

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding (arrived at 6:22 p.m. from a N.C. League of Municipalities Board of Directors meeting in Raleigh, N.C.); Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilman Kelly M. Miller; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Vice-Mayor Davis led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Mumpower gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JULY 2009 AS "I NEED U2 KNOW ITS TIME TO END THE HIV/AIDS STIGMA MONTH"

Councilwoman Cape read the proclamation proclaiming July, 2009, as "I Need U2 Know Its Time to End the HIV/AIDS Stigma Month" in the City of Asheville. She presented the proclamation to Dr. Jamie Whitehouse and Mr. Lee Nesbitt, who briefed City Council on some activities taking place during the month.

B. RECOGNITION OF STRIVE NOT TO DRIVE AWARD WINNERS

Vice-Mayor Davis was pleased to recognize the following award winners: (1) Golden Spoke Award - Zac Altheimer who works for the Music Allies and was nominated by Lynn Player. Zac has made it his goal to ride his bike to work every day for the past 5 years to reduce his carbon footprints. Rain and snow do not deter him from riding his bike. He encourages others to do the same. Lynn says, she has started riding her bike to work because of Zac's encouragement; (2) Golden Sneaker Award - Marilyn Tondy who has given up driving. Marilyn works in landscaping and carools or walks to landscaping jobs often carrying her tools. She also uses the Greyhound Bus extensively for getting around on longer trips. She was nominated by a friend, Roberta Greenspan who says, "Marilyn serves as an example to all our friends ALWAYS walking and she often refuses an offer for a ride as she prefers to walk."; (3) Golden Wheel Award - Blake Esselstyn who uses a combination of his bike and the bus to commute to work because he leaves the one car that he owns for his wife and small daughter to use. He has done this for 5 years. Blake works in city planning and was nominated by Yuri Koslen & Shannon Tuch; and (4) Employer Challenge Award - the Grove Park Inn who was the only employer who actually saw an increase in the bus-pass program. The others had a decline of employees. Mr. Ron Morin accepted the Award on behalf of the Grove Park Inn.

II. CONSENT AGENDA:

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

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 9, 2009

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH ONTARIO INVESTMENTS INC. FOR GOLF CARTS AND MAINTENANCE EQUIPMENT AT THE ASHEVILLE MUNICIPAL GOLF COURSE

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

C. RESOLUTION AFFIRMING THE IMPORTANCE OF EXISTING INTERCITY TRANSIT ROUTES TO THE CITY AND TO THE REGION

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

D. MOTION SETTING A PUBLIC HEARING FOR A SUBSTANTIAL AMENDMENT TO THE 2009-10 ACTION PLAN DETAILING THE CITY'S PLAN TO DISTRIBUTE \$1,503,557 OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND \$1,542,387 OF HOME INVESTMENT PARTNERSHIP ACT FUNDS ALLOCATED TO THE CITY OF ASHEVILLE

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

E. RESOLUTION NO. 09-126 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MULTI-YEAR LEASE AGREEMENT AND AN EQUIPMENT LEASE AGREEMENT WITH HAW CREEK FIRE AND RESCUE INC.

Summary: The consideration of a resolution authorizing the City Manager to enter into a multi-year lease agreement and an equipment lease agreement with Haw Creek Fire and Rescue, Inc.

Haw Creek Fire and Rescue, Inc. has asked the City of Asheville to assume fire protection responsibility for a portion of the Haw Creek Fire District beginning July 1st, 2009. The Buncombe County Commissioners passed a resolution on June 16th, 2009, authorizing the County Manager to enter into a fire protection agreement with the City of Asheville for this portion of the Haw Creek Fire District. The multi-year lease agreements allow for the operation of the Haw Creek Fire Station and Equipment to be operated by the Asheville Fire and Rescue Department. The lease agreement is for an annual payment of \$1. The City of Asheville will receive the proportionate share of Haw Creek Fire District taxes to which the City will be entitled to in consideration of performing its duties under this agreement.

Regarding the City Council Strategic Operating Plan, by authorizing, this resolution assists in making Asheville a safer city based upon metrics of similarly sized cities, by increasing the standard of cover within the City of Asheville. This resolution also is an opportunity to consolidate city and county services.

Pros:

- This agreement allows for a strong fire and rescue presence to be maintained in the Haw Creek Community while strengthening the level of service provided within the City of Asheville.
- This agreement is an excellent city and county partnership that consolidates services.

Cons:

- None

This agreement has a negligible fiscal impact as the amount of the lease is \$1 annually.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a multi-year lease agreement and an equipment lease agreement with Haw Creek Fire and Rescue.

RESOLUTION BOOK NO. 32 – PAGE 96

F. RESOLUTION NO. 09-127 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON HUGHES PLLC FOR AUDITING SERVICES FOR FISCAL YEAR 2008-09

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Dixon Hughes, PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2008-2009.

NC General Statute sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In response to the aforementioned general statute, staff recommends retaining the services of Dixon Hughes to conduct the basic audit of the city's accounts for the fiscal year ending June 30, 2009. Staff has previously worked with Dixon Hughes and they have consistently provided a thorough and high quality audit for the City.

Staff also anticipates needing to contract with Dixon-Hughes to provide various auxiliary financial services that are beyond the scope of their basic audit engagement but are necessary for its completion. Those services include preparation of various city financial statements and production of the Comprehensive Annual Financial Report, which are traditionally performed in-house by various accounting staff. Due to staff's current commitment to converting the City to a new core financial system, which has a

scheduled "go-live" date of January 1, 2010, staff currently does not have the capacity to perform the auxiliary financial services without additional support from Dixon-Hughes.

A base fee of \$110,000 has been proposed for the basic audit and is included in the Finance Department's portion of the Fiscal Year 2009-2010 annual operating budget scheduled for adoption on June 23, 2009.

Dixon-Hughes is currently developing an estimate for the necessary auxiliary financial services, the cost of which be funded from professional services accounts in the Finance Department and the Business Technology Improvement (BTIP) project budget.

- City staff recommends adoption of the resolution authorizing the Mayor to execute a contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for basic auditing services in the amount of \$110,000 for fiscal year 2008-2009. Staff will ask for Council's consideration of an amendment to the contract at a future date at such time that an estimate for various auxiliary services becomes available.

RESOLUTION BOOK NO. 32 – PAGE 97

G. RESOLUTION OF SUPPORT FOR THE UNC-ASHEVILLE MATH MENTORING PROGRAM

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

H. RESOLUTION FAVORING AN INDEPENDENT ENERGY EFFICIENCY ADMINISTRATOR FOR THE STATE OF NORTH CAROLINA

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

I. RESOLUTION NO. 09-128 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO PLACE THE ENERGY LOOP SCULPTURE IN THE NEW PLAZA LOCATED ON THE COLLEGE STREET SIDE OF PROPERTY LOCATED AT 35 WOODFIN STREET

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with Buncombe County to place the Energy Loop sculpture in the new plaza located on the College Street side of property located at 35 Woodfin Street in Downtown Asheville.

The Energy Loop sculpture is Asheville's first piece of public art. Created in 1983 by local artist Dirk Cruiser and commissioned by Quality Forward (now Asheville Greenworks), the Energy Loop was located in the what is now Pack Square Park. In 2006, the sculpture was removed for a complete restoration by local artist R.S. Gursky.

Original hopes were that the Energy Loop would be placed back in Pack Square Park, but as the plans for the park developed, the environmental conditions that the sculpture requires were not able to be met.

In an effort to keep the Energy Loop in a prominent, downtown location staff identified the County-owned plaza which was recently completed along with the new parking deck. The new location meets all of the environmental considerations required along with the site selection criteria adopted by the Public Art Board:

Sites where public art is to be displayed should:

- Experience high levels of pedestrian traffic and be part of the city's circulation paths;
- Be easily visible and accessible to the public;
- Serve to energize and identify the site;
- Enhance the overall public environment and pedestrian streetscape experience;
- Locations that allow for reflection and provide a break from social activity;
- Locations that are enhanced by public art (such as, the location is void of visual interest, or the addition of artwork would complete the location's visual experience);
- Help to create a place of congregation and activity; and
- Establish landmarks and neighborhood gateways.

Other guidelines about public art site placement include:

- Artworks should not block windows or entranceways, nor obstruct normal pedestrian circulation in and out of a building (unless such alteration is specifically a part of the experience or design of the artwork);
- Art should not be placed in a given site if the landscaping and maintenance requirements of that site cannot be met;
- Work displayed in interior public spaces will be accessible to the public at least during normal building operating hours without requiring the public to obtain special passes or permits to view the work;
- Work displayed in exterior public spaces should be accessible to the public 24 hours per day. If a work is sited in a park or similar setting, it should be accessible during the normal operating hours of that site or facility;
- Work should not block windows or entranceways or obstruct normal pedestrian circulation entering or exiting a building (unless it is specifically a part of the experience or design of the work); and
- Art should not be placed in a site where it is overwhelmed by nor competing with the scale of the site or adjacent architecture, large retail signage, billboards, etc.

Pursuant to this agreement the City agrees to the following:

- Shall be responsible for the installation of the Sculpture including but not limited to all moving and installation costs, site alterations and restoration.
- Shall be responsible for the ongoing care and maintenance of the Sculpture including, but not limited to, routine conservation measures, preservation measures, and cleaning of the Sculpture.
- Shall be responsible for determining if major restoration of the Sculpture is required and will hire a professional conservator to assess and repair the Sculpture.
- Shall endeavor to remove graffiti from Sculpture as soon as possible after notification. Only materials and methods approved by a professional conservator will be used to remove graffiti.
- Shall be responsible for the marketing and promotion of the Sculpture in conjunction with the entire City's public art collection.

Public comment regarding the location selected was solicited in two ways: online questionnaire and public meetings. For the online questionnaire, 85 people responded to the survey with over 62.3% of the respondents rating the proposed location as between fair and excellent (7.1% were not familiar with the proposed location). When asked what was most important in considering a location for the Energy Loop 61.2% said "a downtown location", 50.6% said "easy to see from the street and sidewalk" and 42.4% said a "grass area". City staff held two public meetings on Friday, June 12 at 9:00am and at noon at the Public Works building and was announced through a press release. The morning meeting was attended by one person who felt that the location was "just fine". The noon meeting was not attended.

This action supports the Parks, Recreation, Cultural Arts, and Greenways Master Plan in that it enhances public confidence and appreciation of the arts, and builds public and organizational capacity for the arts.

The location has been voted on and approved by the Public Art Board at the April, 2009 meeting.

Pros:

- Provides a prominent, Downtown location for the Energy Loop;
- The location meets the environmental needs of the sculpture.

Con:

- The location is not City-owned property.

The City will maintain the area around the sculpture.

City staff recommends City Council adopt a resolution authorizing the Mayor to enter into an agreement with Buncombe County to place the Energy Loop sculpture in the new plaza located on the College Street side of property located at 35 Woodfin Street in Downtown Asheville.

RESOLUTION BOOK NO. 32 – PAGE 98

J. RESOLUTION NO. 09-129 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: The terms of Tommy Wilson, Ronnie McAbee, Fred Pratt, Brian Kintner and Harold Garland, as members on the Board of Electrical Examiners, expire on July 1, 2009.

On June 9, 2009, it was the consensus of Council to (1) reappoint Mr. Tommy Wilson (electrical contractor), Mr. Fred Pratt (utility representative), and Mr. Harold Garland (layman); and (2) appoint Mr. Phil Wilson (journeyman electrician) and Mr. Randy

Osborne (licensed engineer) to each serve a three-year term respectively, terms to expire July 1, 2012, or until their successors have been appointed.

RESOLUTION BOOK NO. 32 – PAGE 99

K. RESOLUTION NO. 09-130 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Brad Brock and Beth Gillespie, as members of the Asheville-Buncombe Historic Resources Commission, expire on July 1, 2009.

On June 9, 2009, it was the consensus of Council to reappoint Mr. Brock and Ms. Gillespie to each serve a three-year term respectively, terms to expire July 1, 2012, or until their successors have been appointed.

RESOLUTION BOOK NO. 32 – PAGE 100

L. RESOLUTION NO. 09-131 - RESOLUTION APPOINTING MEMBERS TO THE NOISE ORDINANCE APPEALS BOARD

Summary: The terms of Mr. James Fink (regular member), Ms. Barbara Hodgson (regular member) and Mr. John Hayes (alternate member) on the Noise Ordinance Appeals Board expire July 1, 2009.

On June 9, 2009, it was the consensus of Council to reappoint Mr. Fink (regular member), Ms. Hodgson (regular member) and Mr. Hayes (alternate member) to each serve a three-year term respectively, terms to expire July 1, 2012, or until their successors have been appointed.

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M. RESOLUTION NO. 09-132 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Summary: The terms of Wanda Hawthorne, Wind Peter Motika, Sara Manuel, Spencer Hardaway and Adam Pittman, as members on the Recreation Board, expire on June 30, 2009. Mr. Motika and Mr. Pittman were not interested in reappointment.

On June 9, 2009, it was the consensus of Council to reappoint Ms. Hawthorne, Ms. Manuel and Rev. Hardaway to each serve a three-year term respectively, terms to expire June 30, 2012, or until their successors have been appointed.

Also on June 9, 2009, it was the consensus of Council to re-advertise for the two vacancies on the Recreation Board.

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N. RESOLUTION NO. 09-133 - RESOLUTION APPOINTING A MEMBER TO THE TRANSIT COMMISSION

Summary: There currently exists a vacancy left by Mr. Larry Chapman until December 31, 2010.

On June 9, 2009, it was the consensus of Council to appoint David Erb to serve the unexpired term of Mr. Thompson, term to expire December 31, 2010, or until his successor has been appointed.

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O. RESOLUTION APPOINTING A MEMBER TO THE URTV INC. BOARD OF DIRECTORS

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

P. RESOLUTION NO. 09-134 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART BOARD

Summary: The term of Bill Fishburne, as a member of the Public Art Board, expired on December 31, 2008. He is not eligible for reappointment.

At the May 12, 2009, meeting, it was the consensus of Council to appoint Robert Todd to serve a three year term, term to

expire December 31, 2011, or until his successor has been appointed.

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

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 09-124 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH ONTARIO INVESTMENTS INC. FOR GOLF CARTS AND MAINTENANCE EQUIPMENT AT THE ASHEVILLE MUNICIPAL GOLF COURSE

Summary: The consideration of a resolution authorizing the City Manager to enter into a lease agreement with Ontario Investments, Inc. for golf carts and maintenance equipment at the Asheville Municipal Golf Course.

The City of Asheville currently leases 72 golf carts and maintenance equipment located at the Asheville Municipal Golf Course via three separate lease agreements with Ontario Investments at a cost of \$152,000 per year.

The City conducted a request for proposals for golf course equipment lease services and Ontario Investments, located at 2519 James Street in Syracuse, New York was the sole bidder and is proposed to be selected as the provider of the lease.

A new lease with Ontario Investments will consolidate the three leases for the existing equipment into one lease. The term of the lease is from September 1, 2009 through August 31, 2010 at a cost of \$114,000 with an option to extend the Lease for an additional twelve (12) months. The consolidated lease will result in a savings of \$38,000.

Funding for the lease in the amount of \$114,000 is proposed in the City's FY 2009-2010 operating budget for the golf course. Funding for the twelve (12) month extension, if exercised, will be contingent upon City Council approving the funds for 2010-2011.

This action complies with the City Council Strategic Operating Plan in that it supports and enhances basic city services and is part of the city maintenance program to conduct ongoing facility maintenance. It is also consistent with the Parks, Recreation and Cultural Arts Master Plan in that it provides ongoing maintenance and care for the City's parks and recreation system.

Pros:

- Provide resources for ongoing maintenance services at golf course
- Retain and maintain quality golf course equipment
- Cost savings by consolidating three existing lease agreements into one agreement

Con:

- None

Funding in the amount of \$114,000 for the lease agreement is contingent upon City Council approving the funds as part of the FY 2009-2010 operating budget. Funding for the twelve (12) month extension, if exercised, will be contingent upon City Council approving the funds as part of the FY 2010-2011 operating budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a lease agreement for golf course carts and maintenance equipment with Ontario Investments Inc. for a total of \$114,000, with any extensions, contingent upon City Council approving the funds for each fiscal year applicable to the lease agreement.

Councilman Mumpower felt that as long as there is prostitution and an open air drug market he did not feel the City should be in the golf course business.

Councilman Russell moved for the adoption of Resolution No. 09-124. This motion was seconded by Councilman Miller and carried on a 5-1 vote, with Councilman Mumpower voting "no."

C. RESOLUTION NO. 09-125 - RESOLUTION AFFIRMING THE IMPORTANCE OF EXISTING INTERCITY TRANSIT ROUTES TO THE CITY AND TO THE REGION

Summary: The consideration of a resolution affirming the importance of existing intercity transit routes to the city and to the region.

As you have been made aware through other presentations, the Asheville Transit System (ATS) operates intercity routes that connect Black Mountain and Weaverville to Asheville. The routes began operation in 2002 and 2005 respectively and thereby fulfilled elements of the City Development Plan 2025.

Each route operates five times a day, Monday-Saturday. The Black Mountain routes operates along US 70 (Tunnel Road) between downtown Asheville and Black Mountain. The Weaverville Route operates along US 25 (Merrimon Avenue/Weaverville Highway) and then to Weaver Boulevard and Arvato Digital Services (formerly Sonopress). Each makes stops along the route. Once in their respective cities, these routes connect to local Mountain Mobility deviated route service.

In the past, the North Carolina Department of Transportation (NCDOT) has contributed 90% of the operation costs for these two routes, and the remaining 10% has come from the towns of Black Mountain and Weaverville, Buncombe County, and from the routes' farebox revenue.

The Federal Transit Administration (FTA) defines intercity bus service as:

...regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not close in proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

The model that you may be familiar with is the service offered by Greyhound or Trailways, rather than a regular city bus service model. NCDOT has notified the city that this service, as currently configured, does not meet the FTA definition, and will be ineligible for funding in the future unless it conforms to FTA's intercity definition.

City and ATS staff are working with the Institute of Transportation Research (ITRE), North Carolina Department of Transportation (NCDOT), and HDR, the transit master plan consultants, to determine how best to modify the service to meet FTA requirements for funding. Once possible solutions have been identified and evaluated for conformance with the requirements, Council will be asked to act on those recommendations.

The need for these routes is made clear by both the willingness of the Town of Black Mountain to invest in the operation of the routes, and by the ridership. The Town of Weaverville has decided not to contribute with the route anymore since the route is not serving their population. FY 2008 ridership on the ATS Weaverville route was 13,935, and ridership on the ATS Black Mountain route was 42,902. Ridership on the Black Mountain Route grew 18% from FY 2007 to FY 2008. Ridership on the Weaverville route declined by 5%. The Black Mountain Trailblazer has carried approximately 7,200 passengers in 2007 and grew 13% in 2008 carrying close to 8,000 passengers.

As a step in the process of saving this valuable service, city staff has asked for an expression of City Council sentiment on the importance of intercity service to connect Black Mountain and Weaverville to Asheville.

The Transit Commission has passed a resolution requesting City Council's support to the intercity service between Asheville and Black Mountain and Asheville and Weaverville.

This action supports the City Council Strategic Operating Plan in the green and sustainable focus areas. Specific tasks are to "fully leverage funding from the State and other funding sources for regional transportation improvements," and to "establish a multi-modal transportation plan including sidewalks, bike paths, signal preemption, transit and other system improvements."

Pros:

- This is a step toward retaining the service and funding
- It does not commit the City of Asheville to any specific action

Cons:

- None

City staff recommends City Council adopt a resolution supporting intercity transit service between Asheville and Black Mountain and Asheville and Weaverville.

Director of Transportation and Engineering Cathy Ball responded to various questions/ comments from Council, some being about the Asheville-Weaverville route.

Councilman Mumpower was concerned about the amount the City is subsidizing for transit.

Councilwoman Cape moved for the adoption of Resolution No. 09-125. This motion was seconded by Councilman Miller and carried on a 4-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

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D. MOTION SETTING A PUBLIC HEARING FOR A SUBSTANTIAL AMENDMENT TO THE 2009-10 ACTION PLAN DETAILING THE CITY'S PLAN TO DISTRIBUTE \$1,503,557 OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND \$1,542,387 OF HOME INVESTMENT PARTNERSHIP ACT FUNDS ALLOCATED TO THE CITY OF ASHEVILLE

Summary: The consideration of a motion setting a public hearing for July 14, 2009, to obtain citizen input on a Substantial Amendment to the Consolidated Action Plan for Fiscal Year (FY) 2009-10, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds.

The City submitted its Consolidated Action Plan for 2009-2010 to HUD on May 15, 2009. Since that time, the City has received an allocation of and submitted required documentation for CDBG-R funding, freeing up 2009-2010 regular HUD funding. The City also learned after the submittal that its 2009-2010 allocation of HUD and HOME funding had increased. The Housing and Community Development Committee, and the Asheville Regional Housing Consortium have both met and are recommending the distribution of these additional funds. Both recommending bodies decided to fund applications that either had not been chosen for funding in the original round, or to enhance funding for applications that had been funded for less than their original request.

HUD requires that communities follow their Citizen Participation Plans when adjustments in the Action Plan are necessary. The adjustments recommended by the HCD and Consortium Board require a Substantial Amendment, which necessitates a 30 day public comment period, and a public hearing and City Council approval. A notice of public hearing was published in the Asheville Times-Citizen on June 12, 2009.

This action complies with the City Council Strategic Operating Plan in that the draft Action Plan Amendment directly relates to the Council's Strategic Goal of "Affordable." This plan directly supports the City's affordable housing plan, supports the city-owned land redevelopment process, and will increase the supply of workforce housing. It supports initiatives to end homelessness in Asheville.

Pros:

- The public hearing process gives citizens the opportunity to comment and affect public decision-making regarding the use of public funds.

Con:

- There are no cons to this public hearing process.

Through timely following of the public process, Asheville continues to be eligible for these CDBG and HOME entitlement funds, projected to be over \$3.9 million for 2009-2010.

Staff recommends that Council set the public hearing for the Substantial Amendment to the 2009-2010 Consolidated Action Plan for July 14, 2009.

Councilman Mumpower could not support this action because these are borrowed federal dollars and this is basically a trust fund for non-profits.

Councilwoman Cape moved to set the public hearing for the Substantial Amendment to the 2009-2010 Consolidated Action Plan for July 14, 2009. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

G. RESOLUTION OF SUPPORT FOR THE UNC-ASHEVILLE MATH MENTORING PROGRAM

Summary: This resolution expresses Council's support for the UNC-A math mentorship program. This was prepared as directed by Mayor Bellamy at Council's June 9, 2009, meeting.

The resolution recognizes the value of the program, and notes that it was not recommended for funding through the outside agency appropriation in the FY 2009-10 budget. The resolution authorizes the City Manager to enter into an agreement with UNC-Asheville and to reallocate \$5,000 in the 2009-10 Fiscal Year budget for this purpose.

Councilman Mumpower said that the Housing & Community Development Committee reviewed applications and this one did not make the cut. He felt this Council process has been side-stepped.

Vice-Mayor Davis explained why this resolution has been brought forward and why he felt Council should support the program.

Councilman Newman felt the entire outside agency funding program needs to be reviewed to get a sense of what criteria will be used to decide which partnerships make sense for Asheville to be involved with. There are many great organizations in the community that we could potentially partner with but we can't partner with all of them. He felt that once you fund an organization one time, the need will not go away, so he wondered if we are basically making a commitment to fund the program indefinitely. He felt that conversation should be held before funding a new organization that the City has not funded in the past.

Councilwoman Cape was concerned that we will only be supporting five students with the \$5,000 allocation. She understands the value of the program, but she was not sure exactly what we would be getting for the \$5,000. She appreciated the idea of the program and looked forward to having an opportunity to dive into the program deeper to see how we can lend our support.

Vice-Mayor Davis moved to adopt the resolution expresses Council's support for the UNC-A math mentorship program and to reallocate \$5,000 in the 2009-10 Fiscal Year budget for this purpose. This motion failed to due a lack of a second.

H. RESOLUTION FAVORING AN INDEPENDENT ENERGY EFFICIENCY ADMINISTRATOR FOR THE STATE OF NORTH CAROLINA

Summary: Councilwoman Cape said that there is a bill in the legislature to create NC SAVES ENERGY, which legislation is to establish an independently administered statewide energy efficiency program to reduce energy usage and costs for low and moderate income households across the state. She felt this is an important tool, noting that the program will not be administered by the power companies. She explained that this would be a very low surcharge (approximately \$1) on the power bill, which will go to reduce consumption.

She provided Council with the following resolution: "WHEREAS, the NC General Assembly has passed a very modest Renewable and Efficiency Portfolio Standard, which calls only for up to 5% efficiency by the state's electric utilities by 2021; and WHEREAS, electrical production is a major contributor to air pollution and greenhouse gases, and baseload power plants, less than 40% efficient themselves, constitute the single largest locus of inefficiency and wasted heat in NC's energy budget, as well as a significant contributor to drought vulnerability and degradation of aquatic ecosystems; and WHEREAS, studies by several energy experts have shown that efficiency gains of at least 19% are achievable cost-effectively, even before implementation of any taxation or cap and trade limits for greenhouse gas emissions; and WHEREAS, low- and moderate-income households with poor quality housing use a disproportionate amount of energy to heat and cool their homes and thus disproportionately pay 'per unit used' energy surcharges, our state's energy plan should include weatherization and other energy efficiency programs to assist these households, which will provide a meaningful improvement to the quality of life of these citizens as well as a significant environmental impact, and WHEREAS, legislation to establish an independently administered statewide energy efficiency program for electric and gas customers, NC SAVE\$ ENERGY, House Bill 1050, has been introduced into the House of Representatives of the NC General Assembly, to reduce energy usage and costs for low and moderate income households and a small program for government buildings, schools and hospitals, create thousands of green jobs, prevent the building of any new baseload power plants, and reduce pollution and climate changing emission. NOW THEREFORE, BE IT RESOLVED BY ASHEVILLE CITY COUNCIL that: Section 1. The North Carolina legislature and especially our region's representatives, are urged to pass House Bill 1050 in 2009, in order to create NC SAVE\$ ENERGY, a statewide energy efficiency independent administrator, and the Governor is urged to sign the legislation, to begin implementation of the programs at the earliest possible date. Section 2. That such a North Carolina energy efficiency program be required to save significant energy and reduce greenhouse gas emissions; be fairly funded by all electricity and gas customers in proportion to their energy use; and provide incentives to customers to both conserve energy and implement energy efficiency measures, and

finances and efficiency accomplishments be independently evaluated annually. Section 3. That the priorities for the North Carolina energy efficiency plan include addressing the unmet needs of working families and those on fixed incomes for assistance in implementing energy efficiency measures, as well as the need to create new North Carolina-based public and private jobs in the growing efficiency and conservation markets. Section 4. That such a program be fairly funded by electric and gas customers in proportion to their energy use, with exemptions for participants in a range of federal and state subsidy programs for low and fixed income and disabled persons. Section 5. This resolution shall be effective on and after its passage.”

Councilman Mumpower could not support the resolution in that he felt the first thing we need from the State of North Carolina is a functional court system.

Councilwoman Cape agreed that the court system is an important part of our community, but so is our climate and we are capable of giving simultaneously attention to more than one agenda at a time. This is an independent organization that focuses on taking money from a fund generated from power bills and utilizing it to fix people's homes - people who are often the victims of other social and economic challenges who need help meeting their expenses every month.

Councilwoman Cape moved for the adoption of a resolution favoring an independent energy efficiency administrator for the State of North Carolina. This motion was seconded by Councilman Newman.

Councilman Newman offered a friendly amendment to the resolution that it be clarified that this resolution is not meant to indicate a lack of support for the energy efficiency programs that are being implemented and developed by North Carolina's utility companies but that this is meant to compliment the initiatives by the State's utility companies with an independent energy efficiency organization. Councilwoman Cape accepted the friendly amendment.

Councilman Miller supported the resolution but noted there is a lot of open-ended dialogue in Section 2 of the resolution causing him some concern. He hoped that at the state level they would look closely at that language.

Vice-Mayor Davis felt he could not support the resolution in that it was too open-ended for his comfort.

The amended motion made by Councilwoman Cape and seconded by Councilman Newman failed on a 3-3 vote, with Vice-Mayor Davis, Councilman Mumpower and Councilman Russell voting “no.”

O. RESOLUTION APPOINTING A MEMBER TO THE URTV INC. BOARD OF DIRECTORS

Summary: The term of Sandra Bradbury, as a member of the URTV Inc. Board of Directors, will expire on June 30, 2009.

On June 9, 2009, it was the consensus of Council to appoint Ms. Dale Joyner to serve a two-year term, term to expire June 30, 2010, or until her successor has been appointed.

Mr. Alan Rosenthal contested Ms. Joyner's appointment to the URTV Inc. Board of Directors. He presented Council with documents supporting his opinion why he didn't think she was fit to be on the Board.

Councilman Mumpower moved to postpone action on this item and refer it to the Boards & Commissions Committee. This motion was seconded by Councilwoman Cape and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. RESOLUTION NO. 09-135 - RESOLUTION ADOPTING THE FINAL INTERNAL SUSTAINABILITY MANAGEMENT PLAN AS THE STRATEGIC PLAN FOR MUNICIPAL SUSTAINABILITY GOALS AND ACTIVITIES

Energy Coordinator Maggie Ullman said that this is the consideration of a resolution to approve the Internal Sustainability Management Plan (SMP) as the strategic document to guide internal sustainability initiatives.

In April 2007 City Council passed a resolution committing to reduce the municipal carbon footprint 80% by the year 2050 and requiring a strategic plan to lead this effort. The internal SMP brings together the organization's carbon footprint reduction policy and the sustainability initiatives of various departments in a coordinated and comprehensive plan. The outcome of this internal sustainability management plan is a consensus-based set of 23 sustainability goals, a comprehensive list of 107 prioritized

action items, and an implementation plan for moving forward.

She summarized the plan reviewing the snapshot of carbon footprint, assessment of existing activities, and opportunities for improvement. The implementation strategy is (1) determine annual priorities by department; (2) develop a staff green team; (3) use opportunity ranking tools; and (4) annual Council approval of resource allocations.

The full plan and the executive summary of the plan can be reviewed online at www.ashevillenc.gov/green.

This action complies with the following areas of the City Council Strategic Operating Plan: (1) Expand community education programs to attract volunteers to initiatives, including climate awareness, water conservation, recycling, storm water and sustainability; (2) Operate the City of Asheville's organization to the highest fiscal responsibility; (3) Achieve short term and long term goals to reduce city carbon emissions by 2% per year; (4) Receive and evaluate the Energy Management Plan for conservation, technology and retrofitting, and sustainability management; and (5) Develop a long-term plan to address the City's aging infrastructure including facilities and sidewalks.

The Sustainability Advisory Committee on Energy and the Environment (SACEE) reviewed the plan and recommends adoption of the plan by City Council.

Pros:

- Save taxpayer dollars through energy efficiency and transportation initiatives
- Demonstrate leadership through planning and implementing sustainability programs
- Improve air quality and public health through reduction of emissions associated with municipal actions

Con:

- Availability of resources will determine the rate at which the plan is implemented

-

There is no direct fiscal impact with adopting the internal Sustainability Management Plan. Any financial decision associated with implementing the plan will be brought forth to Council through the budgetary process.

City staff recommends City Council adopt a resolution approving the internal Sustainability Management Plan for use as the guiding document for staff to achieve carbon footprint reduction goals.

When Vice-Mayor Davis asked for public comments, none were received.

At this time, Mayor Bellamy arrived at the meeting and Vice-Mayor Davis turned the gavel over to her.

Councilman Newman moved for the adoption of Resolution No. 09-135. This motion was seconded by Councilwoman Cape.

Throughout discussion, Ms. Ullman responded to various questions/comments from Council, some being, but are not limited to: will you have measurable numbers in the goals and objectives for the plan and if not, why; what are the total utility costs for the City; and how much did the study cost and how much staff time was invested in the study.

In response to Councilman Mumpower, Ms. Ullman explained that while there are other models, our plan is different in that it provides tools for implementation. She also noted that our plan will be very helpful to other community organizations who will look to our plan for our leadership.

Councilman Mumpower was pleased that staff will pursue measured results. However, he does not find plans terribly productive. He felt they are expensive and sit on a shelf and collect dust. He felt that if the City wants to do better with conservation of energy, he suggested (1) incentivizing our employees and asking for their suggestions; and/or (2) look for ways to reduce the number of fire department calls for service, since Asheville has roughly twice the calls of a city of our size. He pointed out that Council adopted a Solid Waste Management Plan 10 years ago and the plan was not put to productive use since we have actually increased our solid waste by a significant number.

Upon inquiry of Councilwoman Cape, City Manager Jackson said that this Plan is extremely beneficial to the City. The process of getting to this product built an awareness and education that has brought significant tools to our process. We are a leader in this area but if we want to achieve Council's goal to be green, we need a top notch plan.

Mayor Bellamy looked forward to the Mountain Green Conference which will be held tomorrow. In Raleigh, she spoke with the Secretary of the Dept. of Environment and Natural Resources and he pointed out that his department did not have a plan for the Clean Smokestack Act but that plan would be developed. In addition, she spoke with the Deputy Secretary of Commerce and noted that the State Energy Office will be moving to the Department of Commerce. One of the things they will be tracking is energy dollars that are coming through the recovery program and how it will be spent. They also will develop a plan. She stressed that planning is important. With our Plan, it will track the dollars and results and provide that transparency to the community.

Mayor Bellamy asked for a friendly amendment to the motion that Council receive quarterly updates in their quarterly status reporting on how this Plan is being implemented. Councilman Newman and Councilwoman Cape accepted the friendly amendment.

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. 09-135, with the amendment that Council receive quarterly updates in their quarterly reporting on how this Plan is being implemented. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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B. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 09-136 - RESOLUTION TO APPROVE LOAN FROM THE CITY'S HOUSING TRUST FUND TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

MOTION TO AUTHORIZE THE CITY TO SUBMIT AN APPLICATION TO THE DEPARTMENT OF HOMELAND SECURITY'S ASSISTANCE TO FIREFIGHTERS FIRE STATION CONSTRUCTION GRANTS FOR THE CONSTRUCTION OF ONE NEW FIRE STATION AND REHABILITATION OF AN EXISTING FIRE STATION

MOTION TO AUTHORIZE THE CITY TO SUBMIT AN ENERGY EFFICIENCY AND CONSERVATION STRATEGY TO RECEIVE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT ENTITLEMENT FUNDING

Ms. Lauren Bradley, Assistant to the City Manager, updated Council on the following applications for the economic stimulus package.

She said that as part of city staff's recurring ARRA update to Asheville City Council, staff is seeking Council consideration of three items including:

- A resolution allocating \$40,000 in Housing Trust Fund (HTF) financing to the Housing Authority of the City of Asheville in support of a federal grant opportunity available through the Public Housing Capital Fund Program (PHCFP) under ARRA to create 10 handicapped accessible units in the Aston Park Towers development;
- Authorization for the city to submit an application to the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants (SCG) for the construction of one new fire station and rehabilitation of an existing fire station, and;
- Authorization for the city to submit an Energy Efficiency and Conservation Strategy to receive Energy Efficiency and Conservation Block Grant (EECBG) entitlement funding.

Housing Trust Fund Application - Housing Authority Aston Park Tower

Councilman Newman asked to be excused from participating in this action due to a conflict of interest. Therefore, Councilwoman Cape moved to excuse Councilman Newman from participating in this action due to a conflict of interest. This motion was seconded by Councilman Mumpower and carried unanimously.

The Housing Authority of the City of Asheville (HACA) is requesting a \$40,000 loan from the Housing Trust Fund for the renovation of ten (10) units in Aston Park Tower at 165 S. French Broad Avenue to create handicap accessibility as required under the Uniform Federal Accessibility Standards (UFAS). The total project development cost is \$678,500 of which \$638,500 will be entirely funded by federal grant funds. The PHCFP guidelines require a minimum 5% match from non-public housing funds. HACA

will be in the best position to receive funding if the commitment of HTF loan funds can be secured prior to submission of the application.

The terms of the loan as requested are \$40,000 for 15 years at 2% interest. The per unit subsidy is extremely low at \$4,000 and the HTF funding would be highly leveraged at \$16 per dollar invested. The lack of ADA accessible units in Aston Park Tower was noted as a key deficiency in a recent study. The project will serve tenants earning less than 60% of the area median income. HACA has committed to retaining these rent standards throughout the term of the loan. Repayment will be made from the entire project revenue and will not be limited to the rents received on the ten (10) rehabilitated units. It should be noted that the proposed rehabilitation will result in the net loss of three (3) public housing units.

The Aston Park Tower has been part of the HOPE VI grant application discussion and the long term plans for the building have not yet been finalized. HACA has agreed to refrain from drawing HTF funds until the HOPE VI analysis has been completed. No funds will be spent if it is determined that the preservation of the Tower is not feasible.

The Housing and Community Development Committee reviewed the proposal at a special meeting on June 9, 2009 and is supportive of the request. There is a current available balance in the Housing Trust Fund of \$72,275.

Pros:

- Allows the City to heavily leverage scarce housing resources.
- Provides ADA accessible units in a public housing project designated for the elderly and disabled.
- Provides 15 years guaranteed affordability on the subject units for tenants below 60% AMI.
- If grant application is not successful, funds can be reallocated to another eligible project.

Cons:

- The inability to mortgage public housing developments requires that another property be secured as collateral.
- The long term future of the Tower has not yet been decided so the benefit may be short lived.
- Construction cost estimates have not yet been documented.

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. This action is also supportive of the City Council 2008-09 Strategic Plan in that the project will aid in offering a standard of living that is affordable and attainable for people of all income levels, life stages, and abilities.

Funding for the Housing Trust Fund has been previously appropriated. The current balance in the Trust Fund is \$72,275.21. The remaining available balance if the project is funded at the terms requested will be \$32,275.21.

As recommended by the HCD Committee, the Staff recommends adoption of a resolution authorizing the City Manager to approve a Housing Trust Fund loan in the amount of \$40,000 to the Housing Authority of the City of Asheville at the terms requested.

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 Mumpower felt we will be using borrowed money that will need to be paid back by our children and grandchildren.

Councilwoman Cape spoke in support of the action.

Councilwoman Cape moved to adopt Resolution No. 09-136. This motion was seconded by Councilman Miller and carried on a 5-1 vote, with Councilman Mumpower voting "no". Councilman Newman was excused.

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Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants (SCG)

Staff is seeking City Council authorization to submit an application to the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants (SCG). The grant will provide financial assistance directly to fire departments on a

competitive basis to build new or modify existing fire stations in order for departments to enhance their response capability and protect the community they serve from fire and fire-related hazards. The authority for SCG is derived from the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5). Congress appropriated a total of \$210 million for this Fiscal Year (FY) 2009 program. The proposals must not exceed \$5 million per project and can not total more than \$15 million per agency.

Asheville Fire and Rescue is seeking permission to submit applications through the grant for the construction of one new fire station and the rehabilitation of an existing fire station. The new fire station will be constructed on city owned land off of Sandhill Road. This fire station was approved in the FY 2008/2009 5-year CIP adopted budget for FY 2009/2010; however the project is currently unfunded. The rehabilitated fire station located at 300 Merrimon Ave. will increase standard of cover service levels by allowing a fire company to operate out of this station. The CFAI Accreditation process has identified this area as needing improvement.

Applications are due by July 10, 2009. Funding is awarded to individual projects based on the merits of the proposal.

Pros:

- Access to DHS funds will allow the City of Asheville to complete two important projects that will increase levels of service.
- DHS will fund 100% of the construction projects, which are currently unfunded needs.
- Asheville Fire and Rescue's Standard of Cover will increase from 47% to 100% in the area that will be served by the rehabilitated fire station.
- The Sandhill Road project is a strong candidate for this grant due to the shovel ready site and plans that are already available. The 300 Merrimon Avenue project is a strong candidate for this grant due to the significant service level increases that it will provide.
- The projects will pursue LEED certification.
- No staff or apparatus will be immediately needed as existing fire companies could be re-deployed.

Con:

- Grant funding does not include furniture, so there will be a minimal so there will be a minimal cost associated to furnish the stations.

Submission of these projects meets City Council's strategic goal to proactively pursue funding through the federal economic recovery program. It also aligns with City Council's commitment in the 2008-09 Strategic Plan to be one of the safest and most secure communities when compared to other cities.

The City of Asheville will request \$5 million for the Sandhill Road fire station project and \$5 million for the rehabilitation of the Merrimon Avenue fire station project, for a total request of \$10 Million. DHS will fund 100% of the construction projects, and existing fire companies will be re-distributed to staff these stations; therefore, there will be no direct financial impact to the City with the exception of purchasing furniture for each station. Furniture is not included in the grant, therefore there will be a minimal cost associated to furnish the stations.

City staff recommends that the Mayor and City Council authorize the staff to submit an application to the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants (SCG) program.

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

Councilman Mumpower felt we will be using borrowed money that will need to be paid back by our children and grandchildren. Councilman Mumpower felt we should pay for this out of our own tax base.

Councilman Newman moved to authorize staff to submit an application to the Department of Homeland Security's Assistance to Firefighters Fire Station Construction Grants (SCG) program. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Energy Efficiency and Conservation Block Grant (EECBG)

The EECBG program through the Federal Department of Energy (DOE) is funded for the first time through ARRA. The City of Asheville has been allocated \$804,700 of entitlement funds through this program. The funds must be committed within 18 months of receipt of award and expended within 36 months. The primary goals for use of this funding include: job creation, energy reduction, renewable energy production, carbon emissions reduction, and partnership creation. DOE requires cities to submit an Energy Efficiency and Conservation Strategy for their consideration before funds will be released. This strategy is due June 25, 2009.

As part of the Energy Efficiency and Conservation Strategy submitted to DOE, Asheville must identify how the funds will be used for specific projects and programs. Staff has evaluated several programs and projects that coincide with the goals established in the internal Sustainability Management Plan. After thorough analysis and a collaborative decision making process, staff selected the following programs to recommend for Council approval:

Funding Category	Program Description	Project Funding	% of total allocation
\$224,700	Internal Sustainability Programs		
	Bike Sharing Program for City staff	\$13,500	2%
	Solar thermal for Fire Station	\$16,000	2%
	Building Inspector and Building Maintenance Energy Efficiency Training	\$35,000	4%
	Sustainability Outreach Coordinator	\$35,000	4%
	Civic Center Banquet Hall HVAC Replacement	\$125,000	16%
\$250,000	Internal Energy Revolving Fund		
	Fire Station 8 Windows and Insulation Retrofit	\$50,000	6%
	IT Server Downsizing	\$100,000	12%
	City Hall Lighting Retrofit	\$100,000	12%
\$250,000	Competitive grants for community projects *	\$250,000	31%
\$ 80,000	Grant administration	\$80,000	10%
\$804,700	TOTALS		100%

* Guidelines for these awards will be determined after necessary guidance is provided by the Federal Department of Energy.

At its May 5, 2009, meeting, the City Council Finance Committee reviewed preliminary details released about the EECBG program. At that point, the Finance Committee: (1) set the amount of funds available for a community sub grant process at \$250,000, the maximum amount allowable under the program; (2) directed staff to come back to the full Council with recommendations for funding caps for awards made through the community sub grant process, and; (3) designated the Housing and Community Development Committee to serve as the oversight and review board for making awards through the community sub granting process.

It is staff's recommendation that the community sub grants be awarded through a competitive application process based on defined criteria and measurement requirements. Staff recommends that one award be made up to \$100,000 to a model program that maximizes community collaboration with significant community impact. Staff further recommends that the remaining three to six grants range from a minimum award of \$25,000 up to a maximum award of \$50,000 for programs that meet selection criteria. These funding parameters are recommended to maximize the impact of community projects while taking into consideration the staffing resources needed to track and monitor grant awards according to ARRA requirements.

Pros:

- Approval of the programs and projects for the Energy Efficiency and Conservation Strategy will ensure continuation of the EECBG application process. If awarded, the City of Asheville will receive funding to move forward programs and projects that support sustainability goals set forth by City Council, thereby realizing energy and cost savings.

Cons:

- If the programs and projects are not approved, the application process and funding potential for these projects will not move forward, and the City of Asheville will lose the opportunity to receive entitlement funding for Council's strategic initiative.

Approval of these projects meets City Council's strategic goal to proactively pursue funding through the federal economic recovery program. It also aligns with City Council's commitment in the 2008-09 Strategic Plan to be the southeastern leader in clean energy and environmental sustainability.

The City of Asheville will receive \$804,700 in EECBG entitlement funds if the Energy Efficiency and Conservation Strategy

is approved and submitted as described. Of this amount, \$250,000 will be sub granted to community programs and projects, \$474,700 will be invested in internal City of Asheville sustainability initiatives, and \$80,000 will be used for grant and project administration. There are no local matching requirements for this funding.

City staff recommends that the Mayor and City Council: (1) authorize staff to submit the Energy Efficiency and Conservation based on the program breakdown provided and (2) determine that the Housing and Community Development Committee manage the community sub grants process such that awards are made through a competitive application process based on defined criteria with one award made up to \$100,000 and three to six awards ranging from \$25,000 and \$50,000.

Mr. Mike Soule, representing Asheville on Bikes, encouraged Council to adopt the bike sharing program for City staff in order to advance our City's commitment to sustainability.

Upon inquiry of Mayor Bellamy, Ms. Bradley and Energy Coordinator Maggie Ullman explained how the bike sharing program for City employees was developed and what the \$13,500 included.

Councilwoman Cape moved to (1) authorize staff to submit the Energy Efficiency and Conservation based on the program breakdown provided, but encourage staff to revisit the bike sharing program for enhanced efficiencies; and (2) determine that the Housing and Community Development Committee manage the community sub grants process such that awards are made through a competitive application process based on defined criteria with one award made up to \$100,000 and three to six awards ranging from \$25,000 and \$50,000. This motion died for a lack of a second.

After a brief discussion, initiated by Mayor Bellamy, it was the consensus of Council to support Mayor Bellamy's suggestion that we look for transit dollars or another local source for the bike program and reprogram the \$13,500 into the sustainability outreach coordinator position for education outreach of energy conservation, water, stormwater, recycling, sewer, etc. while partnering with the Metropolitan Sewerage District on the sewer education outreach.

Councilman Russell moved to (1) authorize staff to submit the Energy Efficiency and Conservation based on the program breakdown provided, except that we look for transit dollars or another local source for the bike program and reprogram the \$13,500 into the sustainability outreach coordinator position for education outreach of energy conservation, water, stormwater, recycling, sewer, etc. while partnering with the Metropolitan Sewerage District on the sewer education outreach; and (2) determine that the Housing and Community Development Committee manage the community sub grants process such that awards are made through a competitive application process based on defined criteria with one award made up to \$100,000 and three to six awards ranging from \$25,000 and \$50,000. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION NO. 09-142 – RESOLUTION TO AFFIRM REQUIRED ASSURANCES AND AGREEMENTS AND DESIGNATE AN AUTHORIZED REPRESENTATIVE TO FILE THE APPLICATION, TO MAKE NECESSARY CERTIFICATIONS, AND EXECUTE SUCH AFFIDAVITS AS ARE REQUIRED BY THE RULES AND REGULATIONS

Ms. Lauren Bradley, Assistant to the City Manager, said that to receive Economic Stimulus Funding from the State, the Water Resources Department must submit a Governing Board Resolution to the N.C. Treasurer's Office by June 26th, 2009, that contains exact wording outlining the City's responsibilities with respect to the Pumping System Installation Water Stimulus Project.

On February 27, 2009, Water Resources submitted four Council-approved applications for ARRA Funding for projects totaling \$4,410,990. The department was notified that no funding would be awarded. However, on June 22nd, 2009, the department was notified that one project may be funded if more paperwork is submitted by June 26th, 2009. The additional paperwork must include a signed resolution with exact wording as dictated by the State.

The project selected by the state is the Pumping System Installations Project in the amount of \$510,000. This project will include replacement of the North Fork Water Treatment Plant High Service Pump, replacement of the Black Mountain High Service Pumps, and installation of an automatic valve on a 24-inch water line to control water volume to the south end of the water distribution system. This project replaces large, inefficient pumps with smaller, more efficient pumps to reduce the energy needed to distribute water. The total amount requested, \$510,000, includes materials, installation, engineering, a project contingency, and a departmental fee. The department will be expected to fund 50% of that amount, or \$255,000.

This project is part of City Council's strategic plans to create jobs to aid in economic recovery, improve city infrastructure, and promote the green sustainable initiative.

Pro:

- Approval of this resolution should allow the department to receive reimbursement of 50% of the total cost, or \$255,000, for the Pumping System Installations Project.

Con:

- If this resolution is not approved, Water Resources will not receive any outside funding for this project.

If this project is approved by the State, the Water Resources Department will be required to provide 50% of the funds, which would be approximately \$255,000. These funds have already been requested in the Fiscal Year 2010 Capital Improvement Projects budget.

Water Resources staff recommends that the Mayor and City Council authorize the resolution outlining the City's responsibilities with respect to the Pumping System Installation Water Economic Stimulus Project.

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 to adopt Resolution No. 09-142. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

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At 7:03 p.m., Mayor Bellamy announced a short recess.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 128 BINGHAM ROAD FROM INDUSTRIAL DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 3747- ORDINANCE REZONING PROPERTY LOCATED AT 128 BINGHAM ROAD FROM INDUSTRIAL DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

Mayor Bellamy opened the public hearing at 7:25 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance rezoning 128 Bingham Road from Industrial District to Commercial Industrial District. This public hearing was advertised on June 12 and 19, 2009.

Mr. Esselstyn said that this 23-acre site, though still referred to by many as the Square D Plant, has undergone a noteworthy change since the departure of that manufacturer. The property is now named the Blue Ridge Business Center, and while a manufacturing operation (Aprotech Powertrain, a maker of engine parts) continues to occupy a large portion of the building, there is increasing interest by non-industrial uses in areas of the facility. The area's current zoning classification, Industrial, does not lend itself easily to this mix of uses, and thus the owner is requesting a rezoning to Commercial Industrial.

According to the Unified Development Ordinance (UDO) Article 8, the purpose of the Industrial District is to "reserve land for existing and future industrial activities and for land uses that support industrial activities. Development standards are established to ensure that land uses located outside the Industrial District are not adversely affected by the negative impacts of industrial uses. Industrial Districts shall be located to capitalize on existing infrastructure where possible, such as transportation facilities and utilities. Supporting land uses are characterized as providing supplies, raw materials, transportation, or storage services to industries or providing services to industrial employees."

The stated purpose of the Commercial Industrial district (also known as CI) is "to provide areas for a wide range of commercial and industrial uses including: light manufacturing, wholesale, warehousing, services, retail sales, offices, and residential uses. The district is established where environmental conditions and urban infrastructure are adequate to support commercial and industrial development." Further, "assembly, packaging, processing, production and manufacturing" uses are permitted in CI, as in Industrial; the only industrial uses permitted in the Industrial district but not in CI are recycling plants and certain other types of recycling facilities. With regard to open space, however, the Commercial Industrial district is more restrictive than the Industrial; the IND district is exempt from the open space requirements applied to most other districts (including CI).

The site constitutes the majority of a block encircled by three roads: Bingham Road, Adams Hill Road, and Pearson Bridge

Road, though there is no entrance to the property from Pearson Bridge Road. (The other property on the block is Emma United Methodist Church.) The building contains almost 300,000 square feet of floor area, and the site provides almost 7 acres of vehicular use area. The site is situated just inside City Limits, and has been in the City's jurisdiction since 1981.

The applicant's request for Commercial Industrial zoning stems from a desire to be able to attract a wider range of possible tenants. The Industrial zoning district allows relatively few commercial uses, and does not include general retail sales, general office uses, medical clinics, or residential occupation by non-employees in the list of permitted uses. In recent years, the City has permitted some office uses on the site with the requirement that they remain subordinate to the principal manufacturing use of the property. However, the Business Center has attracted two employers providing new jobs in the area (a VA call center and a Census Bureau office), and would like to be able to expand the floor area available for such uses as well as for potential future retail options.

In May of 2008, a Level II site plan review was undertaken for this site, for the renovation of 52,449 square feet of the facility into offices subordinate to the primary manufacturing use, and an additional 451 square feet of new floor area. The improvements related to the original project are still in progress. It was noted at the time that for a larger scale conversion of the building for other uses, a rezoning would have to be pursued. A conditional zoning was discussed, but the applicant would prefer to have the adaptability of not being committed to a specific plan for future modification.

As is noted in the sections above, the Comprehensive Plan includes a policy stating that Industrially zoned land should be preserved for industrial uses. This is further emphasized in the Sustainable Economic Development Strategic Plan that identifies a shortage of industrial zoned properties as one of its top priority issues to be addressed in our area. However, there are recent precedents, most notably the BASF plant rezoning in January of this year, for City Council approval of similar zoning changes. Two other 30+ acre areas were recently rezoned from Industrial to Residential zoning districts.

After recent rezonings of industrially-zoned land were approved despite the City's adopted policy, City Council felt that stakeholders should be consulted about their perspective on the policy given changing views about the future of this region's economy. Director of the Office of Economic Development Sam Powers attended these discussions, and, applying the findings to the similar BASF rezoning, stated that "OED staff feels a case can be made for recommending approval." Mr. Powers has also attended discussions related to this rezoning petition and expressed the same position.

One further characteristic of this site which renders it less suitable to be fully occupied by a modern large-scale manufacturing operation is that it is served by relatively small roads and does not have convenient access to any nearby interstate for large trucks. The owner's inability to offer such a feature to a potential industrial tenant compounds their need to be able to recruit non-industrial tenants less dependent on large truck traffic.

At their June 3, 2009, the Planning and Zoning Commission voted unanimously to recommend approval of the proposed rezoning.

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

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

Pros:

- Proposed zoning district is compatible with the surrounding area.
- Rezoning could encourage development and further job growth.
- Site's road access makes it less than ideally suited for modern large Industrial tenants.
- CI zoning district would require open space preservation, unlike current zoning.

Con:

- The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially zoned land for industrial uses.

Staff has concerns about rezoning Industrially-zoned land, due to the policies against such action stated in the Comprehensive Plan and other plans. Both the Planning and Zoning Commission and City Council have, however, supported similar rezoning in the recent past, and since 2006 stakeholders have not expressed significant concern about the rezoning of such land to Commercial Industrial. If the City Council wishes to consider this rezoning independent of the existing policies, staff feels a good case can be made for recommending approval.

Ms. Donna Logan, representative of the owner of Blue Ridge Business Center, urged Council to support the rezoning in

that she was pleased to see the building being brought back to life and provide jobs and a tax base for the City.

Mr. Carroll Hughes, architect with Spaceplan Architects and project manager for the project, felt changing the complexion, the use and the visual characteristics of the industrial building will make it a much better neighbor. It will also recycle the building instead of demolishing it. With the Industrial zoning there is no requirement for open space, but with this requested rezoning they will have almost 4 acres of open space. He urged the Council to support the rezoning.

Mayor Bellamy closed the public hearing at 7:34 p.m.

When Councilman Mumpower noted that the Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, policies state that we should preserve industrially zoned land for industrial uses, Mr. Esselstyn said that after staff discussion, it was staff's recommendation that these projects be reviewed on a case by case basis, recognizing the overall policy is a sensible one.

In response to Councilwoman Cape, Economic Development Director Sam Powers felt that this rezoning allows for greater flexibility since it does not preclude most of the uses in the industrial district.

There was a brief discussion, initiated by an observation by Councilman Newman, of a possible policy amendment for industrially zoned properties having greater flexibility. City Manager Jackson felt it would be appropriate for the Planning & Development Director meet with the Planning & Economic Development Committee to review a map of the industrially zoned areas along with a brief assessment of each property.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3747. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 316

B. PUBLIC HEARING TO CONSIDER A SIGNAGE PLAN AMENDMENT FOR THE INGLES DEVELOPMENT PROJECT LOCATED AT 85 TUNNEL ROAD TO ALLOW FOR A 16 SQUARE FOOT, WALL-MOUNTED "STARBUCK'S" SIGN TO THE INGLES ON 1141 TUNNEL ROAD

ORDINANCE NO. 3748 - ORDINANCE AMENDING THE SIGNAGE PLAN AMENDMENT FOR THE INGLES DEVELOPMENT PROJECT LOCATED AT 85 TUNNEL ROAD TO ALLOW FOR A 16 SQUARE FOOT, WALL-MOUNTED "STARBUCK'S" SIGN TO THE INGLES ON 1141 TUNNEL ROAD

Mayor Bellamy opened the public hearing at 7:51 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the approved signage plan to apply a specific sign detail to the store located at 1141 Tunnel Road (Oteen). This public hearing was advertised on June 12 and 19, 2009.

On September 25, 2007, Asheville City Council approved the sign package presented for the two separate Ingles developments located on Hendersonville Road and Tunnel Road respectively. The plan included both attached and freestanding signage including:

- Multiple signs for the principal Ingles supermarket (Ingles, American Owned, Fresh Foods, Café, Video, Pharmacy Drive-thru)
- Attached signage for a convenience store (The i Market)
- Attached signage for the retail gasoline sales (Gas Express)
- Attached signage for the car wash (Laser Wash)
- Free-standing monument sign for Ingles
- Free-standing sign for Gas Express

Additionally, the plan included a Starbuck's franchise sign for only one of the two stores and was later amended to include the second store once the franchise was obtained. The applicant is now seeking to add the same Starbuck's franchise sign to the Oteen store. The applicant is not prepared to add other signs to this request at this time.

The "Starbuck's" franchise sign is identical to that approved with the original application and will be a 16 square-foot wall-mounted sign, located at one end of the store.

In context with the approved package, the additional request is in keeping with the stated intent and purpose for the signage.

Regarding the City Council Strategic Operating Plan, this proposal most closely supports the goal of **sustainability** through improved identity and advertisement supporting the economic viability of the overall project.

Pro:

- Provides identification of a franchise business located inside the larger grocery store.

Con:

- Contributes to the proliferation of signage along the city's corridors.

There is no direct fiscal impact to the City has been identified.

Staff recommends City Council approve the signage plan amendment for the Ingles development project located at 85 Tunnel Road to allow for a 16 square foot, wall-mounted "Starbuck's" sign at their 1141 Tunnel Road store.

A representative of Ingles Markets spoke in support of this amendment noting that this is an on-going program to enhance Ingles services.

Upon inquiry of Mr. Paul Van Heden, the Ingles representative said that this sign will be identical to the other Starbuck's signs on other Ingles.

Mayor Bellamy closed the public hearing at 7:57 p.m.

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

Councilman Russell moved for the adoption of Ordinance No. 3748. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 318

V. UNFINISHED BUSINESS:

A. MOTION TO ACCEPT THE RECOMMENDATIONS OF THE REPORT ON CIVIL SERVICE LAW REVISIONS

Mayor Bellamy said that earlier in this legislative session, Senate Bill 556 (Civil Service Law) was introduced in Raleigh and subsequently passed through the Senate and is now being considered in the House of Representatives. She said that she, Vice-Mayor Davis and Councilman Mumpower met on June 5, 2009, with NC General Assembly members Senator Martin Nesbitt and Representative Susan Fisher, and representatives of the police/fire organizations to discuss proposed changes to Asheville's Civil Service Law (SB 556).

The Asheville City Council also assembled a Blue Ribbon Commission to review the Civil Service Law in February, 2009. This Commission provided suggested changes to the existing Law based on a Best Practices analysis on May 12, 2009, for City Council's consideration.

Suggested changes requiring outside legal counsel and clerk recording services impact the General Fund in Fiscal Year 2009-10 at \$100,000.

The proposed changes and how those changes were incorporated into the City's proposed revision of the draft Senate Bill was provided to Council.

She said that she would be happy to outline the minutes resulting from the June 5, 2009, meeting, but due to the length and complexity of the issue, she said the only item that did not reach majority support was that police/fire representatives wanted the current law to remain trial de novo and City Council wanted to amend the language to have a review of the record. We are leaving that item up to Senator Nesbitt and our legislators to work out.

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

Vice-Mayor Davis moved to accept the recommends of the report made by Mayor Bellamy, Vice-Mayor Davis and Councilman Mumpower's revisions to the Civil Service Law. This motion was seconded by Councilman Mumpower and carried unanimously.

Mayor Bellamy said that these revisions will be provided to our State legislatures.

B. 2008-09 END OF THE YEAR BUDGET AMENDMENTS

ORDINANCE NO. 3749 - BUDGET AMENDMENT REGARDING AUTOMATED METER READERS

ORDINANCE NO. 3750 - BUDGET AMENDMENT REGARDING RANKIN AVENUE PARKING GARAGE RESTORATION

ORDINANCE NO. 3751 - BUDGET AMENDMENT REGARDING PURCHASE OF FIVE HYBRID BUSES

ORDINANCE NO. 3752 - BUDGET AMENDMENT REGARDING THE HEALTH INSURANCE PROGRAM

ORDINANCE NO. 3753 - BUDGET AMENDMENT REGARDING WORKERS COMPENSATION PROGRAM

ORDINANCE NO. 3754 - BUDGET AMENDMENT REGARDING CERTIFICATES OF PARTICIPATION BONDS, SERIES 1997C

Chief Financial Officer Ben Durant said that this is the consideration of the technical year-end budget amendments that are presented below.

Technical Amendment #1: Automated Meter Readers: \$500,000

City Council approved funding in the Fiscal Year (FY) 2008-09 Water Resources Fund budget for the purchase of 2,500 automated meter readers (AMRs) to increase meter reading efficiency and reduce the department's carbon footprint from vehicle emissions. Staff anticipated that all of the funding for the AMRs would be spent in the 2008-09 fiscal year, so this expenditure was budgeted in the Water Resources operating budget instead of the capital budget. The purchase of the AMR's, however, was delayed while staff pursued Economic Stimulus Funding for this project. In the end, no stimulus funds were awarded for AMR purchase. Because the purchase of the AMRs was delayed, no purchase order was issued in the current year, and thus this funding will revert back to the Water Resources fund balance. Staff is requesting that Council amend the budget the Water Resources capital budget to allow for the carryover of \$500,000 in AMR funding to FY 2009-10.

Technical Amendment #2: Rankin Garage Restoration: \$500,000

The FY 2008-09 Parking Services adopted operating budget included \$500,000 in debt service for the proposed parking garage at 51 Biltmore Avenue. Due to the timing of this project, no debt service payment will need to be made in FY 2008-09. At the April 14, 2009, City Council meeting, staff presented to Council a proposal to use this debt service savings to fund renovations to the Rankin Avenue Parking Garage. On April 14, Council approved staff moving ahead with procurement of engineering services for both the Rankin and Wall Street garage renovations. Staff is now requesting that Council amend the budget the Parking Service capital budget to allow for the carryover of \$500,000 in AMR funding to FY 2009-10.

Technical Amendment #3: Hybrid Bus Purchase: \$2,625,000

In 2008 City staff requested assistance from the N.C. Dept. of Transportation (NCDOT) to purchase five new hybrid buses. The City of Asheville was awarded \$2.1 Million to acquire these buses in May 2008. The City requested 10% match contribution to the NCDOT and the funds were granted in the amount of \$262,500. The City has allocated \$262,500 as 10% match contribution from the transit capital fund. This technical amendment will allow for the establishment of the total \$2,625,000 budget for this project.

Councilman Mumpower felt that since the technology for hybrid technology is in a high degree of influx and hybrid buses are dramatically more expensive, he could not support this budget amendment.

Upon inquiry of Mayor Bellamy, Director of Transportation and Engineering Cathy Ball explained the reasons why we are not purchasing compressed natural gas buses. She said that we don't have the infrastructure to gas the 150 gallon tanks, keeping

parts for three types of buses would be expensive, and even though costs are higher for hybrids, the benefit of the carbon footprint associated with them is significantly different.

In response to Mayor Bellamy, Ms. Ball said that everything to date is just replacing existing buses.

Technical Amendment #4: Health Insurance Program: \$1,400,000

As discussed with City Council during the Quarterly Financial Updates and Budget Presentations, the City has experienced a significant increase in health care costs over the last five years due to several factors, including an aging workforce, overall general inflation in health care costs, and the occurrence of a number of high dollar claims. In the current fiscal year, the total estimated costs for the health care program are expected to be \$11.7 million, which is 10.7% higher than FY 2007-08 costs, and \$1.4 million more than the original budget estimate of \$10.3 million.

Staff is recommending that Council appropriate \$1,400,000 million from the Health Care Program's fund balance to help cover the costs in the current fiscal year that have exceeded budget. As of June 30, 2008, the fund balance reserve for the Health Care Program was \$2.6 million. The \$1.4 million appropriation requested tonight will lower the estimated June 30, 2009, health care reserve to \$1.2 million. The recommended level of reserves to protect against the volatility of the health care market and provide a sufficient "rainy day" is \$4.5 million. Continued policy discussion is needed regarding the distribution of health care costs between the City and employees as well as the relative priority of the city's health care program compared to other programs.

When Councilman Mumpower asked about how the City will be planning to prevent this type of loss with the health care program in the future. Mr. Durant said it was his opinion that we have structural issues that need to be addressed and we need to engage in a rigorous prioritization process. With doing that rigorous prioritization process and making structural changes he felt we will continue to be in a situation where we are trying to catch up with health care. The prioritization process needs to occur throughout the year and as part of the budget process is a good starting point. There are some basic policy questions, e.g., how much of the health care program should be borne by employees vs. how much should be covered by the City, or how much should retirees be paying for health insurance in comparison to current employees, etc. He explained that staff will be looking at the health care program at the time of open enrollment and asking these type policy questions.

Councilman Mumpower expressed concern that problems might not be fixed if the City doesn't start looking at our health insurance fund until the January timeframe. He suggested a more timely deliberation on some of those policy matters raised and we need to begin looking for ways to save money.

In response to Councilman Russell, Mr. Durant said that it's only been recently (within the past 2-3 years) that the health care expenses began to outpace our budget. Prior to the past few years we have actually turned in money to the health care program. There is some volatility with health care that you can't predict. What we need to look at is our current trends going forward.

Mayor Bellamy asked that the health insurance program be placed on the agenda for the City Council's retreat.

City Manager Jackson said staff (1) needs to provide Council a white paper which outlines what we are currently doing, what policy issues we have with the health care plan and what our timeframe is for bringing those issues to Council, with recommendations; and (2) will update Council on the overall financial picture at Council's retreat and have recommendations for Council in the February-March timeframe which is before Council gives the information to staff to build a budget.

In response to Councilwoman Cape, Mayor Bellamy said that she has provided President Obama's Chief of Staff with a lot of data on the Asheville Project. When Council has their meeting with Mission Hospitals leadership next week, she will bring up the fact that the summit they held was highly attended by doctors and not a lot of other individuals at the table. She would recommend another summit be held to have a more inclusive agenda so that we can present a comprehensive white paper.

Technical Amendment #5: Workers Compensation Program: \$95,000

The City's total FY 2008-09 budget for the Workers Compensation program, which includes funding for premiums, claims and administrative expenses, totals \$1,134,000. In a typical year, this level of funding is adequate to cover all of the expenses in the program. In FY 2008-09, however, claims expenses have been slightly higher than anticipated. As a result, the budget needs to be increased by \$95,000. Funding for this budget increase will be taken from the Workers Compensation fund balance reserves.

Technical Amendment #6: Certificates of Participation Bonds, Series 1997C: \$166,140

In 1997, the City of Asheville issued COPs Series C in the amount of \$2,612,367 to support the renovation of the Grove

Arcade Public Market. Under an agreement with the Grove Arcade Public Market Foundation (GAPMF), GAPMF assumed responsibility for repayment of the debt service associated with the COPs. Based on the City's understanding of this agreement, the COPs debt was recorded in the City's financial reports as conduit debt. Conduit debt occurs when a governmental entity issues debt not for its own use but for the use of a third party, typically a not-for-profit, in this case the Grove Arcade. The governmental entity that issues the debt does not have any subsequent liability for repaying it; instead, the third party for whom the debt was issued is obligated to repay the debt directly to the bank trustee. Because the governmental entity is not the obligor, only limited disclosure of the debt is required in the governmental entity's financial statements.

The City has been making the annual debt service on the COPs since 1997, offset by payments from GAPMF to the City for reimbursement of the debt service, based on a separate agreement with City has with the GAPMF. Because the City interpreted this arrangement as conduit debt, our debt service payments were not included in the City's annual operating budget and only limited disclosure was provided in our financial statements. Recent research, however, has determined that this is not conduit debt but actually a direct obligation of the City. That is, the City is contractually obligated to make debt service payments directly to the bank trustee, and in case of default, bondholders would have recourse against the City not the Grove Arcade for fulfillment of the debt obligation. As such, the City will need to bring the debt on to its books in FY 2008-09. In addition to the reporting issue outlined above, there is also a funding gap that this amendment will address. In recent years, GAPMF has been unable to fully reimburse the City for the debt service payments, creating a net cost for the City.

At present, the outstanding balance for the COPs is \$1,845,000. For FY 2008-09, the City will need to amend its operating budget to reflect an annual debt service payment on the COPs in the amount of \$166,140. This additional budget expense will be partially offset with a \$30,000 revenue payment that has been received from GAPMF. The City will have to appropriate \$136,140 in fund balance to cover the remaining amount of the payment for FY 2008-09. Prior to its adoption on June 23rd, staff will also adjust the Manager's Recommended FY 2009-10 Budget to include the debt service payments scheduled for next fiscal year.

The only amendment that will impact the City's General Fund fund balance is the appropriation for the COPs 1997 Series C. The City will appropriate \$136,140 in fund balance to fund this amendment. This appropriation will lower the estimated year-end fund balance amount to \$17,737,120 or 19.7%.

Mr. Durant responded to Councilman Newman when he asked how much has the GAPMF reimbursed the City over the past couple of years. He noted that City staff has had several discussions with the GAPMF about re-financing or helping in other ways to create opportunities for them to pay their debt payments.

In response to Councilwoman Cape, Ms. Ruth Summers, representing the GAPMF, explained that Progress Energy controls floors 2-5 in the Grove Arcade and they have a 99 year agreement with the City. The GAPMF has a 99 year lease to operate the ground floor. Her understanding of this loan was to basically be used for renovation costs when the building was originally renovated. Her records show that they have missed the full payment in 2007 and the remainder they owe for 2008 is \$34,607. They have met with City staff and asked that the payment be restructured from a 20-year payment to a 40-year payment. It is her understanding that the payment has something to do with the City's bond rating, so they weren't able to accommodate them on that restructuring of the payment schedule.

Councilman Mumpower recalled that when the City undertook this partnership with other partners it was clear that the City would not acquire debt or responsibility for the Grove Arcade renovations. A plan was sold on the basis of visions of special success. He was concerned that City taxpayers are now being asked to pick up a significant tab for a nice project, but something we have been repeatedly assured would not come back to haunt City taxpayers.

In response to Councilman Newman, Mr. Durant briefly explained the way the payment was structured with the GAPMF. At the end of the 19-year term, there will be a balloon payment that they will make to catch up on the amount of principle and interest that the basic payment didn't cover. Any payment or partial payment they don't make will be added to that balloon payment that will be have to be caught up at the end of the amortization schedule. There is an expectation that the GAPMF, with the City's help, will continue to work towards fulfilling that obligation. The overall expectation is that the City of Asheville will be made whole by the end of this agreement, unless there is another policy decision made by City Council.

Councilwoman Cape felt that the City needs to invest in economic development. She supported the agreement moving forward and was proud that the City of Asheville made that investment in this wonderful asset for our community.

In response to Councilman Miller, Mr. Durant said that a standard procedure with balloon loans is that at the end of the term, you can re-finance the balloon payment.

Ms. Summers responded to Councilman Miller regarding the possibility of adding a special assessment to the tenants in the Grove Arcade. She noted that their occupancy is down and they must share in the 34% of the expenses for maintenance with

Progress Energy.

Mayor Bellamy stressed that the City of Asheville is the owner of the Grove Arcade. It is our building and we worked with the GAPMF for them to renovate it and pay for it. To act as if we don't have any ownership is not true. She was on Council when the debt service was approved and she did not recall where the City of Asheville didn't expect to have ownership. She asked City Clerk Burleson to research the minutes on that point. She said it the taxpayers building and it is our responsibility to keep the building up. At the end of the day, if the GAPMF defaults, the building is still our responsibility. The GAPMF went out and got Progress Energy to partner with them and fix up one of Asheville's assets.

Councilman Newman suggested the Planning & Economic Development Committee have a more detailed discussions on this issue.

City staff recommends City Council approve the technical year-end budget amendments.

When Mayor Bellamy asked if anyone from the public would like to speak on any of the year-end budget amendments, no one spoke.

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

Vice-Mayor Davis moved for the adoption of Ordinance No. 3749. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 320

Councilman Miller moved for the adoption of Ordinance No. 3750. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 322

Councilwoman Cape moved for the adoption of Ordinance No. 3751. This motion was seconded by Councilman Newman and carried on a 5-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 324

Councilman Mumpower moved for the adoption of Ordinance No. 3752. This motion was seconded by Councilman Russell.

Councilman Mumpower withdrew his motion since there was no willingness on Council's part to address this issue on a more timely basis.

Councilman Russell then moved for the adoption of Ordinance No. 3752. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 326

Councilman Mumpower moved for the adoption of Ordinance No. 3753. This motion was seconded by Vice-Mayor Davis and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 328

Councilman Miller moved for the adoption of Ordinance No. 3754. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 330

ORDINANCE NO. 3755 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE RENOVATION COSTS ASSOCIATED WITH CONVERTING EXISTING SPACE IN THE PUBLIC WORKS BUILDING INTO A ONE STOP SHOP FOR DEVELOPMENT SERVICES

Assistant City Manger Jeff Richardson said that this is the consideration of a budget amendment, in the amount of \$390,000, to establish a budget for the renovation costs associated with converting existing space in the Public Works Building into a one stop shop for development services.

The Asheville City Council, through its annual strategic planning process, previously identified under the Focus Area of "Sustainable", as one key goal, the need to reform and streamline the development review process to improve the ease and efficiency of the customer's experience without compromising the quality of standards or other strategic goals. City staff have guided this process forward and is in the process of executing physical renovation efforts to the first floor of the Public Works Building, which when completed, will serve as the city's Development Services One Stop Shop.

Mr. Richardson then used a drawing to explain in detail the Development Services One Stop Shop.

In order to save costs, some of the demolition and renovation work will be completed by Building Safety staff. Estimated timeline to complete this project and open for services is August 31, 2009.

The anticipated cost for completing the necessary renovations in the Public Works Building is not to exceed \$390,000. Funding for this project will come from a variety of City funds and departments as outlined below:

- **\$100,000:** In FY 2007-08, funding was set aside in the Water Resources Capital Fund to pay for costs associated with the establishment of a one stop shop at Innsbruck Mall.
- **\$40,000:** In FY 2008-09, City Council established a 4% technology fee surcharge that was added on to all development permits to create funding for technology projects that would enhance the development review process. To date approximately, \$150,000 has been collected from this fee. \$40,000 of this will be used for technology related items associated with establishing the one stop shop.
- **\$50,000:** Stormwater Fund, staff has identified \$50,000 in savings in the Stormwater Fund's FY 2008-09 professional services budget. This savings occurred due to a delay in the watershed study for Lower Ross Creek.
- **\$200,000:** The City currently has approximately \$220,000 available in its capital reserve fund from projects that were previously completed under budgeted.

Pros:

- Improves the customer experience by one physical location to provide for better coordination of the development review services currently provided by Building Safety, Planning, Engineering, Water Resources, and Fire & Rescue Departments.
- Utilizes existing city space through space redesign, thus significantly lowering initial cost estimates for this consolidated space design.
- Eliminates the city's need for leased space, thus further lowering budgetary impact.
- Provides opportunities for consideration for additional city space needs in city hall as certain development services are relocated to this facility.

Cons:

- Will reduce the amount of capital reserve funding available to fund other projects.
- Current space allocation at Public Works, due to size of building and services provided, will not allow for future expansion/growth.

The funding from the Water Resources Capital Fund, the technology fee, and the Stormwater Fund was previously budgeted and therefore there will be no impact on those funds. The \$200,000 appropriation from the capital reserve fund will lower the amount left in that fund to approximately \$20,000.

City staff recommends City Council approve the budget amendment in the amount of \$390,000 to establish a budget for the renovation costs associated with converting existing first floor space in the Public Works Building into a Development Services One Stop Shop.

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

Mr. Richardson responded to various questions/comments from Council, some being, but are not limited to: are there any concerns about timing due to our economy; will there be additional staffing costs associated with this reorganization; and what happened to the ficus trees that were located in the lobby of the Public Works Facility.

In response to Councilman Mumpower, City Manager Jackson said that the point of urgency on this is we are here for no other reason than to serve the community. The community demands efficiency and customer friendly. For developers and people who want to invest in our community, they need this now more than ever, as it will save them time and money.

Councilwoman Cape noted that the timing on this going on line is perfect because she couldn't imagine putting City staff under this kind of pressure in full blown development mode.

In response to Councilwoman Cape, Mr. Richardson said that the Public Works Facility does not have any room for future expansion; however, an option could be relocation of the 2nd Floor activities.

City Manager Jackson recognized Mr. Richardson, Assistant Director of Building Safety Mark Case (project manager), and others for their work on this project and their leadership to relocate 70 people.

In response to Mayor Bellamy about staff in the Purchasing Division on Hunt Hill, Mr. Richardson said that with the relocation of 45 staff out of City Hall to Public Works, it does open up opportunities for other reorganizations and relocation of services. No decision has been reached short-range, but in our long-range plans along the South Charlotte Street corridor we have looked at Water Maintenance and hunt hill Purchasing with some redevelopment opportunities.

Mayor Bellamy felt that long-range plans should include how we can better utilize the Hunt Hill property, in that she felt there are great opportunities for some shared parking for the tourists and the development pattern over there. She also felt that the relocating of people from City Hall is an opportunity for Council to have offices in the City Hall building.

Mayor Bellamy wanted to make sure that all Unified Development Ordinance requirements, e.g., landscaping, signage, additional parking, etc., are covered in this budget amendment. If additional parking is required, she suggested contacting Mt. Zion Church. Mr. Case responded that this project will not trigger any additional needs.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3755. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 332

C. ORDINANCE NO. 3756 - ADOPTION OF THE FISCAL YEAR 2009-10 ANNUAL OPERATING BUDGET

Chief Financial Officer Ben Durant said that this is the consideration of adoption of the Fiscal Year 2009-10 annual operating budget. Mayor Bellamy announced that the public hearing on the budget was held on June 9, 2009.

The Fiscal Year 2009/2010 Annual Operating Budget was formally presented to City Council on May 12, 2009. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the public hearing was published on May 29, 2009, and June 5, 2009. City Council conducted a public hearing on the budget on June 9, 2009.

Operating Budget Adjustments

The net proposed operating budget presented to City Council on May 12th was set at **\$135,700,029**, including a General Fund appropriation of **\$92,156,972**. Since the proposed budget was presented to City Council, there have been four adjustments that have altered the total of the budget that is presented to you tonight for your adoption.

- 1) **Increase in the Cost of Recycling Contract:** As discussed with Council at the June 9th meeting, the final cost for the FY 2009/2010 recycling contract exceeded initial budget estimates by **\$132,957**. At that meeting, Council approved the contract and also approved increasing the monthly household recycling fee from \$2.65 to \$2.95 to cover the increased cost of the recycling program.

- 2) **Funding for Sidewalk Crew Re-Instated** - During the budget process, Public Works staff agreed to hold vacant the positions on one concrete crew in FY 2009-10 and only fill those positions if funding for projects is obtained from the American Recovery and Reinvestment Act (ARRA). This budget balancing strategy produced \$140,000 in savings. Staff recently received information that two of the projects that staff had hoped to fund with ARRA funding, the Patton Avenue Sidewalk and the Clingman Avenue Streetscape, do not qualify for ARRA funding. ARRA funding for other traffic safety projects is still pending, but staff feels that given the uncertainty associated with the level of ARRA funding that may eventually be received, it is prudent to restore funding for the concrete crew in the adopted budget by appropriating **\$140,000** from fund balance. If ARRA funding is eventually received for any traffic safety projects, then a portion of that funding can be used to restore fund balance. Either way, it should be noted that the disadvantage of this funding strategy is that we are using a one-time funding source (i.e. fund balance or ARRA funds) to fund the ongoing costs of staffing the concrete crew.

- 3) **Inclusion of COPs 97c (Grove Arcade) Debt:** In a separate agenda item at tonight's meeting, Council was asked to amend the FY 2008/2009 budget to bring on to the City's books the debt service payment for the COPs 97c debt issuance. Historically, this COPs 97c debt was reported as conduit debt, and as such, these payments were not included in the City's annual operating budget. Recent research, however, has determined that this is not conduit debt but rather a direct obligation of the City. For FY 2009/2010, the debt service payment on the COPs 97c will total **\$151,600**. Staff recommends appropriating fund balance to cover this additional debt service payment which was not included in the Manager's Recommended FY 2009/2010 Budget.

- 4) **Buncombe County tipping fees:** The City of Asheville received a letter from Buncombe County on June 18, 2009, advising that tip fees at the Transfer Station are increasing from \$42/per ton to \$47/per ton effective September 1, 2009. Based on 2007-08 annual tonnage of 25,621 this represents an increase of **\$106,764** for the 2009-10 budget year. This amount was not originally budgeted in the Public Works budget request as this information was just recently received. As a note on an annual basis the increase is \$128,105. Staff recommends appropriating fund balance to cover the additional tipping fees.

The net result of these changes increases the operating budget by **\$531,321** to **\$136,231,350**, and the General Fund appropriation to **\$92,688,293**.

Budget Ordinance Additions

RENCI/Grove Arcade Lease: As previously presented to Council, the City has entered into a partnership with RENCi for the rental of office space at the Grove Arcade. The total annual lease cost with the Grove Arcade will be \$34,902.12 (paid monthly at \$2,908.51 beginning late August 1, 2009). RENCi will contribute \$9,902.12 toward the annual lease obligation and the remaining \$25,000 will be funded with proceeds from Senate Bill 7 funds that were previously budgeted in the City's grant budget. The City has also agreed to perform improvements to the rental space at a cost of up to \$20,000. RENCi will reimburse the City for the full cost of these improvements. A summary of the budget for this project is presented below and included in the FY 2009-10 budget ordinance for Council's adoption.

Revenue:

Senate Bill 7 Funds	\$25,000
RENCI	\$29,903
Total	\$54,903

Expenditures:

Annual Lease	\$34,903
Improvements	\$20,000
Total	\$54,903

ARRA CDBG Grant Entitlements: The City has been awarded two entitlement grants from HUD as a part of the ARRA funding, and the budgets for these two grants are included in the ordinance that Council is adopting tonight. The Community Development Block Grant Recovery Act Funding (CDBG-R), which totals \$332,942, will be distributed to three non-profit subrecipients and to the City. The Homeless Prevention and Rapid Rehousing Program Grant (HPRP), which totals \$509,460, will be distributed to non-profit and faith-based subrecipients this fall. The award amounts for these two entitlements have been approved by HUD, and the City is simply awaiting HUD approval of the City's documentation of its spending plans for the grants.

Because these are entitlement grants and funding has been assured through HUD, staff is recommending that Council proceed with adoption of these budgets. Staff will return to Council with budget amendments as other ARRA grant fund awards are received during FY 2009-10.

Staff requests that Council review the FY 2009/2010 Annual Operating Budget, including the changes noted above, and make necessary recommendations or adjustments followed by adoption of the Budget Ordinance.

Councilman Mumpower anticipated a decline in our economy and that means revenue and cost hits will be dramatic. He felt there are extravagances in this budget that are less than responsible under the current economic realities.

Mayor Bellamy said that this was not an easy budget and Council has not raised the tax rate. There are several things in the budget she did not support, but it is part of the bigger picture and since we have strategic updates on a quarterly basis we can continue to monitor and make changes through budget amendments. She did look forward to the audit of the Fiscal Year 2008-09 budget. She felt this budget is a good foundation. We tried not to hurt basic city services, gave public safety and public works what they need to perform basic City services and at the same time we are making technological advances.

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

Councilman Russell moved for the adoption of Ordinance No. 3765. 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 334

D. RESOLUTION NO. 09-137 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXTEND THE 51 BILTMORE AVENUE PARKING GARAGE DOWNTOWN DEVELOPMENT AGREEMENT TO INCLUDE AN EXTENSION OF THE OPTION TO PURCHASE 51 BILTMORE AVENUE

Director of Transportation & Engineering Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to extend the Downtown Development Agreement decision making period for the proposed parking garage at 51 Biltmore Avenue to include an extension of the option to purchase the property located at 51 Biltmore Avenue for six months.

In October 2008, City Council approved a Downtown Development Agreement with McKibbon Hotel Group, Public Interest Projects and the City of Asheville for the purpose of constructing a parking garage. The design of the parking garage is complete. The architect is in the process of applying for all applicable permits.

As designed, the project consists of the following:

- four hundred ten (410) parking spaces;
- public restrooms;
- four (4) parking spaces for electric vehicles;
- ten (10) bike lockers; and,
- public art component.

Due to economic conditions, McKibbon Hotel Group has not received confirmation of their funding. They are hopeful they will have this component of the project completed in three to five weeks.

The Downtown Development Agreement is structured to expire on July 1, 2009. The agreement allows two additional six month extensions. Staff is requesting that Council authorize the City Manager to execute the extension of the agreement which includes extensions of the option to purchase the property at 51 Biltmore Avenue and the "Decision Period" for evaluating the continued feasibility of the project.

This project is in alignment with the Strategic Plan by promoting sustainable, high-density, in-fill growth that makes efficient use of resources and by making environmentally efficient capital improvements. In addition, this action complies with the Parking Action Plan adopted by City Council.

Pro:

- The extension of the development agreement will position the City to continue to pursue the economic development benefits of an expanded tax base, additional jobs, needed public parking and other benefits, including the potential for workforce housing, associated with this project.

Con:

- The original development agreement called for a total of 439 parking spaces, with 239 reserved for public use. Based on current engineering design requirements, approximately 29 spaces have been removed from the deck design, leaving 210 spaces available for public use.

The cost to extend the option for the property at 51 Biltmore Avenue for an additional six months is \$5,000. Other costs for extending this agreement are not measurable at this time.

City staff recommends City Council authorizing the City Manager to extend the Downtown Development Agreement for the proposed parking garage at 51 Biltmore Avenue to include an extension of the option to purchase the property located at 51 Biltmore Avenue.

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

Ms. Ball explained to Councilman Mumpower the loss of 29 public parking spaces.

Upon inquiry of Councilman Mumpower, Ms. Ball explained that we have gotten very favorable preliminary budget numbers in – about 20-25% less than what we anticipated.

Upon inquiry of Councilman Mumpower, Mr. Wes Townsend, with McKibbin Hotel Group, explained that the debt capital market is very cold, but not frozen. It is challenging to find lenders who are willing to make a loan on commercial projects in many sectors; however, they have in hand a turn sheet from a large regional bank and they are negotiating with them now. Their projection is that the hotel will open in March of 2011 including deck construction.

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. 09-137. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting “no.”

RESOLUTION BOOK NO. 32 – PAGE 108

E. RESOLUTION NO. 09-141 - RESOLUTION EXPRESSING THE CONTINUED INTEREST IN DEVELOPMENT OF AN ANNEXATION AGREEMENT WITH THE TOWN OF WOODFIN

Mayor Bellamy said that last week some members of Council met with some members of the Town of Woodfin Board to discuss annexation plans and to discuss some of the concerns we had with their annexation going west. This resolution expresses the continued conversations with Woodfin to look at the opportunities for us to come together and develop an annexation agreement going west and possibly north. At the next meeting, representatives from the Leicester community will be invited. She said that Asheville staff took some maps with them to the meeting – map of what Leicester representatives proposed for incorporation, Asheville’s map of our extraterritorial jurisdiction, Asheville’s Resolution of Consideration annexation map adopted in 2007, and maps including Woodfin’s annexation area. Woodfin Mayor VeHaun has said that the door is not closed on this conversation and they look forward to continued discussions on what Asheville would like as a Council, and hearing from representatives from Leicester.

Mayor Bellamy read the following resolution: “WHEREAS, the City of Asheville and the Town of Woodfin began discussions regarding their mutual boundaries prior to 2005; and WHEREAS, the City of Asheville and the Town of Woodfin began discussions regarding an annexation agreement in 2006 but did not reach a mutually acceptable agreement; and WHEREAS, the Leicester community proposed to incorporate in 2008, and the Town of Woodfin proposed an annexation in 2009 that included parts of the area that was to be in the Town of Leicester and some areas in Asheville’s designated extra-territorial jurisdiction; and WHEREAS, mutually agreed upon annexation agreements are a best practice of incorporated governments as a growth management tool for mutual infrastructure planning; and WHEREAS, most recently on Friday, June 12 the Town of Woodfin hosted a meeting with representatives of the City of Asheville to reestablish dialogue between these two municipalities; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: The City of Asheville is committed to continuing dialogue with the Town of Woodfin on the topic of determining a mutually acceptable annexation agreement for the future.”

Councilman Newman noted that when Leicester representatives talked with the Asheville City Council about incorporation,

City Council was not aware that Leicester representatives were not required by law to consult with the Town of Woodfin in the same way they were required to consult with Asheville. He felt Woodfin raised legitimate concerns about the extent of Leicester's incorporation into areas that they think logically might fit better in the Town of Woodfin in the future. Woodfin said that they were pursuing a fairly aggressive annexation was in response to Leicester's incorporation plans. Asheville also have some legitimate concerns about Woodfin's very extensive annexation plans.

Councilman Newman moved for the adoption of Resolution No. 09-141. This motion was seconded by Councilman Russell.

Councilman Newman asked for a friendly amendment to the resolution that we request that Leicester incorporation representatives meet with the Town of Woodfin and take the Town of Woodfin's concerns into consideration as they work their incorporation efforts in relation to the boundary between those two areas. Councilman Russell accepted the friendly amendment.

Vice-Mayor Davis agreed with Councilman Newman in that he believed that the Town of Woodfin felt left out of the conversations with Leicester representatives. He thanked Mayor VeHaun and Woodfin's staff for meeting with City Council. It was a good opportunity to exchange some viewpoints and exchange dialogue on future expansion plans.

Mayor Bellamy noted that when Asheville adopts their Resolution of Consideration map for annexation areas every two years, it is just making it clear that the areas are just under consideration. The fact is, a lot has not changed over the years and Asheville has not aggressively annexed compared to other cities our size across the state.

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 Newman moved for the adoption of Resolution No. 09-141, as amended. This motion was seconded by Councilman Russell and carried unanimously.

When Mayor Bellamy asked that the resolution be transmitted to the representatives of the Leicester incorporation, City Attorney Oast noted that he was taking notes to that affect.

RESOLUTION BOOK NO. 32 – PAGE 114

VI. NEW BUSINESS:

A. RESOLUTION NO. 09-138 - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE 10% STATE MATCH TO PURCHASE FIVE HYBRID BUSES TO REPLACE FIVE OF THE EXISTING 1996 DIESEL BUSES

Director of Transportation & Engineering Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to enter into an Interlocal Agreement with the North Carolina Department of Transportation (NCDOT) in the amount of \$262,500 as State match to purchase five hybrid buses to replace five of the existing 1996 diesel buses.

City staff is in the process of acquiring five new hybrid buses for the transit fleet. Part of the effort was to pursue 10% State match for the capital expenditure. Staff applied with the NCDOT and the funds were granted.

The new hybrid buses will replace five of the 1996 diesel buses that have already reached their useful life. This is part of the City staff's effort to replace sixteen 1996 buses. The aging fleet is still operative; however the 1996 buses have begun presenting the problems attributable to age, engine repairs and other parts increasing the maintenance costs.

The City will use an existing contract to purchase the buses, preferable from the State of North Carolina. The estimated delivery date is 18 months from the moment the order is placed.

The estimated cost of this project is \$2,625,000. The City is funding this project using section 5309 of the Federal Transit Administration which provides eighty percent (80%) for capital projects or \$2,100,000. The City will provide 10% or \$262,500 and with this Interlocal Agreement the State will contribute the additional 10%.

The acquisition of hybrid buses is in alignment with the Strategic Plan to reduce carbon emissions by 2% per year and in the acquisition of new technology that will support the area of environmental sustainability.

Pro:

- Entering into an Interlocal Agreement with the NCDOT reduces the City's contribution to 10% of the cost of the project.

Con:

- None at this time.

The project cost will be \$2,625,000, with 80% of this total to be paid by federal funds - FTA section 5309; 10% or \$262,500 by the City and 10% or \$262,500 by the State.

City staff recommends City Council authorizing the City Manager to enter into an Interlocal Agreement with the NCDOT in the amount of \$262,500 as State match to purchase five new hybrid buses to replace five 1996 diesel buses.

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 Newman moved for the adoption of Resolution No. 09-138. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 109

B. RESOLUTION NO. 09-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A TEMPORARY SERVICES AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF-HELP TREATMENT INC. FOR TEMPORARY WORKERS

Assistant Human Resources Director Robin Nix said that this is the consideration of a resolution authorizing the City Manager to sign a Temporary Services Agreement between the City of Asheville and Forsyth Initiative For Residential Self-Help Treatment, Inc. (F.I.R.S.T.) for temporary workers.

The City of Asheville requires temporary workers throughout the budget year for seasonal workloads in the Public Works Department (Sanitation and Street Divisions), and the Civic Center. This agreement is a collective contract for all City Departments.

F.I.R.S.T. is a non-profit organization that provides counseling to individuals and provides these individuals with opportunities to learn new skills through job placements with various organizations. F.I.R.S.T. is a local organization operating from 32 Knox Rd. in Ridgecrest, NC. The City of Asheville has utilized F.I.R.S.T staff for the past six years with excellent results.

Although the City has contracted with F.I.R.S.T. in the past, a Request for Proposals for temporary workers was released for bid in April 2009. Nine companies' submitted proposals and seven of the nine were considered responsive bidders. Of the seven responsive bidders, F.I.R.S.T. was the only agency with local offices currently in the Asheville area; however, several vendors offered to open local offices if awarded a contract. A bid analysis was performed by the City's Minority Business office and a spreadsheet used as a screening tool for proposals requested and received. Based on analysis of the proposals, F.I.R.S.T, Inc. was chosen as the successful bidder.

Benefits to contracting with F.I.R.S.T., Inc. include reduced costs in recruiting, hiring, and benefits for full-time workers. There is also a savings realized in management costs. The City is guaranteed all F.I.R.S.T. personnel requested enabling operations to be fully productive at all times.

This action complies with the City Council Strategic Operating Plan in that City infrastructure can be maintained and improved in a timely, consistent manner without the need of additional full-time staff.

Pros:

- Reduced costs in recruiting, hiring and benefits for full-time workers
- Management savings
- Utilizing personnel only on days when you need them and in various departments; therefore, eliminating the duplication of work crews

Con:

- None

The fiscal impact would be the contract amount for Streets, Sanitation and Civic Center - \$228,000

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a Temporary Services Agreement with the City of Asheville and Forsyth Initiative For Residential Self-Help Treatment, Inc. for temporary workers.

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

Councilman Mumpower moved for the adoption of Resolution No. 09-139. This motion was seconded by Councilman Russell.

Councilman Mumpower asked for a friendly amendment to the contract that within the ability of the law that F.I.R.S.T provide any City workers be legally able to work.

In response to Mayor Bellamy, City Attorney Oast said that Forsyth Initiative For Residential Self-Help Treatment Inc. is located in Ridgecrest, North Carolina, and has nothing to do with Forsyth County.

In response to Mayor Bellamy, Human Resources Director Lisa Roth said that the City of Asheville does not pay these workers directly in that they are not our employees. She explained it's a community service type program.

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

Councilman Mumpower moved for the adoption of Resolution No. 09-139. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 110

C. RESOLUTION NO. 09-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT MARKET CONNECTIONS/KELLY FOR COUNCIL ON THE GRASS LAWN IN THE PACK SQUARE AREA OF PACK SQUARE PARK ON JUNE 30, 2009

Councilman Miller asked to be excused from this action due to a conflict of interest. Therefore, Councilman Russell moved to excuse Councilman Miller from participation in this action due to a conflict of interest. This motion was seconded by Vice-Mayor Davis and carried unanimously.

Summary: This is the consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Market Connections/Kelly for Council on the grass lawn in the Pack Square Area of Pack Square Park on June 30, 2009, from 6:00 p.m. – 8:00 p.m.

Market Connections/Kelly for Council has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at a private event on the grass area of the Pack Square area in Pack Square Park. The malt beverages and unfortified wine will be served in glass containers and bottles.

Market Connections/Kelly for Council has applied for a one-time use permit with the North Carolina Alcoholic Beverage Control Commission (ABC) for the date of the event. Event organizers will follow all City policies outlined in the Outdoor Special Event Guide and ordinances regarding alcohol on City property.

This resolution is pending the receipt of the ABC permit and approved Outdoor Special Event application. This action does not comply with the City Council Strategic Operating Plan. This action does not comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

- None

Cons:

- Potential for public safety issues;
- The event is not open to the public.

City staff recommends City Council adopt a resolution authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine on grass lawn in the Pack Square area of Pack Square Park on June 30, 2009, for Market Connections/Kelly for Council.

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

Councilman Mumpower moved to recues himself from participating in this action since he is City Council candidate running against Councilman Miller for a seat on City Council. City Attorney Oast said that this is not a disqualifying conflict of interest and that Councilman Mumpower should vote as a Council Member and not as a candidate. Said motion died for a lack of a second.

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. 09-140. This motion was seconded by Councilman Russell and carried on a 4-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 111

VII. OTHER BUSINESS:

Vice-Mayor Davis said that due to the vacancy left on the Personnel Committee by former Councilwoman Holly Jones, it was the consensus of Council to appoint Councilman Newman to the Personnel Committee.

Mayor Bellamy briefly updated Council on her recent meeting at the N.C. League of Municipalities. She spoke with the Mr. Freeman, Secretary of the N.C. Dept. of Environment and Natural Resources, about CTS Facility issue and said they are trying to get the Environmental Protection Agency to do a re-assessment of the site to see if it triggers another level of investment as well as what is happening in the General Assembly where they are working to increase the threshold from \$3 Million to \$5 Million. Mr. Freeman did tour the site and he has been in contact with people in the area on that issue. He did thank City Council for installing water lines in that area. She also spoke with Mr. Carroll, Deputy Secretary of the Dept. of Commerce. The state energy office will be coming under his department and he will look to see if there are opportunities for Asheville to receive any additional funding from the Dept. of Energy. He stressed the importance of Asheville working with A-B Tech's program for workforce development. He was also in our area to talk to a local business about working with another employer in North Carolina to get more emphasis on our economy and making sure that there is economic development occurring in North Carolina. She then updated Council on some legislation from the N.C. League of Municipalities. The annexation legislation does impact the City of Asheville and there are 3 different bills being proposed, with a couple of compromises being developed. She highlighted that in most situations outlined, Asheville is already doing what they are calling compromises. She noted there was no discussion of Powell Bill funds or sales tax funds being withheld. She lastly highlighted the Intermodal Bill which allows governments to vote on if they want to levy a sales tax for transit related programs.

Vice-Mayor Davis and Councilman Newman spoke about the French Broad Metropolitan Planning Organization and how Asheville has been successful in getting 13 projects on the list for funding for transportation projects.

Councilman Mumpower introduced his summer intern and encouraged students from Asheville High School who have a conservative lean who might be interested in an intern position with him to contact him.

The following claims were received by the City of Asheville during the period of May 22 – June 18, 2009: R&W Inc. (Streets), Caroline Foreman (Streets), Tim Bradley (Water), Gloria Leader (Streets), Ann Morgan (Water), Robbie Clark (Parks & Recreation), Neil A. Dubois (Fire), Benny Lake (Water) and Kerri Smith (Civic Center). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Dwight Buckner, representing the Asheville Downtown Association, read a resolution from the Asheville Downtown Association supporting the establishment of a special nuisance court in conjunction with the local justice system. They believe the establishment of such a court will have a positive impact on our whole community. They believe that enforcing regulations which lead to mutual respect throughout the community can only have a positive affect on our City, County, State and Nation. They believe this is tax money well spent.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:04 p.m.

CITY CLERK

MAYOR