC Healthy Built Homes certified. Thirteen of the project units are already under reservation. The per-unit subsidy is \$20,000. HCD has reviewed the proposal and is supportive of the project.

Terms Requested: 2% interest, construction financing, 24 months

Pros:

- The project meets many of the goals and objectives identified in the City strategic plans, including mixed use development, mixed income, infill development, accessibility to jobs and transit, pedestrian friendly design, and green building practices.
- Provides redevelopment of a blighted area.
- Project will be LEED or NC Healthy Built certified.
- Partnership with MHO will provide additional expertise for the affordability component of the project.
- Project has all appropriate planning and zoning approvals.

Cons:

- The developer has no prior history with the Housing Trust Fund.
- Extensive site-cleanup is needed; however, the developer has received a favorable bid and has factored this into the construction budget.

3. Kirk Booth, Beaucatcher Properties LLC - 57 Nancy Street

Mr. Booth requested \$250,000, and is recommended for \$200,000 for the development of 12 single family rentals in a cottage development located in West Asheville. The property is located near employment centers on Patton Avenue. The project has received Level I approval and all financing has been committed. The per-unit subsidy is \$16,667. The developer has agreed to the filing of a Deed Restriction to ensure that rents remain affordable for a minimum of 10 years. HCD has reviewed the proposal and is supportive of the request.

Terms Requested: 2% interest, permanent financing, 30 year term.

Pros:

- The project meets many goals and objectives identified in the City strategic plans, including infill development, accessibility to jobs and transit, pedestrian friendly design, and green building practices.
- The cottage development style provides housing appropriate for families and children.
- Project will be Energy Star certified.
- Construction ready to proceed immediately.
- Complies with the Mayor's Task Force recommendation that rental housing be prioritized.

Cons:

- Proposed rents are near the program maximum for 3-bedroom units.
- No prior history with the Housing Trust Fund; however, the developer has successfully completed similar projects locally.

All three applications were presented to the Housing and Community Development Committee on January 28, 2009, and were unanimously approved.

This action complies with the Strategic Operating Plan in that the project is supportive of the City's goal of providing safe and decent affordable housing units to the citizens of Asheville.

It also addresses the priorities of the Consolidated Strategic Housing & Community Development Plan by increasing the housing stock, providing affordable rental units, building high quality energy-efficient housing, and coordinating development with transportation and jobs.

Funding for the Housing Trust Fund has been previously appropriated. The current balance in the Trust Fund is \$718,600.39. The remaining available balance if all three (3) projects are funded at the terms requested will be \$18,600.39. All projects are new construction and are anticipated to add \$22.4 million dollars in new development to the City tax base.

As recommended by the HCD Committee, the staff recommends adoption of a resolution authorizing the City Manager to approve the additional Housing Trust Fund loans for the projects identified below:

- Mountain Housing Opportunities Inc. - Westmore \$300,000.
\$170,000 to Mountain Housing Opportunities Inc. for the Westmore project when an anticipated \$480,000 is returned to the Housing Trust Fund through an early repayment of a loan to Mountain Housing Opportunities Inc. for the Crowell Park development
- Mike Figura, Eco Concepts Development – Sulphur Springs \$200,000.
- Kirk Booth, Beaucatcher Properties LLC – 57 Nancy Street \$200,000.

Mr. Mike Figura, from Eco Concepts Development, thanked Council for partnering with them on this project, noting that they will be able to use this money to leverage against the seller's finance loan.

Upon inquiry of Vice-Mayor Davis, Councilman Newman, Chair of HCD, felt the financial difficulties of the Villas of Cedar Hill should not have a negative impact on this project.

In response to Councilman Mumpower, Planning & Development Director Judy Daniel said that the Villas of Cedar Hill did receive a Housing Trust Fund loan.

Councilman Mumpower spoke against the action in that this is not a time to use taxpayer dollars to subsidize affordable housing.

Councilman Newman said that overall the Housing Trust Fund has a very low rate of default and foreclosure amongst the developers and residents who have invested in making home ownership a reality through this loan program. These are well thought out loans to help people afford homeownership in a sustainable way. We are leveraging a lot of good out of these projects.

In response to Councilman Mumpower, Mr. Stallings said the sales price on the condominium units will be \$145,000 for 2 bedrooms; the 3-bedroom rental will be \$875/month and the 2-bedroom rental will be approximately \$600. Councilman Mumpower then felt the prices are not affordable for normal people.

Councilwoman Cape stressed that people need jobs. Here we have a Housing Trust Fund and we can either sit on the \$700,000 or get people back to work to buy food and pay sales taxes. Our City has very limited opportunity to put jobs on the street and the Housing Trust Fund can do that.

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

Councilman Newman moved for the adoption of Resolution No. 09-44. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 31 – PAGE 454

C. RESOLUTION NO. 09-45 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY FOR THE PURPOSE OF PERFORMING CERTAIN CONSTRUCTION AND REPAIR WORK ON COUNTY PROPERTY

ORDINANCE NO. 3705 – BUDGET AMENDMENT FOR STREET WORK NEAR BUNCOMBE COUNTY JAIL COMPLEX

Public Works Director Mark Combs said that this is the consideration of a resolution authorizing the City of Asheville to perform certain construction and repair work on city-maintained streets adjacent to the new jail complex and on Buncombe County property.

Last autumn, Public Works staff prepared an estimate for Buncombe County to do streets milling, resurfacing, re-striping and miscellaneous paving or patching in the vicinity of the new jail complex behind City Hall.

The estimate for the project is \$157,508.62 which includes all 'out-of-pocket' expenses such as supplies, sub-contract work and materials to complete the project. The estimate does not include overhead expenses (labor and equipment wear & tear), which is an additional \$56,702 'soft cost' to the City. Buncombe County has agreed to contract with the City to perform this work per the estimate, to be completed in Spring 2009.

This action complies with the City Council Strategic Operating Plan to "Develop better relationships with State and County elected officials...."

Pros:

- Highest quality infrastructure adjacent to City Hall;
- No direct financial impact to the City for materials and supplies;
- Reduced financial impact to Buncombe County (estimated private sector cost to do this project: \$220,000);
- Promotes 'win-win' partnership with Buncombe County.

Cons:

- Three weeks of work for Public Works staff, 'opportunity cost' for other projects
- 'Soft cost' of \$56,702 (labor and equipment wear & tear)

There is only indirect financial impact to the City as outlined in the pros and cons above.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with Buncombe County to perform the described work.

City Attorney Oast said there is a dollar limitation on a project we can do with our own labor force. The authorization to get around that has not been obtained yet, therefore, any actions Council takes will be subject to compliance with the applicable statutory provision.

In response to Councilman Mumpower regarding subcontractors hiring illegal workers, Mr. Combs said that the City will go through their normal process to verify residency.

Councilman Mumpower could not support this action because we cannot find ways to make sure subcontractors are hiring legal workers.

In response to Mayor Bellamy, Mr. Combs said we are doing the work in-house, except for milling of the street which must be sub-contracted out.

City Manager Jackson noted that one of Council's strategic goals is relationships with partners. The City has stepped up and (1) put in waterlines to the CTS contaminated areas at significant savings to Buncombe County; and (2) used our contract to extend broadband to the 911 Call Center saving hundreds of thousands of dollars. This is a way to build good relationships with our partners.

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

Councilman Newman moved for the adoption of Resolution No. 09-45, subject to compliance with the applicable statutory provision. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 31 – PAGE 455

Councilwoman Cape moved for the adoption of Ordinance No. 3705, subject to compliance with the applicable statutory provision. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 190

VII. OTHER BUSINESS:

Economic Stimulus Package

Mayor Bellamy updated Council on her recent trip to Washington, D.C. to meet with President Obama, Vice-President Biden and 5 Cabinet members, where 37 cities were represented. She outlined each key priority and the amount of funding (some which are competitive). She asked for Council's support on (1) use the Finance Committee as the Economic Recovery Committee and adding three community members to be a part of that dialogue; (2) develop a page on our website to show projects and how money is spent; (3) develop an Energy and Environment Plan; and (4) coordinate with the Housing Authority, schools and other entities.

Mayor Bellamy said that City Manager Jackson has asked Assistant to the City Manager Lauren Bradley to be the staff liaison to keep track of these issues. Due to time sensitive deadlines and since we don't want to miss any opportunities, she asked Ms. Bradley to give Council a brief report.

Ms. Bradley said the following are funding opportunities already announced through the N.C. Dept. of Environment and Natural Resources (DENR) through the Drinking Water and Clean Water State Revolving Funds. She provided Council with copies of letters of intent for projects that we intend to apply for funding for. There is an application deadline tomorrow for one of those revolving funds. She asked for Council's consensus to move those applications forward. The second item for consideration is

small enhancement projects through the N.C. Dept. of Transportation (NCDOT). They have asked for a call for project proposals for that pot of money they will be receiving. She provided Council with a working list of projects staff has accumulated and they expect to have that list finalized by the end of this week. She asked for Council's consideration of staff forwarding that to the NCDOT for all projects can be considered in a timely manner. It was the consensus of Council to authorize the City Manager to proceed with (1) accepting and endorsing the letters of intent to DENR for funding consideration under the associated State Revolving Funds; and (2) accept and endorse the working list of projects identified by staff for funding consideration under the NCDOT's Small Enhancement Projects program, and authorize staff to forward the final list to NCDOT upon its completion.

Mayor Bellamy said that she personally presented staff's list in draft form to each of the applicable secretaries. She also let the US Attorney General know about the need for prosecutors and judges, and spoke about the success of the Weed & Seed and Project Safe Neighborhood programs. She said staff will bring Council regular updates.

Councilwoman Cape said that Congressman Shuler was in Asheville and was pleased to see how quickly things are moving.

In response to Councilwoman Cape about 20% being set aside for green initiatives, Ms. Bradley said that our Sustainability Coordinator is putting together project proposals, which are posted on our website.

Lawsuit

The City received a Complaint in Federal Court on February 10, 2009, from Holly Oxner, Jr. and Forrest Eugene Weaver. The nature of the proceeding is a class action lawsuit brought in federal court challenging the City's personnel policy regarding the conversion of accumulated sick leave for purposes of the N.C. Local Government Employees Retirement System. This matter will be handled by an attorney outside of the City Attorney's Office.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Gene Hampton spoke to Council about the need of quality education.

Mr. Chuck Chiavaras suggested Council raise money by having bicyclists pay to use the track at Carrier Park, similar to golfers who have to pay to use the golf course. This would be one way to raise money and not cut staff. He felt current staff have worked to improved the golf course and urged Council to continue moving forward in that regard.

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

Mr. Mike Fryar agreed with Mr. Chiavaras in that bicyclists should pay to use our facilities.

Closed Session

At 10:12 p.m., Councilman Miller moved to go into closed session for the following reason: (1) To discuss matters related to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered by the Council in negotiations; provided, that any final action authorizing economic development incentives will be taken in open session. The statutory authority is contained in G.S. 143-318.11 (a) (4); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is G.S. 143-318.10 (e). The statutory authorization is contained in G.S. 143-381.11 (a) (1). This motion was seconded by Councilman Russell and carried unanimously.

At 10:23 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilwoman Cape and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:23 p.m.

CITY CLERK

MAYOR

