

Regular Meeting

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

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Mayor Bellamy gave the invocation.

**I. PROCLAMATIONS:**

**A. EMPLOYEE RECOGNITIONS**

City Manager Jackson recognized (1) Stephanie Monson, Scott Burnette, Stacy Merten, Sandy Ryland, Brad Davis, Ken Putnam, Jonathan Feldman, Marlene Frisbee, Richard Grant, Sarah Benson, Seth Hendler, and Dave Michelson for their work on the City of Asheville receiving the G. Herb Stout Award for Visionary Use of Geographic Information Systems by local government (mapAsheville); (2) Officer Michelle Spinda, Officer Ryan Justus, Officer Darrell, McCurry, Officer Alan Presnell, Officer Sean Brooks, Sgt. Chuck Sams, and Detective Mike Downing for their involvement in capturing an escapee from the Georgia Department of Corrections; (3) Mark Case for leading the term for the Building Safety ISO rating of Class 2 for both commercial and residential inspections; (4) Brenda Mills for being recognized in the NC Magazine's Exceptional Women Leaders; (5) - Eric Weigel, Lifeguard, Laurel Manion, Lifeguard, Elliot Wells, Lifeguard, Capt. Shane Valliere, Sr. – Engine 7 Crew, Firefighter Mike Stageman, Sr. – Engine 7 Crew, Firefighter Chad Brooks – Engine 7 Crew, Firefighter Mike Riley – Engine 7 Crew, Paramedic Robbie Stanton – Buncombe County Emergency Medical Services, and Intermediate Jason Hamlin – Buncombe County Emergency Medical Services for their quick action in saving a little girl's from drowning; (6) Captain Joy Ponder for her professional designation of "Chief Fire Officer"; (7) Mr. Monte Clampett for his designation of the 2008 American Public Works Association Certified Public Infrastructure Inspector; and (8) Officer Josh Burleson and Officer Jordan Abrams for their service in recovering a stolen vehicle.

On behalf of City Council, Mayor Bellamy thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

**B. PROCLAMATION PROCLAIMING AUGUST 2009 AS "MDA FIREFIGHTER APPRECIATION MONTH"**

Mayor Bellamy read the proclamation proclaiming August 2009, as "MDA Firefighter Appreciation Month" in the City of Asheville. She presented the proclamation to Fire Captain Shane Valliere Sr. who thanked the City Council for providing them the support they need to help those who need help.

**ADDITION TO THE CONSENT AGENDA**

Mayor Bellamy has been asked by the local Association of Postmasters for consideration of a resolution requesting that the Oteen post office remain open. She asked that the resolution be added to the Consent Agenda. She noted that the Oteen post office serves citizens on Tunnel Road to the very east and is located across from the Veterans Administration Hospital.

**II. CONSENT AGENDA:**

At the request of Councilman Mumpower, Consent Agenda Items "C", "I", "P" and "Q" were removed from the Consent Agenda for discussion and/or individual votes.

At the request of Mayor Bellamy, Consent Agenda Item "R" was removed from the Consent Agenda for an individual vote.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 14, 2009**

**B. RESOLUTION NO. 09-160 - RESOLUTION ACCEPTING MCCAULEY DRIVE, FLORENCE STREET AND VERONICA LANE AS CITY-MAINTAINED STREETS**

Summary: The consideration of a resolution to accept McCauley Drive, Florence Street, and Veronica Lane as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer's representative submitted a written request on April 30, 2009 asking the City to accept the three subject streets as city-maintained streets.

McCauley Drive from Reservoir Road to its dead-end is a developer-constructed street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.15 mile, and a right-of-way width of 50 to 150 feet. The typical two-year warranty period for major failures will be waived because the City of Asheville through a private contractor recently installed a new 24-inch water line along the center of McCauley Drive. The City of Asheville Water Department is responsible to mill and resurface the entire length of McCauley Drive as a part of the water line project. Prior to the water line construction, McCauley Drive had been completed including the final surface course during August 2007.

Florence Street from the end of existing city maintenance to White Fawn Drive is a developer-constructed street that has an average width of 23 feet with 18-inch curb and gutter, a length of 0.15 mile, and a right-of-way width of 28 to 56 feet.

Veronica Lane from Florence Street to a point 0.13 mile south of Florence Street is a developer-constructed street that has an average width of 19 feet 18-inch curb and gutter, a length of 0.13 mile, and a right-of-way width of 30 feet.

Transportation and Engineering Department staff and Public Works Department staff inspected these streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. The developer has completed repairing a punch list of items that were identified by Public Works Staff.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

This action complies with the City Council 2008-09 Strategic Operating Plan within the Sustainable Focus Area by accepting street infra-structure to help support the healthy growth of the City.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the streets.
- The streets provide access and connectivity in a residential community and a professional business park.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the streets.

- There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets. Currently, the Powell Bill Funds equate to \$6,326 per mile compared to the City's maintenance cost of \$18,189 per mile.

- Staff recommends that City Council accept the subject streets as city-maintained streets.

**RESOLUTION BOOK NO. 32 – PAGE 146**

**C. RESOLUTION SUPPORTING THE “HONOR AND REMEMBER” FLAG AS AN OFFICIAL SYMBOL TO RECOGNIZE AND HONOR MEMBERS OF THE ARMED FORCES WHO HAVE DIED IN THE LINE OF DUTY, AND URGING THE UNITED STATES CONGRESS TO ADOPT THIS FLAG AS A NATIONAL SYMBOL**

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

**D. RESOLUTION NO. 09-162 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO LEASE GROUND AND TOWER SPACE AT THE UPPER TOWER TO NORTH CAROLINA RSA #4 (D/B/A US CELLULAR) AT 166 RESERVOIR ROAD FAWN**

Summary: The consideration of a resolution authorizing the Mayor to execute a Lease Agreement with North Carolina RSA #4, Inc. (d/b/a US Cellular) for ground and tower space at 166 Reservoir Road.

The property at 166 Reservoir Road known as White Fawn Reservoir is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunication with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City of Asheville leases antenna space on the towers and ground space for related equipment.

North Carolina RSA #4, Inc. (d/b/a US Cellular) is an existing tenant at 166 Reservoir Road and operates a main telephone switching office at the eastern tower, currently housed in a 2476 square foot brick building, with several antenna and dishes on the tower. The proposal to enter into a new lease accompanies the request to expand the current ground lease footprint to accommodate a proposed building expansion to a total size of 4,953 square feet, with no additional telecom equipment to be added to the tower. In order to compensate the City for the increased ground lease area, the payment schedule is based on \$34,200 per annum with 4% annual escalations and the following in-kind services: a turn-key climate controlled telco room built to the City's specifications (240 square feet) to house the City's public safety equipment, a back up generator for the telco room, and North Carolina RSA #4, Inc. to pay the associated electric costs and generator maintenance costs. The proposed term for this lease is for a period of ten years.

The payment schedule was determined by gathering and comparing telecom rate structures used by other municipalities across the state, including the Cary, Hickory, Charlotte and others. Formal findings were presented to the Planning and Economic Development Commission on August 20, 2008. Results indicate that base fee of \$30,000 per annum represents fair market value for a basic type of telecommunications installation. North Carolina RSA #4, Inc. will be paying a higher rate plus additional in-kind due to the size and scope of their proposed use.

Please note that City staff invited North Carolina RSA #4, Inc. to perform outreach to the neighboring property owners regarding the building expansion. To date, outreach has been completed and North Carolina RSA #4, Inc. has adequately addressed feedback. Along with the expansion, other site improvements include burying overhead electric transmission lines, relocation of power generators to reduce noise, and additional plantings in landscaped buffer area.

The Notice of Intent to enter into a Lease Agreement with North Carolina RSA #4, Inc. was published on July 31, 2009, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested.

Regarding the City Council Strategic Operating Plan, strategic tower asset management, through proper management of tenant agreements, presents the City with revenue enhancements. These revenue enhancements can help the City's telecommunications operations become more sustainable, while promoting fiscal responsibility.

Several new tenant leases were executed in Fiscal Year 2009. A portion of this additional revenue has been planned to underwrite a cost savings plan for the City's own telecommunication operations. Specifically, the City is planning on utilizing an estimated \$80,000 of these new revenue enhancements to re-locate equipment from the Spivey Mountain site (where the City pays \$29,000 per year with a 7% escalation each year) to the White Fawn site (owned by the City). This re-engineering was proposed in the FY09 budget, and once implemented, will promote significant cost savings to the City over time. This proposal from North Carolina RSA #4, Inc. includes an additional component essential to this effort: the telco room. This telco room will house the public safety equipment that will be relocated from Spivey.

This item has been reviewed by the Council's Planning and Economic Development Committee on July 15, 2009, and has received the Committee's endorsement.

Pros:

- Enhanced revenue through the lease income
- Telco room for the City's needs is built turn-key; with no additional capital outlay required from the City
- Underwrites long term cost savings plan for telecommunications

Con:

- None

The fiscal impact is as follows: (1) Fiscal Year 2010: \$34,200 revenue; (2) Beyond Fiscal Year 2010: Additional revenue stream based on initial rate of \$34,200 per year with 4% escalation per year; and (3) Beyond Fiscal Year 2010: Resulting savings of initial rate of \$29,000 per year with 7% rent escalations.

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the lease agreement with North Carolina RSA #4, Inc. on behalf of the City of Asheville.

**RESOLUTION BOOK NO. 32 – PAGE 149**

**E. RESOLUTION NO. 09-163 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE EASEMENT CALLING FOR THE INSTALLATION AND UPGRADE OF ELECTRIC POWER UTILITY LINES ACROSS PROPERTY AT THE AIRPORT**

Summary: The consideration of a resolution authorizing the Mayor to execute an easement for the installation and upgrade of electric power utility lines across property at the Airport.

The land on which the Asheville Regional Airport is located is owned by the City of Asheville. It is leased to the Airport Authority. The facilities on the north side of the airport – primarily general aviation – are being upgraded, and new facilities are being constructed. This activity requires the upgrading of electric utility service, including the installation of some new facilities.

According to the “Project Layout and Safety Plan,” the lines and facilities will be installed primarily along Wright Brothers Way and Aviation Drive, and to facilities that use these roads for access. The installation is substantially underground, with a few junction cabinets and pad-mounted transformers above ground. The plan has been approved by the Authority’s project manager and general manager.

This action complies with the City’s Strategic Operating Plan in that it contributes to the development of a multimodal transportation program, supports sustainable economic development, and contributes to Asheville’s role as a regional economic and service center.

The requested action is consistent with the Airport’s Master Plan.

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Pros:

- Facilitates development of Airport
- Lines will be mostly underground

Con:

- None noted

The fiscal impact is indirect; increases potential for revenue at Airport.

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Adoption of the resolution is recommended.

**RESOLUTION BOOK NO. 32 – PAGE 150**

**F. RESOLUTION NO. 09-164 - RESOLUTION AUTHORIZING THE EXECUTION OF AN EASEMENT ON FAIRWAY DRIVE TO PERMIT CONSTRUCTION OF SEWER LINE IMPROVEMENTS BY METROPOLITAN SEWERAGE DISTRICT**

Summary: The consideration of a resolution authorizing the execution of an easement to permit construction of sewer line improvements by Metropolitan Sewerage District (MSD).

: MSD is proposing to replace a sewer line in the Beverly Hills area; specifically along Fairway Drive and Gladstone Road. In addition to constructing / replacing the line in the travelled portion of Fairway Drive, some of the work will occur on City property (golf course) adjacent to the right-of-way, and this is the area for which the easement is sought. The requested easement is actually for two separate areas, and involves permanent easements 20 feet wide centered on the sewer line, together with construction easements of 20 feet (easement #1) and 15 feet (easement #2) on either side of the permanent easement.

As noted, sewer lines and manholes already exist in these areas, installed many years ago, but as is frequently the case, there are no recorded easements for them. The requested easements would be recorded.

Construction of this project is scheduled for 2012, and MSD has indicated that it will work with the City to minimize disruption to City operations at the golf course during the process.

This action complies with the “Sustainable” element of the City’s Strategic Plan in that it addresses the City’s aging infrastructure.

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Pro:

- Will improve sewer service in the area, including a City facility

Con:

- Potential minimal disruption of golf course activity

The fiscal impact would be neutral.

Adoption of the resolution is recommended.

#### **RESOLUTION BOOK NO. 32 – PAGE 152**

#### **G. RESOLUTION NO. 09-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT AMENDMENT WITH CARL WALKER PARKING INC. FOR CIVIC CENTER PARKING GARAGE RESTORATION**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract amendment with Carl Walker Parking Inc. in the amount of \$4,537.57 to cover additional costs for engineering services for Civic Center Parking Garage restorations.

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

During fall of 2006 Parking Services sent out a Request for Proposal to interested firms to provide engineering services for the restoration of Civic Center Parking Garage. The scope of work included a detailed assessment of the condition of the facility, preparation of working drawings, preparation of bid package for general contractors, and supervision of the restoration work. Carl Walker Parking, Inc., of Detroit, Michigan, was selected as the most qualified and responsive of the firms responding. On April 24, 2007, Council authorized the City Manager to sign a contract with Carl Walker Parking, Inc., for \$75,000.00, for engineering services and associated expenses with the project. A contract was signed between the parties in May 2007.

The project was completed in November 2008. However, the increase in air fares plus additional trips to Asheville from the Midwest resulted in increased cost in the amount of \$4,537.57 in engineering fees and expenses. The extra trips were caused primarily from additional inspections as a result in delays in completing the project.

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

Pro:

- This action will complete the project of restoration of the Civic Center parking garage.

Con:

- None noted.

Funds are available in the Parking Fund to pay for this amendment.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a contract amendment with Carl Walker Parking, Inc in the amount of \$4,537.57 for engineering services to complete Civic Center Parking Garage restoration.

#### **RESOLUTION BOOK NO. 32 – PAGE 154**

#### **H. ORDINANCE NO. 3762 - BUDGET AMENDMENT TO REPROGRAM EXISTING CAPITAL FUNDING TO COVER COSTS OF A NEW TRANSFORMER AND REPAIRS TO THE BASKETBALL FLOOR**

Summary: This is the consideration of a budget amendment, in the amount of \$45,000, to cover costs of a new transformer and repairs to the basketball floor.

The transformer has already been budgeted in the CIP. Additional research on the size and scope of the project warrants

an additional \$20,000 to complete. Additionally, the basketball floor is in need of repairs and refinishing at an estimated cost of \$25,000. This was not realized until the 2009-10 Capital Improvement Plan (CIP) had been approved. All funds for these two projects will be pulled from other current Civic Center CIP projects. This is a request for reprogramming of capital funding that was previously approved for other Civic Center capital projects and not a request for new funds.

This action complies with the City Council Strategic Operating Plan in that it addresses the city's aging infrastructure and improves the customer experience at the Civic Center.

The Civic Center Commission met August 4, 2009, and overwhelmingly supports staff's recommendation.

Pros:

- Improvement in infrastructure
- Improvement of customer experience at the Civic Center

Con:

- None noted

This is a request for reprogramming of existing capital funding, not a request for new funds.

City staff recommends City Council adopt a budget amendment in the amount of \$45,000, to cover costs of a new transformer and repairs to the basketball floor.

#### **ORDINANCE BOOK NO. 25 – PAGE 355**

##### **I. BUDGET AMENDMENT FROM BUNCOMBE COUNTY TO SUPPORT THE CAPACITY FOR THE HOMELESS INITIATIVE PROJECT**

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

##### **J. ORDINANCE NO. 3764 - BUDGET AMENDMENT TO ACCEPT DONATED FUNDS FOR PROCUREMENT OF SUPPLIES FOR FIREFIGHTER RECOGNITION**

Summary: This is the consideration of a budget amendment, in the amount of \$3,000, to receive donated money from citizens for procurement of supplies for the purpose of firefighter recognition.

The Asheville Fire and Rescue Department has received donations from private citizens for the purpose of firefighter recognition. These donations have been received throughout Fiscal Year 2008-09. The department would like to use these funds to purchase supplies for the annual September 11<sup>th</sup> recognition program as well as to purchase holiday meals for on-duty firefighters during the months of November and December.

This action complies with the City Council Strategic Operating Plan in that it helps to attract and retain quality employees and to ensure operational effectiveness by paying sound wages and benefits.

Pros:

- This action allows for recognition of firefighters without utilizing city tax funds.
- This action also provides for utilization of these funds as the donating citizens intended.

Con:

- None identified

These funds have been obtained through donations from private citizens.

City staff recommends City Council approve the budget amendment to receive donated money from citizens.

#### **ORDINANCE BOOK NO. 25 – PAGE 359**

##### **K. ORDINANCE NO. 3765 - BUDGET AMENDMENT TO ACCEPT CONTRIBUTION FROM BUNCOMBE COUNTY FOR THE OPERATION OF THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Summary: This is the consideration of a budget amendment, in the amount of \$5,000, to accept a contribution from

Buncombe County for the operation of the Historic Resources Commission.

The Historic Resources Commission operates both within the corporate limits of the City of Asheville and the unincorporated areas of Buncombe County with responsibility to protect the historic resources of both jurisdictions. The funding from Buncombe County will help to support the work of the Commission in carrying out its mission.

This action complies with the City Council 2009-2010 Strategic Operating Plan Fiscal Responsibility Focus Area in that the City and County share in the services provided by the HRC and with the Sustainable Focus Area in that the funding will help support implementation of the Downtown Master Plan.

Pro:

- Will provide funding to match a grant application to update the downtown National Register District and augment funding for training and educational programs.

Con:

- None noted.

This action will allow the Buncombe County to participate in the fiscal responsibility of operating the joint City/County Commission.

City staff recommends that City Council approve a budget amendment, in the amount of \$5,000, to accept the contribution from Buncombe County to support the work of the Historic Resources Commission.

#### **ORDINANCE BOOK NO. 25 – PAGE 361**

#### **L. ORDINANCE NO. 3766 - BUDGET AMENDMENT TO USE FEDERAL DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND IMPROVEMENTS AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT**

Summary: This is the consideration of a budget amendment, in the amount of \$152,167, to authorize the use of Federal Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department.

The federal drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the federal government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 20% going to the federal agency adopting the seizure and 80% going to the local law enforcement agency initiating the seizure. The City of Asheville Police Department has received \$152,167 in federal drug seizure funding. This proposed budget amendment would authorize the use of this funding for critical improvements, training, and equipment purchases for the Asheville Police Department.

Among the items slated for purchase with this funding include: 1) Central Records unit security upgrades ; 2) Purchase of Radar and Lidar Units for patrol units; 3) Training and travel for law enforcement training related to OCEAN video enhancement, 4) Upgrades to the Briefing Room to allow for a fixed audio/video system, 5) ERT/EOD transport vehicle; 6) covert camera system for undercover operations; 7) TASERs to enhance officer safety; 8) computers for Forensic Unit; 9) other training equipment not covered by the APD operating budget.

This action conforms to the City Council's Strategic Operating Plan under 1) Fiscal Responsibility in that we are using drug seizure monies to enhance the APD's equipment and training needs that would otherwise not be funded, and 2) Safe City in that providing the various equipment and training allows our employees to be more professional and more effective in proactively enforcing and preventing criminal activity.

Pro:

- Federal seizure revenues to cover the cost of equipment and training related to street level drug enforcement and community policing activities

Con:

- None noted

The fiscal impact is the increase of \$152,167 for training and equipment. Accepting these funds is a significant financial benefit to the APD allowing us to better train and equip our employees. There is no impact to the General Fund budget.

City staff recommends City Council adopt the budget amendment in the amount of \$152,167, to authorize the use of Federal Drug Seizure Funds to purchase equipment and training for the Asheville Police Department.

#### **ORDINANCE BOOK NO. 25 – PAGE 363**

**M. ORDINANCE NO. 3767 - BUDGET AMENDMENT TO USE NORTH CAROLINA STATE DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND IMPROVEMENTS AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT**

Summary: This is the consideration of a budget amendment, in the amount of \$128,121, to authorize the use of North Carolina State Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

The City of Asheville Police Department has received \$128,121 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to purchase drug enforcement equipment, training, and improvements not covered by the APD operating budget. Items to purchase include: 1) MCT upgrades; 2) Police Bicycles; 3) Policy Management Software; 4) Handgun Upgrades; and 5) Training related to Crowd Control and Crash Data Retrieval or other training for employees.

This action conforms to the City Council's Strategic Operating Plan under 1) Fiscal Responsibility in that we are using drug seizure monies to enhance the APD's equipment and training needs that would otherwise not be funded, and 2) Safe City in that providing the various equipment and training allows our employees to be more professional and more effective in proactively enforcing and preventing criminal activity.

Pro:

- North Carolina State drug seizure revenue used to fund drug enforcement equipment, training, and improvements at no cost to city taxpayers.

Con:

- None noted

The fiscal impact is the increase of \$128,121 for training and equipment. Accepting these funds is a significant financial benefit to the APD allowing us to better train and equip our employees. There is no impact to the General Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment, in the amount of \$128,121, authorizing the use of North Carolina State Drug Seizure Funds to fund drug enforcement equipment, training and other improvements for the Asheville Police Department.

**ORDINANCE BOOK NO. 25 – PAGE 365**

**N. RESOLUTION NO. 09-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MICHAEL BAKER ENGINEERING INC. FOR THE REYNOLDS MOBILE HOME PARK WATER SYSTEM IMPROVEMENTS PROJECT**

Summary: This is the consideration of a resolution authorizing the City Manager to sign a contract with Michael Baker Engineering, Inc. for engineering services in the amount of \$72,184.00 for the Reynolds Mobile Home Park Water System Improvements Project.

Grant Funds from the North Carolina Department of Environment and Natural Resources (NCDENR) North Carolina Water Infrastructure Act of 2005 (N.C.G.S. 150G) are available for this project and were approved by City Council on July 14, 2009, by Resolution No. 09-147.

The City of Asheville has received a grant from NCDENR to replace the existing, private, failing water system at the Reynolds Mobile Home Park. Upon completion of the water system improvements project, the City of Asheville will own and maintain this new water system. The Water Resources Department (WRD) issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Reynolds Mobile Home Park Water System Improvements Project. In response to that RFQ, the WRD received thirteen (13) proposals.

Companies responding were:

1. Land Design, Asheville, NC
2. TGS Engineers, Morganton, NC
3. Gavel & Dorn Engineering, Denver, NC



4. William G. Lapsley & Associates, Asheville, NC
5. Brooks Engineering Associates, Asheville, NC
6. Civil Design Concepts, Asheville, NC
7. Davis Civil Solutions, Asheville, NC
8. Crain Atlantis Engineering, Charlotte, NC
9. Vaughn & Melton Consulting Engineers, Asheville, NC
10. Ocmulgee Site & Environmental Services, Perry, Georgia
11. R. Joe Harris & Associates, Fort Mill, SC
12. McGill Associates, Asheville, NC
13. Michael Baker Engineering, Asheville, NC

A review team, comprised of staff from multiple City Departments including James Lee, the City of Asheville Minority Business Coordinator, reviewed these proposals and selected the firm of Michael Baker Engineering, Inc. Subsequent to this selection, Water Resources staff have met with Michael Baker Engineering representatives and have negotiated an Engineering Services Contract in the amount of \$72,184.00. This amount is fully reimbursable by the committed grant money.

This project is part of City Council's strategic plans to improve city infrastructure.

Pros:

- Michael Baker Engineering's proposal impressed the review staff with their experience, technical expertise and knowledge about the Reynolds Mobile Home Park situation.
- The project engineer for Michael Baker has worked with the City of Asheville on multiple water system improvements and is familiar with the City of Asheville Design Standards. This experience and familiarity will minimize staff support and input during the design process.
- Expenditure of this grant-reimbursable expense is necessary in the preparation of Contract Documents for the Reynolds Mobile Home Park Water System Improvements Project.
- This project will provide 37 existing homes with a safe reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services contract would lead to forfeiture of the NCDENR grant and the existing failing private water system would not be upgraded.

The Water Resources Department will initially fund the Engineering costs until reimbursement is received from the State. Funds for these upfront costs are allocated in this fiscal year's Capital Improvement Projects budget.

City staff recommends City Council approval of the City Manager signing a contract agreement with Michael Baker Engineering, Inc. for the Reynolds Mobile Home Park Acres Water System Improvements Project.

**RESOLUTION BOOK NO. 32 – PAGE 155**

**O. RESOLUTION NO. 09-167- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES PA, FOR THE VIEWMONT ACRES SUBDIVISION WATER SYSTEM IMPROVEMENTS PROJECT**

Summary: This is the consideration of a resolution authorizing the City Manager to sign a contract with McGill Associates, PA for engineering services in the amount of \$68,450.00 for the Viewmont Acres Water System Improvements Project.

Grant Funds from the North Carolina Department of Environment and Natural Resources (NCDENR) North Carolina Water Infrastructure Act of 2005 (N.C.G.S. 150G) are available for this project and were approved by City Council on July 14, 2009, by Resolution No. 09-147.

The City of Asheville has received a grant from NCDENR to replace the existing, private, failing water system at the Viewmont Acres Subdivision. Upon completion of the water system improvements project, the City of Asheville will own and maintain this new water system. The Water Resources Department (WRD) issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Viewmont Acres Water System Improvements Project. In response to that RFQ, the WRD received thirteen (13) proposals.

Companies responding were:

1. Land Design, Asheville, NC

2. TGS Engineers, Morganton, NC
3. Gavel & Dorn Engineering, Denver, NC
4. William G. Lapsley & Associates, Asheville, NC
5. Brooks Engineering Associates, Asheville, NC
6. Civil Design Concepts, Asheville, NC
7. Davis Civil Solutions, Asheville, NC
8. Crain Atlantis Engineering, Charlotte, NC
9. Vaughn & Melton Consulting Engineers, Asheville, NC
10. Ocmulgee Site & Environmental Services, Perry, Georgia
11. R. Joe Harris & Associates, Fort Mill, SC
12. McGill Associates, Asheville, NC
13. Michael Baker Engineering, Asheville, NC

A review team, comprised of staff from multiple City Departments including James Lee, the City of Asheville Minority Business Coordinator, reviewed these proposals and selected the firm of McGill Associates, PA. Subsequent to this selection, Water Resources staff have met with McGill Associates and have negotiated an Engineering Services Contract in the amount of \$68,450.00. This amount is fully reimbursable by the committed grant money.

This project is part of City Council's strategic plans to improve city infrastructure.

Pros:

- McGill Associates has provided Engineering Services on numerous water system improvement projects for the City of Asheville.
- McGill's experience and knowledge of our water system will minimize staff support and input during the design process.
- Expenditure of this grant-reimbursable expense is necessary in the preparation of Contract Documents for the Viewmont Acres Water System Improvements Project.
- This project will provide 23 existing homes with a safe reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services contract would lead to forfeiture of the NCDENR grant and the existing failing private water system would not be upgraded.

The Water Resources Department will initially fund the Engineering costs until reimbursement is received from the State. Funds for these upfront costs are allocated in this fiscal year's Capital Improvement Projects budget.

City staff recommends City Council approval of the City Manager signing contract agreement with McGill Associates, PA for the Viewmont Acres Water System Improvements Project.

**RESOLUTION BOOK NO. 32 – PAGE 156**

**P. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO ACCEPT SUB-GRANTEE FUNDS FROM THE N.C. GOVERNOR'S CRIME COMMISSION FOR A JOINT GANG VIOLENCE PREVENTION PROJECT**

**BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION FOR THE GANG VIOLENCE PREVENTION PROJECT**

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

**Q. RESOLUTION APPROVING THE PRIORITY OF UNFUNDED IMPROVEMENTS AT MEMORIAL STADIUM AND UNFUNDED ENHANCEMENTS AT THE VETERANS MEMORIAL**

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

**R. RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE GREEK FESTIVAL**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT JUST BECAUSE YOU'RE ASHEVILLE**

These items were removed from the Consent Agenda for individual votes.

**S. RESOLUTION NO. 09-180 – RESOLUTION REQUESTING THAT THE OTEEN POST OFFICE REMAIN OPEN  
RESOLUTION BOOK NO. 32 – PAGE 186**

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

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

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

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

**C. RESOLUTION NO. 09-161 - RESOLUTION SUPPORTING THE “HONOR AND REMEMBER” FLAG AS AN OFFICIAL SYMBOL TO RECOGNIZE AND HONOR MEMBERS OF THE ARMED FORCES WHO HAVE DIED IN THE LINE OF DUTY, AND URGING THE UNITED STATES CONGRESS TO ADOPT THIS FLAG AS A NATIONAL SYMBOL**

Summary: Asheville City Council is considering a resolution supporting the “Honor and Remember” flag as an official symbol to recognize and honor members of the armed forces who have died in the line of duty, and urging the United States Congress to adopt this flag as a national symbol. The purpose of this memorandum is to provide information on appropriate flag protocol according to the United States Code Title 1 Chapter 4, and Honor and Remember, Inc.

- When flying multiple flags from one staff:
  - the flag of the United States of America should be flown at the highest point,
  - the state flag of North Carolina should be flown next
  - local or honor flags should be flown third
- When flying multiple flags from two staffs:
  - the flag of the United States of America should be flown at the highest point
  - the state flag of North Carolina should be flown to the US flag's left (viewers right)
  - local or honor flags should be flown under the NC flag
- When flying multiple flags from three staffs:
  - the flag of the United States of America should be flown at the highest point and in the front, center staff
  - the state flag of North Carolina should be flown to the US flag's left (viewers right)
  - local or honor flags should be flown to the US flag's right (viewer's left)
- The “Honor and Remember” flag should be smaller than the flag of the United States of America with which it flies.

Mr. Josh O'Conner thanked City Council for their support of this resolution.

Councilman Mumpower suggested that this flag fly at Memorial Stadium.

Councilman Newman moved for the adoption of Resolution No. 09-161 and directed City staff to fly the flag at Memorial Stadium. This motion was seconded by Vice-Mayor Davis and carried unanimously.

**RESOLUTION BOOK NO. 32 – PAGE 148**

**I. ORDINANCE NO. 3763 - BUDGET AMENDMENT FROM BUNCOMBE COUNTY TO SUPPORT THE CAPACITY FOR THE HOMELESS INITIATIVE PROJECT**

Summary: This is the consideration of a budget amendment, in the amount of \$12,000, authorizing the Community Development Division of the Planning Department to accept additional funds from Buncombe County to support the capacity of Homeless Initiative project.

In order to accommodate for the growing needs of the Homeless Initiative, Buncombe County has offered the project \$12,000 to pay for AmeriCorps\*VISTA and Work-study positions. The positions would be dedicated to increasing the capacity of the Homeless Initiative and strengthening projects of the Homeless Coalition and Homeless Initiative Advisory Group.

The following outcomes would need to be met if funding is accepted:

*Retain 2 AmeriCorps workers (or other workers) for up to 1,200 hours to support the Asheville-Buncombe Homeless Initiative, providing services for projects such as the SOAR disability project, Homeless Coalition, etc.*

This action complies with the Strategic Operating Plan in that it meets the affordability goal objective to support initiatives to end homelessness. Accepting this funding will help the Homeless Initiative support the 10-Year Plan to End Homelessness process and collect data that can be used by the City Council when evaluating initiatives designed to end homelessness.

Pro:

- In tight budget times, funds to further the work of the Homeless Initiative can enhance the services it offers to the community.

Con:

- No apparent cons.

This will add \$12,000 to the Homeless Initiative budget. These additional funds will fully support the costs of the AmeriCorps or work-study personnel.

City staff recommends City Council adopt a budget amendment accepting the \$12,000 awarded to the Homeless Initiative by Buncombe County for capacity building.

Councilman Mumpower was concerned that we are using research to chase policy and could not support this investment.

Councilwoman Cape moved for the adoption of Ordinance No. 3763. This motion was seconded by Councilman Miller and carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

**ORDINANCE BOOK NO. 25 – PAGE 357**

**P. RESOLUTION NO. 09-168 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO ACCEPT SUB-GRANTEE FUNDS FROM THE N.C. GOVERNOR'S CRIME COMMISSION FOR A JOINT GANG VIOLENCE PREVENTION PROJECT**

**ORDINANCE NO. 3768 - BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION FOR THE GANG VIOLENCE PREVENTION PROJECT**

Summary: This is the consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Buncombe County to accept sub-grantee funds from the NC Governor's Crime Commission for a joint Gang Violence Prevention Project; and (2) a budget amendment, in the amount of \$57,300, accepting the funds.

The Asheville Police Department (APD) has entered into an agreement with Buncombe County Gang Violence Prevention

Project (BCGVPP) to receive funds for overtime and equipment to address gangs within Buncombe County. The BCGVPP consists of the Buncombe County Sheriff's Department, The Mediation Center, YWCA-Support Our Students, YWCA-Future Vision Program, Up Front Sports Agency, Partners Unlimited – New Day Program, Asheville Green Opportunity Corps (GO), Western Carolinian's for Criminal Justice – Men's Program, River of Life Church – Impact Tutoring, Asheville High School – ASPIRE program, and Horse Sense of the Carolinas.

This grant will be administered by Buncombe County.

The APD plans to purchase 2 video cameras, 2 digital cameras, 2 window tint meters, 2 alco-sensors, 2 X-26 Tasers, 20 Taser Cartridges, In-car digital video camera, a cellular equipment, and rental for a copier/scanner/Fax for 24 months. The equipment costs are a total of \$20,900.

The APD will also provide 2 gang Detectives and 3 Officers to work overtime toward this project over a 104 week period for a total cost of \$36,400.

The total grant funds total \$57,300.

This is an 25% matching grant (cumulative of all partners) that will enable the APD to greatly improve the mentoring, education and enforcement efforts related to gang activities in partnership with multiple agencies focused improve our community and children's lives. Due to other partners contributing more, APD is only matching at about 18.3% (\$14,325).

This action complies with City Council's Strategic Operating Plan in the Focus Area - Safe - Asheville will be one of the safest and most secure communities when compared to similar cities.

Pros:

- Partnerships formed with multiple agencies aimed to mentor youth and improve our communities.
- Providing alternative to judicial system / incarceration for youth.
- Enhanced community supervision for at risk youth.
- Reduce gun crime / violent crime associated with gang activity.

Con:

- Matching funds of \$14,325; however, funds can be absorbed in the overtime budget.

There is a fiscal impact of \$14,325 for matching funds. These funds can be absorbed in the overtime budget which will ultimately be increased as a result of these partnership funds.

City staff recommends City Council (1) adopt a resolution authorizing the City Manager to enter an agreement with Buncombe County for NC Governor's Crime Commission funds; and (2) adopt the budget amendment in the amount of \$57,300.

Councilman Mumpower was troubled with the dysfunctional court system and felt that the state should use those funds for that purpose and let the City use it's own funds on the gang violence prevention project.

Councilwoman Cape explained that there must be a multi-prong approach in solving these issues and supported the actions.

Councilman Newman moved for the adoption of Resolution No. 09-168. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **RESOLUTION BOOK NO. 32 – PAGE 157**

Councilwoman Cape moved for the adoption of Ordinance No. 3768. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE 367**

#### **Q. RESOLUTION NO. 09-169 - RESOLUTION APPROVING THE PRIORITY OF UNFUNDED IMPROVEMENTS AT MEMORIAL STADIUM AND UNFUNDED ENHANCEMENTS AT THE VETERANS MEMORIAL**

Summary: This report provides a summary of project-to-date expenditures related to the Memorial Stadium and Veterans Memorial capital improvement plan, and includes a resolution asking Council to establish funding priorities for future project

expenditures related to this plan.

Improvements to Memorial Stadium and the Veterans Memorial (located at the stadium) have been made in phases as funding has become available.

#### Memorial Stadium

Specific improvements that have been completed to date include installation of synthetic turf and field lights on the sports field and construction of a playground. A total of \$493,980 has been spent on these improvements, with funding coming primarily from donations and general fund.

Additional improvements and renovations planned for Memorial Stadium are currently unfunded. They include concrete bleachers, press box, practice field, basketball court, fitness trail, picnic pavilion, ticket booth, entrance wall and sign, entrance columns and fencing, gates and fencing, sidewalks, landscaping and parking lots. These improvements are shown in priority order in the table below and are based on the following criteria: 1) health, safety and welfare of customers when using the park, 2) highest and best function of park features for majority of park customers, and 3) enhances the customers experience when using the park. The cost for Memorial Stadium improvements is based on the cost estimate produced by Aiken Cost Consultants in September 2007.

Memorial Stadium Improvements Complete: Synthetic turf on sports field, field lights, playground

Priority of Memorial Stadium Unfunded Improvements:

<b>Priority 1</b>	
Concrete Bleachers Restoration	\$ 185,700
Press Box	251,000
South Parking Lot	95,600
North Parking Lot	120,300
Sidewalks	22,100
Gates and Fencing	51,200
<b>Priority 2</b>	
Basketball Court	8,500
Fitness Trail	42,900
Picnic Pavilion	28,300
Landscaping	50,000
<b>Priority 3</b>	
Practice Field	18,100
Ticket Booth	108,000
Entrance Wall and Sign	17,800
Entrance Columns and Fencing	94,400
<b>TOTAL</b>	<b>\$ 1,093,900</b>

Cost based on the cost estimate produced by Aiken Cost Consultants in September 2007

#### Veterans Memorial

The improvements completed to date at the Veterans Memorial include brick arch restoration, court yard, seating area, World War I and II wall, brick columns and scatter garden, flag poles, fencing and landscaping. Enhancements in the Veterans Memorial design that remain unfunded include scatter garden bronze plaques, war bronze plaques, brick walls, western North Carolina counties bronze plaques, benches, electric conduit, lights and irrigation. A total of \$247,500 has been spent on these improvements, with funding coming from a U.S. Department of Housing and Urban Development special projects grant.

The Veterans Memorial table below represents the unfunded enhancements. No priority order has been established for designated to these enhancements; as such, they can occur in any order as full funding becomes available. Staff estimates for the cost for the Veterans Memorial enhancements were completed in June 2009.

Veterans Memorial Features Complete: Brick arch restoration, court yard, seating area, World War I and II wall, brick columns and scatter garden, flag poles, fencing and landscaping

Veterans Memorial Unfunded Enhancements:

2 War Bronze Plaques	\$ 5,500
17 Western NC County Bronze Plaques	29,000
5 War Bronze Plaques and Brick Walls	22,500
Garden Irrigation	2,500
3 Scatter Garden Bronze Plaques	8,250
Electric Conduit and Lights	2,500
2 Benches	4,000
<b>TOTAL</b>	<b>\$ 74,250</b>

Cost based on general cost observation by City staff in June 2009

The estimated cost for both Memorial Stadium and the Veterans Memorial does not include general contractor overhead. Cost is subject to change due to the actual final design of certain features, contingency, inflation and the economy at the time the work actually occurs.

At its regular meeting on July 13, 2009, the Recreation Board reviewed the priority of unfunded improvements at Memorial Stadium, and the unfunded enhancements at the Veterans Memorial and unanimously approved establishment of this list as a guide for future capital expenditures. The following motions were approved by the Recreation Board: (1) To support to the prioritization of the Memorial Stadium unfunded feature; and (2) To support the unfunded non-prioritized Veterans Memorial enhancements given that the monies are raised outside of city funds and that Councilman Mumpower continue his fundraising leadership.

Staff seeks City Council endorsement of the resolution establishing the list of unfunded priorities.

Pros:

- Provides a prioritized list of improvements for Memorial Stadium, and enhancements for the Veterans Memorial as full funding becomes available
- Serve as a guide and reference list for future funding and fundraising activities

Cons:

- None

No funding is currently allocated in the Parks, Recreation & Cultural Arts FY 2009-2010 capital improvement budget to fund improvements as outlined in staff report.

Staff recommends City Council to adopt a resolution authorizing the City Manager to approve 1) priority of unfunded improvements at Memorial Stadium, and 2) the unfunded enhancements at the Veterans Memorial.

Mayor Bellamy, member of the Finance Committee, noted that in the past we have had committees say they would raise money but that did not happen. She felt that if we are going to partner with any entity to raise money for this or any other park, that we should have a formalized agreement/process.

Councilman Mumpower noted that the improvements at the Veterans Memorial were not built primarily with a federal grant, but with private dollars. He said that he met with the Recreation Board and discussed a willingness to continue trying to raise private dollars. He has met with someone earlier this week who is willing to fund the scatter garden. He felt it was extremely important to move forward on these improvements and asked for Council's endorsement of support for his personal efforts to (1) raise money for improvements at the memorial part of Memorial Stadium; and (2) get the stories from every county in western North Carolina to be portrayed there.

Mayor Bellamy had no concern of Councilman Mumpower raising funds, but it should be through a partnership similar to other committees.

Councilman Mumpower said that 90% of the money raised for Memorial Stadium either directly or indirectly came from the specific actions of the Memorial Stadium Restoration Committee under his leadership. They honored their promise not to use City tax dollars. He would be happy to meet with the Boards & Commissions Committee to discuss a framework for a small committee. He would be happy to chair that small committee and move it forward.

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that referring this to the Boards & Commissions Committee is not consistent with what that Committee does. He felt this would be more of a Task Force, through the Parks &

Recreation Department, whose service would be concluded fairly quickly.

Mayor Bellamy said that the Parks & Recreation Director is in the process of developing a partnership agreement with different entities. The Finance Committee received a report on co-sponsorships and we are asking our departments to be in line with the process that is clear and transparent. She felt that Councilman Mumpower's commitment to raise funds should fall under this formalized process so all expectations are clear and that staff is aware of the parameters which the relationship is developed.

Councilman Mumpower noted that he did receive unanimous endorsement from the Recreation Board to continue his fundraising. He suggested a committee of four people, most of those being former members of the Memorial Stadium Restoration Committee, meet with City staff and discuss some parameters of working with the Parks & Recreation Department. After meeting, City staff can then report back to Council. Mayor Bellamy asked that City Manager Jackson or his designee be a part of that meeting.

Councilman Russell moved for the adoption of Resolution No. 09-169 approving the priority of unfunded improvements at Memorial Stadium and unfunded enhancements at the Veterans Memorial. This motion was seconded by Councilman Newman.

City Manager Jackson felt this is a two-step process - (1) approval of the priority of unfunded improvements; and (2) Mayor's desire to get clarity on the Task Force for their role and responsibilities, work plan, etc. He or his designee was asked to work with Councilman Mumpower and that Task Force to review the work plan. Once that is accomplished, it will be brought back to either the Boards & Commissions Committee or to the full Council at a later date.

Councilman Mumpower felt that we create that intentional process for fundraising and would not act on that fundraising until he has Council's support.

Vice-Mayor Davis asked for a friendly amendment to endorse Councilman Mumpower's fundraising effort with him developing and leading a Task Force which efforts will be reported to the Boards & Commissions Committee on a timely basis.

Councilman Russell and Councilman Newman both accepted the friendly amendment.

Councilman Newman asked for a breakdown the \$493,980 of private and public monies for Memorial Stadium. City Manager Jackson did not have that information, but would provide Council a detailed report, including the identification of funding sources.

When Mayor Bellamy asked for a vote on the amended motion, it carried unanimously.

#### **RESOLUTION BOOK NO. 32 – PAGE 158**

**R. RESOLUTION NO. 09-170 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL**

**RESOLUTION NO. 09-171 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL**

**RESOLUTION NO. 09-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST**

**RESOLUTION NO. 09-173 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL**

**RESOLUTION NO. 09-174 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE GREEK FESTIVAL**

**RESOLUTION NO. 09-175 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST**



**RESOLUTION NO. 09-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE**

**RESOLUTION NO. 09-177 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT JUST BECAUSE YOU'RE ASHEVILLE**

Summary: This is the consideration of resolutions authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine at the 1) Goombay Festival on August 28-29, 2009, 2) Lexington Avenue Arts & Fun Festival on September 6, 2009, 3) OrganicFest on Sunday, September 13, 2009, 4) Brewgrass Festival on September 19, 2009, 5) Asheville Greek Festival on September 25-27, 2009, 6) Oktoberfest on October 10, 2009, 7) Blue Ridge Pride on October 10, 2009, and 8) Just Because You're Asheville on October 24, 2009.

Goombay Festival

The YMI Cultural Center has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Goombay Festival and allow for consumption at this event.

The Goombay Festival will be held on Friday, August 28, 2009, from 10:00 a.m. to 10:00 p.m., and Saturday, August 29, 2009 from 10:00 a.m. to 10:00 p.m. within the boundaries of Eagle Street, South Market Street and Wilson Alley, as per the event area limits referenced on the accompanying site map and will be free and open to the public.

Pro:

ÿ Allows fundraising opportunity for the YMI Cultural Center

Con:

ÿ Potential for public safety issues

The fiscal impact will be overtime pay for police officers

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Lexington Avenue Arts & Fun Festival (LAAFF)

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Arts2People has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

The Lexington Avenue Arts & Fun Festival will be held on Sunday, September 6, 2009, from 11:00 a.m.– 9:00 p.m. within the boundaries of Lexington Avenue, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for Arts2People

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

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OrganicFest

-

Wild South in conjunction with Imagine Center, Inc. has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at OrganicFest and allow for consumption at this event.

OrganicFest will be held on Sunday, September 13, 2009, from 10:00 a.m.– 6:00 p.m. within the boundaries of Battery Park Avenue and Otis Streets, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for charity

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

#### Brewgrass Festival

- Big Brothers Big Sisters has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

The Brewgrass Festival will be held on Saturday, September 19, 2009, from 12:00 p.m. – 7:00 p.m. within the boundaries of Martin Luther King Jr. Park, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for charity

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

#### Asheville Greek Festival

- The Holy Trinity Greek Church has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Greek Festival and allow for consumption at this event.

The Asheville Greek Festival will be held on Friday and Saturday, September 25 and 26, 2009, from 11:00 a.m.– 9:00 p.m.; and Sunday, September 27, 2009, from 11:00 a.m.– 4:00 p.m. within the boundaries of Martin Luther King Jr. Park, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for charity

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

#### Oktoberfest

- The Asheville Downtown Association has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at Oktoberfest and allow for consumption at this event.

Oktoberfest will be held on Saturday, October 10, 2009, from 1:00 p.m. to 5:00 p.m. within the boundaries of Wall Street, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunity for the Asheville Downtown Association

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

### Blue Ridge Pride

- Parents, Families, and Friends of Lesbians and Gays (PFLAG) – Asheville in conjunction with Blue Ridge Pride has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 10, 2009, from 12:00 p.m.– 8:00 p.m. within the boundaries of Martin Luther King Jr. Park, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for charity

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

### Just Because You're Asheville

- Lake Eden Arts Festival (LEAF) in Schools and Streets in conjunction with Mountain Roots Management has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at Just Because You're Asheville and allow for consumption at this event.

Just Because You're Asheville will be held on Saturday, October 24, 2009, from 1:00 p.m.– 9:00 p.m. within the boundaries of the 100 block of Lexington Avenue, as per the event area limits referenced on the accompanying site map.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

ÿ Allows fundraising opportunities for charity

Con:

ÿ Potential for public safety issues

There is no fiscal impact to the City.

City staff recommends City Council consider resolutions authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine at the 1) Goombay Festival on August 28-29, 2009, 2) Lexington Avenue Arts & Fun Festival on September 6, 2009, 3) OrganicFest on September 13, 2009, 4) Brewgrass Festival on September 19, 2009, 5) Asheville Greek Festival on September 25-27, 2009, 6) Oktoberfest on October 10, 2009, 7) Blue Ridge Pride on October 10, 2009, and 8) Just Because You're Asheville on October 24, 2009.

Councilwoman Cape moved for the adoption of Resolution No. 09-170. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no".

### **RESOLUTION BOOK NO. 32 – PAGE 159**

Councilwoman Cape moved for the adoption of Resolution No. 09-171. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no".

### **RESOLUTION BOOK NO. 32 – PAGE 162**

Councilwoman Cape moved for the adoption of Resolution No. 09-172. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no".

### **RESOLUTION BOOK NO. 32 – PAGE 165**

Councilwoman Cape moved for the adoption of Resolution No. 09-173. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 32 – PAGE 168**

Councilwoman Cape moved for the adoption of Resolution No. 09-174. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 32 – PAGE 171**

Councilwoman Cape moved for the adoption of Resolution No. 09-175. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 32 – PAGE 174**

Councilwoman Cape moved for the adoption of Resolution No. 09-176. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 32 – PAGE 177**

Councilwoman Cape moved for the adoption of Resolution No. 09-177. This motion was seconded by Councilman Russell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

**RESOLUTION BOOK NO. 32 – PAGE 180**

**III. PRESENTATIONS & REPORTS:**

**A. ECONOMIC STIMULUS PACKAGE UPDATE**

**ORDINANCE NO. 3769 - BUDGET AMENDMENT FOR THE BYRNE JUSTICE ASSISTANCE GRANT PROGRAM**

**RESOLUTION NO. 09-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE IMPLEMENTATION OF FOUR TRANSPORTATION PROJECTS – COXE AVENUE BICYCLE IMPROVEMENTS; DOWNTOWN AND GATEWAY STREETSAPES; FAIRVIEW ROAD PEDESTRIAN ENHANCEMENTS; AND SOUTH SLOPE BICYCLE LANES**

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of City staff's recurring ARRA update to Asheville City Council, staff is seeking Council consideration of two items for approval: (1) staff is seeking City Council approval of a budget amendment, in the amount of \$372,630, authorizing the City to accept funds for the ARRA - 2009 Byrne Justice Assistance Grant – Local Solicitation; and (2) a resolution to approve a municipal agreement to contract between the City of Asheville and the North Carolina Department of Transportation (NCDOT) for four Metropolitan Planning Organization (MPO)-selected projects. In addition, staff is providing information on funding announcements and approvals for the N.C. Dept. of Environment and Natural Resources (NCDENR) and the Homeless Prevention and Rapid Re-Housing Program (HPRP) Substantial Amendment.

**Budget Amendment - Edward Byrne Justice Assistance Grant (JAG) – Local Solicitation**

The Asheville Police Department (APD) has been awarded ARRA Byrne JAG – Local Solicitation Award. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. Asheville Police and Buncombe County Sheriff's Department have been allocated \$372,630 with Asheville receiving \$265,466 and Buncombe receiving \$107,164. Distribution of funds has been approved through a signed Memorandum of Understanding (MOU).

The APD plans to purchase security enhancement equipment for the Municipal Building which will replace funding that was eliminated from the 2009-2010 Budget. The improvements will update the video security system within the Municipal Building, update and add key card access to doors as needed, and integrate an alarm system that makes internal notification of unauthorized entries to secure areas. It is estimated that this will cost approximated \$225,956.

Additionally APD plans to purchase a SPEX AFIS system that will enable APD to scan and enter fingerprints and palm prints into a local system that will analyze the prints and compare with previous sets. This will be a great improvement to the current system as it will use the increasing data compiled local for comparison. It will also be able to use palm prints which we

currently do not process.

At its May 5, 2009, meeting, the City Council Finance Committee reviewed the proposed projects and authorized staff to submit the application and Memorandum of Understanding (MOU) for approval by City Council which is a requirement for funding. Resolution 09-89 authorizing APD to apply and enter into an MOU was approved May 12, 2009.

**Municipal Building Security:**

Upgrade to camera system (32 cameras), key card access to critical office areas (50) and integrated alarm system to include associated computer hardware	\$225,956
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**SPEX AFIS/APIS:**

Computer, monitor, modem, scanner, etc.	\$30,500
Interface with SPEX central server	\$995
Yearly software support	\$1,895
Interface with CCID (Buncombe Detention)	\$995
Shipping, packing and handling	\$625
INDENTIX service contract *	<u>\$4,500</u>

Total to City:	\$265,466
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Total to Buncombe County:	\$107,164
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Total Funds Awarded:	\$372,630
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This is a 100% non-matching grant that will enable the APD to greatly improve the Municipal Building Security and improve the processing of fingerprints and palm prints to compare to those compiled locally.

There will be maintenance and replacement costs for the equipment that will need to be included in future fiscal year budgets.

**Pros:**

- Security enhancement equipment for the Municipal Building which will replace funding that was eliminated from the 2009-2010 Budget.
- Update to the video security system, add key card access to doors as needed, and integrate an alarm system that makes internal notification of unauthorized entries to secure areas.
- Added technology to scan and enter fingerprints and palm prints into a local system which is great improvement to the current system.

**Con:**

- None

Staff recommends approval of a budget amendment to accept funds in the amount of \$372,630 for the ARRA - 2009 Byrne Justice Assistance Grant – Local Solicitation for the City of Asheville and Buncombe County.

**Department of Transportation: Division 13 Enhancement Project Update**

NCDOT Division 13 notified the city that they will be constructing the ARRA funded enhancement projects rather than passing the funding through to individual local governments. Projects in Asheville are completing the Beaverdam Road sidewalk from Merrimon Avenue to Kimberly, installing a bio-retention basin near exit 6 of I-240 to treat runoff entering Ross Creek, refurbishing plantings at the intersection of I-240 exit 7 and Tunnel Road, constructing sidewalks along Pinchot Drive from Overlook Road to Estes Elementary School, and installing pedestrian signals at Pinchot Drive and Overlook Road. City-requested pedestrian signal and crosswalk to cross Patton Avenue at Louisiana Avenue will be funded with other than ARRA funds, and should be installed as the city's Patton Avenue sidewalk project is complete.

**MPO-selected Transportation Projects**

The resolution authorizes the City Manager to execute the municipal agreements for three MPO surface transportation programs - directly attributable (STP-DA) projects. This is the next step in the process. We expect the projects will be put out to bid in September or October.

The projects are Fairview Road pedestrian enhancements, Coxe Avenue bike lanes (including full-width resurfacing of Coxe Avenue), Downtown and Gateway streetscapes, and the South Slope bike lane network (Ashland Avenue, Hilliard Avenue, and Martin Luther King, Jr., Boulevard).

These grants provide 100% of the construction costs up to the grant amount; no local match is required.

<u>TIP No.</u>	<u>Description</u>	<u>Grant Amount</u>
U-5173	Coxe Avenue Bicycle Improvements	\$ 309,760
U-5174	Downtown and Gateway Streetscapes	\$ 121,000
U-5175	Fairview Road Pedestrian Enhancements	\$ 105,600
U-5177	South Slope Bicycle Lanes	<u>\$ 235,950</u>
	Total Potential Funding	\$ 772,310

Pros:

- Improves Asheville's transportation facilities
- Implements projects in the City's adopted pedestrian and bicycle plans
- Provides up to \$770,000 dollars in long term investment in the City's infrastructure

Con:

- The City will be responsible for future maintenance of the projects

Staff recommends approval of the resolution authorizing the City Manager to execute municipal agreements between the NCDOT and the City of Asheville for projects identified in the Transportation Improvement Program.

#### **NCDENR ARRA Funding Announcements**

The City of Asheville will receive \$964,500 from the North Carolina Department of Environment and Natural Resources (NCDENR) for water and storm water infrastructure projects. The funding comes from various NCDENR sources including economic stimulus funds allocated through the Drinking Water and Clean Water State Revolving Funds.

Awards include:

- \$510,000 in stimulus funds from the North Carolina Drinking Water State Revolving Fund will be used to replace pumps and valves at the North Folk and Mills River Water Treatment Plants. Replacement pumps will increase production efficiency, save energy and improve water service for fire coverage.
- \$454,500 in stimulus funds from the North Carolina Clean Water State Revolving Fund will pay for storm water improvements to the Dingle Creek watershed. The project is expected to reduce storm water pollution from eroding stream banks and address flood risks.

The City expects to begin bidding these projects this fall.

#### **Homeless Prevention and Rapid Re-Housing Program (HPRP)**

The City of Asheville will receive \$509,460 in funding from the Department of Housing and Urban Development (HUD) and, as a part of that funding; we submitted a substantial amendment to our Consolidated Plan 2008 Action Plan. The plan has been approved by notification of the U.S. Department of Housing and Urban Development.

Currently, applications for funding are due to the City Community Development Department by 5 p.m. on August 13, 2009.

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

In response to Mayor Bellamy, Ms. Mills explained how the City is using its tools (website, City channel, etc.) to make sure that local vendors understand the process.

When Councilman Mumpower expressed concern over spending almost \$310,000 on bicycle improvements on Coxe Avenue, Councilman Newman explained that this is basically resurfacing Coxe Avenue and bicycle improvements is only a part of the project.

Councilman Miller said that the Coxe Avenue bicycle improvements project aligns with the Downtown Master Plan and Bike

Plan which were adopted by City Council. He felt that once the infrastructure is built, other development will follow.

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

Vice-Mayor Davis moved for the adoption of Ordinance No. 3769. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE 369**

Councilman Miller moved for the adoption of Resolution No. 09-178. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

#### **RESOLUTION BOOK NO. 32 – PAGE 183**

#### **Vice-President Biden's Conference Call with Mayors**

Mayor Bellamy updated Council on a conference call that she participated in with Vice-President Biden and other mayors on July 17, 2009, regarding the American Recovery and Reinvestment Act (ARRA) feedback. They talked about what's going well and where we need improvement. They then discussed various areas (including transportation and infrastructure; community development; and Housing Authority of the City of Asheville), focusing on the Recovery Act monies. They also discussed what is working well and what needs to be improved in the following areas: the Supplemental Revolving Loan Fund Cleanup Grant, State Energy Program and Energy Efficiency, Renewable Energy & Alternative Fuels; Broadband funding; Transportation; and Housing/Infrastructure. She noted there will be a follow-up conversation on August 20.

Mayor Bellamy responded to various Council questions, some being, but were not limited to: what was the sense from Vice-President Biden on the narrow focus of some of the stimulus funding dollars and will there be more local flexibility on those dollars; are all ARRA funds going through cities and counties specifically; and what kind of relationship do we have with businesses.

Mayor Bellamy explained how the City of Asheville is supporting a grant with MAIN, Land-of-Sky Regional Council and our school systems. She stressed how this ARRA funding is a community collaboration.

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

##### **A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE APPROVED PLANS AND TO REQUEST A ONE-YEAR EXTENSION OF THE CONDITIONAL ZONING APPROVAL FOR THE PROJECT IDENTIFIED AS EAGLES LANDING, LOCATED AT 179 JOHNSTON BOULEVARD**

##### **ORDINANCE NO. 3770 - ORDINANCE AMENDMENT THE APPROVED PLANS AND TO REQUEST A ONE-YEAR EXTENSION OF THE CONDITIONAL ZONING APPROVAL FOR THE PROJECT IDENTIFIED AS EAGLES LANDING, LOCATED AT 179 JOHNSTON BOULEVARD**

Mayor Bellamy opened the public hearing at 6:12 p.m.

Urban Planner Nathan. Pennington said that this is the consideration of an ordinance amending the approved plans and to request a one-year extension for the project identified as Eagles Landing, located at 179 Johnston Boulevard. This public hearing was advertised on July 31 and August 7, 2009.

On April 10, 2007, City Council approved a conditional zoning request, for property located at 179 Johnston Boulevard, from RM-6 to RS-8 as part of a master plan for the subdivision of two parcels into 25 individual parcels to create a cottage-style development. Five of the units were to be sold at prices meeting the City's definition of affordability. As part of the development proposal, the applicant requested modifications to allow for smaller lots, reduced side setbacks and open space. These modifications were subsequently approved by City Council. Since the time of the zoning change and conceptual site plan approval, the owner has been in negotiations to sell the property to Habitat for Humanity. Habitat for Humanity is requesting to develop the property utilizing the existing approved site plan with some small modifications:

- A request to extend the permit validity for one additional year to October 11, 2010. The original City Council approval expired on April 11, 2009. However, the applicant requested and was approved for a six-month extension by the Planning Director which will expire on October 11, 2009.

City Attorney Oast explained that the extension request is moot due to recent adoption of the Development Approval

Extension Act. He said that law was adopted to essentially suspend the running of expiration period for land use approvals from January 1, 2008 – January 1, 2010.

- A reduction to the right-of-way for the proposed internal road width from 50 feet to 45 feet. This request has been approved by the Assistant Engineering Director and was noted on the original site plan.
- The original development approval included a mix of one and two story smaller cottage-style homes. The applicant is requesting to build a mix of one story larger, more contemporary arts and crafts style homes.

The changes noted above are not expected to have a negative impact on the seven conditional use standards that were presented with the original application. Staff's greatest concern was the ability for the larger footprint homes to be effectively placed within the reduced buildable area; however, the applicant has demonstrated that, with careful planning and the utilization of a number of smaller prototypes, the new home models will fit within the allotted area. Staff therefore, recommends approval of the proposed modifications pursuant to the site plans and supporting documentation.

Mr. Dennis Rathbone, adjacent property owner, felt there were too many homes proposed to be built on Daystar Lane. His street, Larue Street, is a street the same size and it only has 11 houses on it. He felt the proposed development should fit in with the neighborhood.

At 6:18 p.m., Mayor Bellamy closed the public hearing.

Councilman Mumpower was concerned that the cottages shown at the original time of approval are smaller than what is proposed now by Habitat.

Mr. Keith Levi, representing Habitat for Humanity, explained the footprints of the homes, noting that Habitat traditionally builds houses from 700 to 1400 square feet. He was confident they can meet the requirements of the City in the existing setback. He felt that the original drawings of the homes are somewhat deceptive. He felt part of the reason they were able to get smaller footprints, particularly on the 4-bedrooms, is because they didn't meet some of the City's standards for ADA compatibility. Habitat has embarked on a project to make sure that all of their homes are accessible for people with disabilities.

Councilman Russell was also concerned about the density, however, he felt this plan was already approved and their request is now for only a reduction to the right-of-way and a mix of homes.

Mr. Pennington responded to Councilman Mumpower regarding the originally requested conditional zoning designation.

Vice-Mayor Davis was supportive of Habitat for Humanity, but expressed concern with the density in the subdivision, along with the limited amount of open space.

Councilman Russell moved for the adoption of Ordinance No. 3770. This motion was seconded by Councilwoman Cape and carried on a 5-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE 371**

#### **B. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED AT 14 MOUNT CLARE AVENUE FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO NCD NEIGHBORHOOD COMMERCIAL DISTRICT**

#### **ORDINANCE NO. 3771 - ORDINANCE TO REZONE PROPERTIES LOCATED AT 14 MOUNT CLARE AVENUE FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO NCD NEIGHBORHOOD COMMERCIAL DISTRICT**

Mayor Bellamy opened the public hearing at 6:33 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance rezoning properties located at 14 Mount Clare Avenue from RS-8 Residential Single Family High Density District to NCD Neighborhood Commercial District. This public hearing was advertised on July 31 and August 7, 2009.

The applicant, Marketplace Developments, LLC, is requesting the rezoning of a narrow portion of a parcel from RS-8 to Neighborhood Corridor District (NCD). This rezoning petition is prompted by several actions, which will be described below, but the most recent driver of the request is the subdivision and recombination of two properties both owned by the applicant, resulting in a



shifted property line. The relocation of the property line means that the zoning district is no longer aligned with the property boundary. A rezoning of this sliver (roughly 500 square feet in area) would eliminate a situation where the parcel is split-zoned.

The strip proposed to be rezoned includes a sizeable retaining wall and a significant grade change between the residential property to its north and the parking lot to its south. The proposed rezoning would also more accurately reflect the division between the two different land uses, as that division has evolved since the line was originally drawn.

The owner purchased the properties in 1999, and the commercial (south) portion was rezoned from Community Business II to NCD in 2003. The owner alleges that in 2005 retaining walls to the north and east of the parking lot were failing and in urgent need of repair. Modifications were made in an expeditious fashion with the claim that any delay of the stabilization of the slopes could have resulted in major damage. These swift changes were pursued without going through the standard permitting process. Subsequent to the completion of the changes, the applicant had discussions with staff about obtaining such permits, but the process was never completed.

The applicant is now seeking a new occupant for the corner building, and wishes to have all the permits in order, as well as to be able to provide enough parking to meet the minimum requirements for a variety of uses. (To provide one example, a 3,650 square foot building used as an office would require a minimum of 10 spaces, but if used for a health and fitness facility, it would require 18.) Taking full advantage of the flat space available for parking would require that parking be located in the area currently zoned RS-8.

This rezoning is one of a series of steps the applicant is undertaking in an effort to bring the property fully into compliance. In addition to the redrawing of the property line mentioned above (already approved and recorded), the applicant has obtained approval for a flexible development standard for the side setback and area of the residential lot to the north. The applicant has also received authorization from the Tree Commission for alternative compliance in providing the landscape buffering required between the commercial zoning and residential zoning. Finally, the improvements will be subject to a Level I staff review.

The RS-8 district was created to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living. The Neighborhood Corridor District was established to foster medium density, mixed-use development that is economically viable, pedestrian oriented and contributing to the place making character of the built environment.

Staff has received multiple communications from neighbors seeking more information about the rezoning, but no indications of opposition.

At their July 23, 2009, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

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

Pros:

- Would help the property owner achieve compliance.
- Would remove presence of split zoning.

Con:

- Permission should have been sought at the time of original modifications.

Though the original property modifications prompting this rezoning were completed without proper permits, staff feels that the proposed changes are similar to what would have been required had the project been fully reviewed at the outset. Additionally, the area proposed to be rezoned is small enough in size that effects on the adjacent residential zoning district will be minimal, and the rezoning would result in a net benefit for the area.

Mayor Bellamy closed the public hearing at 6:37 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3771. This motion was seconded by Vice-Mayor Davis and carried unanimously.

**C. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE TO RESPOND TO THE CURRENT ECONOMIC CLIMATE**

**ORDINANCE NO. 3772 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO RESPOND TO THE CURRENT ECONOMIC CLIMATE (SETBACK REDUCTION ALLOWANCES FOR RS-2 AND RS-4 LOTS LOCATED IN STEEP SLOPE AREAS)**

**ORDINANCE NO. 3773 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO RESPOND TO THE CURRENT ECONOMIC CLIMATE (A-FRAME SIGN AMENDMENT FOR SPECIFIC DISTRICTS)**

**ORDINANCE NO. 3774 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO RESPOND TO THE CURRENT ECONOMIC CLIMATE (BUSINESS AND CIVIC ASSOCIATION SPECIAL EVENT SIGNAGE)**

Mayor Bellamy opened the public hearing at 6:37 p.m.

Mr. Alan Glines, Urban Planner, said that this is the consideration of ordinances amending the Unified Development Ordinance (UDO) to respond to the current economic climate. This public hearing was advertised on July 31 and August 7, 2009.

This is the third set of amendments to the UDO for the purposes of responding to the current economic climate. These amendments are designed to enhance opportunities for economic growth and relax some non-life safety standards that affect businesses and smaller economic endeavors while still addressing public welfare and supporting city adopted goals.

Since the beginning of the year staff have been reviewing the UDO to identify changes that could either simplify normal review processes or encourage economic development opportunities during this economic downturn. Two sets of wording amendments focusing on economic relief have been presented to the Planning and Zoning Commission and City Council this year. City Council has approved these economic relief amendments and encouraged staff to continue the initiative.

The current proposal is based on a review of past requests from the development / business community for specific relief from some development standards. Each issue has been carefully studied to understand the purpose and intent of the ordinance and seek ways to enhance its effectiveness while maintaining life and safety standards. The three amendments come from two different areas of the UDO and are distinct in their directives and are described separately below. Each item will also require a separate vote. Although the economic opportunities are the focus of the proposals, impacts and consequences have also been considered and are identified in a 'pros' and 'cons' section following each item.

The proposed wording amendments are focused on two areas of the UDO:

- Setback reductions in steep slope areas (Article XII)
- Two sign regulation amendments (Article XIII)

Staff continues to meet with neighborhood representatives, property owners, members of the business community and other stakeholders to obtain their thoughts on these and further changes being evaluated.

1. **Issue: In steep slope areas that are zoned RS-2 and RS-4 the required front setbacks (35 feet and 25 feet respectively) can pose a particular challenge for sites that are required to minimize grading and vegetation clearing in accordance with environmental protection standards. This amendment would allow staff to approve reasonable setback reductions to decrease grading and enhance protection of existing vegetation.**

**Current:** The steep slope ordinance limits the amount of grading allowed depending on the natural slope and elevation of a parcel. Many steep slope areas are zoned RS-2 and RS-4 which have larger front setbacks that define part of the character of these zoning districts. The steep slope protection standards seek to limit the disturbance of these sensitive areas and large front setbacks may be inconsistent with those goals. Property owners who seek to reduce setbacks to reduce site grading must apply to the Board of Adjustments for a variance.

**Proposal:** Allow the Planning and Development Director to approve front setback reductions from 35 feet to 20 feet in RS-2 Zones and from 25' to 15' in RS-4 Zones such that the setback reduction results in reducing site grading and enhances protection of existing trees and other vegetation. As a point of clarification, grading allowances would not be expanded as the result of a setback reduction.

Relevant Code Sections: 7-12-4(h) Tree and other specified vegetation preservation

Pros:

- Proposal is consistent with goals of environmental protection
- Enhances the protection of existing trees and other vegetation
- Saves time delays and additional expense for homeowners and builders

Con:

- Could result in an irregular pattern of development (varying setbacks) in a neighborhood

2. **Issue: Simplify the requirements for A-frame signs to provide for permit renewal once a year and to allow A-frames signs in the Urban Place District and the Biltmore Village Historic District.**

**Current Procedure:** A-frame signs permits are valid for six months with renewals thereafter valid for one year. The code also specifies the zoning districts where A-frame signs are allowed and Urban Place District (UP) is not on the list although the pedestrian focus of A-frame signs fits the purpose of the UP district. Allowing A-frame signs in Biltmore Village will complement the pedestrian character and goals of that special area.

**Proposal:** The proposed change would make the A-frame sign permit valid from time of issuance until the annual renewal for these signs occurring on July 1<sup>st</sup> of each year. The second part of the amendment adds Urban Place District as a zoning district and Biltmore Village Historic District to the list of areas where A-frame signs are allowed.

Relevant Code Sections: 7-13-4(8)c. and 7-13-4(8.)c.13.

Pros:

- Simplifies the permit process for signage useful in pedestrian oriented areas
- Corrects an oversight by adding Urban Place to the list of zoning districts
- Supports the pedestrian character and goals of the Biltmore Village Historic District
- Merchants in Biltmore Village and members of the Historic Resources Commission are supportive of the proposal

Con:

- Some business areas will still not be able to meet accessibility standards to allow A-frame signs

3. **Issue: Business associations and civic groups need a way to coordinate temporary signage for a special event or sale**

**Current Procedure:** Although temporary signs are allowed on a business by business basis in the sign ordinance there are few options for business associations or civic groups to come together and coordinate signage for a single event or special sale.

**Proposal:** The code amendment would allow a temporary sign for individual members of an organized association, to place a single on-premise sign or banner for a specific event with the following requirements:

- The event is limited to three days
- The sign is placed on-premise
- The size of the sign or wind sign is limited to a maximum of twelve (12) square feet per face
- The permit may cover a single event date or a recurring series of events not to exceed 30 days on a yearly basis
- Clearance over right-of-way areas and driveways will be consistent with requirements for wind signs.

Relevant Code Sections: 7-13-4(a.)

Pros:

- Helps to identify a special event
- Creates a process for special signage for organized events

Con:

- Signs have sometimes been an item of controversy in the community

These proposals were shared with the Coalition of Asheville Neighborhoods at their meeting on June 8, 2009, and with other business associations and groups. No specific concerns were noted. The Asheville-Buncombe Historic Resources Commission is supportive of the change to allow A-frame signs in Biltmore Village and is preparing to amend the guidelines for the district.

Collectively, these amendments may encourage some additional or small scale development or re-development without

increasing a need for service. Fiscal benefits include those typically associated with new development or re-development but are difficult to predict.

The Planning and Zoning Commission recommended approval of the three UDO amendments as presented by a vote of 6-0 at their June 18, 2009, meeting. City staff also recommends approval of the code amendments.

Mr. Jake Quinn, resident on Sunset Drive, explained why he was against changing the setback reduction in the steep slope areas. He urged Council to oppose this ordinance and continue to safeguard our hillsides.

Mayor Bellamy closed the public hearing at 6:43 p.m.

Councilwoman Cape noted this would allow the Planning & Development Director to approve front setback reductions if it would minimize site grading and enhance and protect vegetation. Looking at our topography challenges, she felt allowing flexibility is reasonable if it fits with all of the other aspects of the steep slope ordinance.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3772 (Setback reduction allowances for RS-2 and RS-4 lots located in steep slope areas). This motion was seconded by Councilman Russell and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE 380**

Councilwoman Cape moved for the adoption of Ordinance No. 3773 (A-Frame signs amendment for specific districts). This motion was seconded by Councilman Miller and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE 382**

Councilwoman Cape moved for the adoption of Ordinance No. 3774 (Business and civic association special event signage). This motion was seconded by Vice-Mayor Davis and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE 384**

#### **D. PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF ENSURING COMPATIBLE DEVELOPMENT AND PUBLIC INPUT FOR THOSE PROPOSALS ADJACENT TO PACK SQUARE PARK**

Mayor Bellamy opened the public hearing at 6:46 p.m.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance amending the Unified Development Ordinance for the purpose of ensuring compatible development and public input for those proposals adjacent to Pack Square Park. This public hearing was advertised on July 31 and August 7, 2009.

During the March 10, 2009, City Council hearing, Council considered a request to grant a construction easement to allow for the development of a road along the edge of Pack Square Park that would accommodate a specific development proposal. Several members of Council expressed a concern that additional consideration should be required for projects adjacent to this highly visible civic area where adjacent development has a greater potential to negatively impact the user experience and community image. At the conclusion of the discussion, Council directed staff to propose a change to the UDO that would require Council review and opportunity for public consideration of all projects adjacent to Pack Square Park.

Currently, projects adjacent to Pack Square Park require review by Council only if they are larger than 100,000 square feet (either new construction or for additions/expansions) or include over 50 residential units. All other reviews seek to ensure compliance with the minimum technical standards only or, in some cases, offer design recommendations that may be accommodated by the developer on a voluntary basis.

There are potentially several methods to ensure a more comprehensive review with public input; however, in an effort to ensure simplicity, easy administration, and to avoid unintended consequences, one option presents itself as a clear choice and is detailed below. Staff has also offered an alternative for consideration and will be prepared to discuss other options should the Commission desire more information. Both alternatives proposed would exempt renovations that do not propose changes to the exterior of the structure.

Proposal 1: Require Level 3 review for all projects within 100 linear feet of the Pack Square Renaissance Area boundaries, if the new project is one or more of the following project types:

- New construction
- Additions or expansions to existing structures when the expansion is over 1000 square feet
- Renovations that expand outdoor gathering areas (including rooftop areas) or parking areas

While the Downtown Master Plan does propose various design requirements and a number of restrictions guiding project activity adjacent to the Park, it is difficult to determine how effectively development surrounding the park will be regulated until the UDO changes necessary to implement the plan are adopted. Until this is accomplished, the potential for incompatible development around the park remains a possibility. The proposal above secures the greatest level of security until other controls are put in place.

Alternative Proposal: Require Level 3 review for all projects within 100 linear feet of the Pack Square Renaissance Area boundaries, if the new project is one or more of the following project types:

- New construction over 20,000 square feet or more than two stories
- Additions or expansions to existing structures when the expansion is over 5,000 square feet
- Additions or expansions that increase the height of an existing structure by more than five feet
- Renovations that expand outdoor gathering areas (including rooftop areas) or parking areas by more than 1000 square feet

This second option seeks to eliminate smaller scale projects from undergoing a Level 3 review process since such small projects are not anticipated to create an undue impact on the Pack Square Park, regardless of form.

Pros:

- Assures City Council review of projects in direct proximity to an extremely sensitive public space.
- Assures the opportunity for public review and comment of projects with the greatest potential for impact on the Park.
- Exempts renovations to existing buildings where no expansions or changes to the exterior are proposed.
- Provides an option (alternative) to allow small scale projects to avoid the Level 3 process.
- Can easily be revised (redone) when more specific UDO changes are recommended as part of the implementation of the Downtown Master Plan.

Cons:

- Somewhat contradicts the stated intention in the Downtown Master Plan to eliminate the need for this additional level of review with the adoption of restrictions on height, massing, shadow, etc. that will prescribe appropriate parkside development.
- May discourage smaller scale redevelopment around the Park.
- May only be used temporarily.

The Downtown Commission reviewed this proposal at their meeting on July 10, 2009. The Commissioners expressed concern over several aspects of the ordinance change, primarily regarding discord with the Downtown Master Plan recommendations to eliminate Conditional Use Permits and minimize City Council's review of smaller-scale projects. They were not opposed to the idea of placing greater scrutiny on projects surrounding the park, but did not feel that a Level 3 review was an appropriate method for gaining public input and additional oversight. Commissioners were also concerned about making changes to the review processes while significant ordinance revisions in accordance with the Master Plan recommendations are currently underway. They recommended unanimously (10-0) that the idea of interim control makes sense but they do not support this specific proposal and feel that a better strategy is to pursue the Downtown Master Plan recommendations for UDO changes as a highest priority. Some support was also expressed for the concept of considering this change as a temporary UDO change, with a clear intention for removing this level of scrutiny in conjunction with the adoption of the UDO changes to implement the Downtown Master Plan recommendations.

This proposal was reviewed by the Planning & Zoning Commission on July 23, 2009. The Commission expressed respect for the Downtown Commission and agreed that the implementation of Downtown Master Plan recommendations will likely preclude any negative impacts on the park from development, however, there was concern for the unknown timeframe between present day and the adoption of those wording amendments. Some Commissioners felt that the concept of interim protection would be beneficial. The Commission voted 3-2 for the Council to adopt the stricter proposal (Proposal 1) with the understanding that these provisions will be eliminated upon adoption of the Downtown Master Plan UDO changes. Also, it was recommended that this item

be returned to the Commission and to Council for re-evaluation within six months. At that time, the reviewing bodies may decide to continue the protection or to eliminate or revise the restrictions.

This proposal was also discussed with the Pack Square Conservancy on August 5, 2009, and they voted similarly with the Planning & Zoning Commission – in favor of the more restrictive proposal with the sunset clause.

One member of the public spoke in support of this proposal at the Planning & Zoning Commission meeting. Staff has received comments from several of the affected property owners within the 100 linear foot boundary, primarily in opposition of this additional level of review and one additional comment of support. Those in opposition, primarily property owners in the 100 foot linear boundary and Buncombe County's Planning Department, were concerned about the additional burden of cost and review time placed on smaller development proposals in the area.

This action complies with the City Council Strategic Operating Plan in that it continues the focused attention on development in the downtown that was spurred by the Downtown Master Plan and highlights Council's commitment to the protection and enhancement of Pack Square Park.

This action complies with the *City Development Plan 2025* in that it seeks to assure new development is of the highest quality, "complementing and adding to the character of the City of Asheville" by identifying areas for development focus, " identifying and establishing standards for the type of development appropriate for the areas" as indicated in the Land Use Goals (Goal XII, Strategy 5). However, this proposal does not comply with the *Downtown Master Plan*, which was adopted in concept by City Council on May 26, 2009. That document recommends eliminating the Conditional Use Permit as automatically required for Level 3 projects and suggests shadow and massing restrictions to mitigate impacts on the park rather than additional review by Council.

The proposal and alternative would both require a more extensive review process for various projects proposed within the boundary area. A project that may currently be reviewed under a 10-day administrative-level process would be required to undergo four additional public hearing processes (Technical Review Committee - TRC, Planning & Zoning Commission, City Council, Final TRC). There is additional staff time associated with analysis, research and report writing.

Staff recommends that City Council support one of the proposals described above and seeks input on changes that would improve or clarify the stated intention of the Council.

The following individuals spoke in opposition of this amendment for various reasons, some being, but are not limited to: amendment does not comply with the Downtown Master Plan; pursue the Downtown Master Plan recommendations for UDO changes as a highest priority; and additional burden of cost and review time:

Mr. Albert Sneed  
Mr. Jesse Plaster, representing the Asheville Downtown Commission  
Mr. Tom Israel, representing S.B. Coleman Construction Company  
Mr. Glen W. Wilcox Sr.  
Mr. Mike Fryar

The following individuals spoke in support of Proposal 1 (the strictest proposal) for various reasons, some being, but are not limited to: what happens around our town square should be discussed by City Council under a Level 3 review; and this sensitive area requires careful consideration:

Mr. Steve Rasmussen  
Lady Passion  
Mr. Jake Quinn

Mr. Chuck Pickering, Executive Vice-President of the Biltmore Company, said that they did not receive notice about this matter and requested an additional 30 days within which to review the full implications to their building.

Mayor Bellamy closed the public hearing at 7:14 p.m.

Councilman Newman spoke in support of the Downtown Master Plan, but the standards are not yet in place. Due to the significance of our town square, the public investment, public concern, and Council's responsibility to exercise responsible oversight, he moved to (1) direct City staff to expedite the development of implementing ordinances to enact the Downtown Master Plan; (2) adopt the Alternative Proposal (require Level 3 review for all projects within 100 linear feet of the Pack Square Renaissance Area boundaries) with the only trigger being new construction over 20,000 square fee or more than two stores; and (3) express the clear intent of City Council that this ordinance will be temporary and will sunset upon enactment of the Downtown Master Plan ordinances relative to this part of downtown. This motion was seconded by Councilwoman Cape.

In response to Councilwoman Cape, Planning & Development Director Judy Daniel said that staff has begun drafting some UDO changes associated with the Downtown Master Plan. They will meet with the Downtown Commission oversight implementation committee in September. She felt that the first proposals will come before City Council in November, after the Downtown Commission and Planning & Zoning Commission reviews. The first amendments would be process changes and then more technical changes related to the design.

Vice-Mayor Davis felt Council should listen to the advisory boards and people who have property in the affected area. He felt Council should move expeditiously with UDO changes for implementation of the Downtown Master Plan.

Councilman Miller said that after countless input meetings with the community, the Downtown Master Plan was clear in that they wanted more increased predictability in the project approval process and reduction of projects that come before City Council. He would have to support the Downtown Commission's recommendation, taking into account the discussion of the Planning & Zoning Commission.

In response to Councilman Miller, Ms. Bernstein explained the oversight of the notice to the Biltmore Company.

Councilman Russell could not support the motion in that he felt this issue arose from one project on one parcel.

Councilman Mumpower also felt Council is responding to an isolated incident and could not support the motion.

Councilwoman Cape was not willing to take the risk of an unacceptable project being built adjacent to our town square until the total implementation of the Downtown Master Plan.

Ms. Bernstein responded to Councilman Miller when he asked how much time it takes to get a Level I, Level II or Level III project approved.

When Mayor Bellamy questioned where the 100 linear feet boundary around Pack Square Park came from, Ms. Bernstein said that the original proposal asked staff to include all projects adjacent to the Park. After staff mapped out all the adjacent parcels, they felt there were larger parcels where like development on the opposite side would not have any impact. The development that had the greatest ability to impact the Park was close into that boundary line.

Mayor Bellamy noted that her original intent and support was for properties directly adjacent to Pack Square Park, not across the street or rights-of-way. Assistant Planning & Development Director Shannon Tuch said there are only a few parcels directly adjacent to the Park – Stewart Coleman's property; and the Biltmore Company Building. Mayor Bellamy noted that even if this proposed amendment is adopted by Council at this meeting, Mr. Coleman's project nor the Art Museum project would be reviewed by City Council since they are already undergoing review in their respective processes.

Due to the amount of money that has to be spent up front for Level 3 projects, Mayor Bellamy requested staff investigate to see if there is a way for City Council to review the concept of Level 3 projects first and if Council approves it, then it moves forward for the significant detailed reviews.

Mayor Bellamy asked for the following friendly amendment to the second stipulation of the original motion - adopt the Alternative Proposal requiring Level 3 review for all projects directly adjacent to Pack Square Park with the only trigger being new construction over 20,000 square feet or more than two stores.

Councilman Newman supported the amendment; however, Councilwoman Cape explained why she did not accept the amendment.

Councilman Russell moved to call the question. This motion (to call the question) was seconded by Councilwoman Cape and carried on a 5-2 vote, with Councilman Miller and Councilman Newman voting "no."

The original motion made by Councilman Newman and seconded by Councilwoman Cape failed on a 3-4 vote, with Councilwoman Cape, Councilman Miller and Councilman Newman voting "yes" and Mayor Bellamy, Vice-Mayor Davis, Councilman Mumpower and Councilman Russell voting "no."

Councilman Newman moved to (1) direct City staff to expedite the development of implementing ordinances to enact the Downtown Master Plan; (2) adopt the Alternative Proposal requiring Level 3 review for all projects directly adjacent to Pack Square Park with the only trigger being new construction over 20,000 square feet or more than two stores; and (3) express the clear intent of City Council that this ordinance will be temporary and will sunset upon enactment of the Downtown Master Plan ordinances relative to this part of downtown. This motion was seconded by Mayor Bellamy.

The following individuals spoke against the motion made by Councilman Newman and seconded by Mayor Bellamy:

Mr. Jake Quinn  
Mr. Albert Sneed  
Mr. Ross Franklin

Mr. Pickering, representing the Biltmore Company, reiterated their request to have time to study how this would impact their building.

Councilman Newman then withdrew his motion.

Councilman Miller then moved to instruct City staff to hold an input session with all property owners within the 100 linear foot area and report back to City Council their findings. This motion was seconded by Councilman Newman. After a short discussion about staff time spent on this input session (which was received during the Downtown Master Plan process) vs. implementing UDO changes to implement the Downtown Master Plan, Councilman Miller withdrew his motion.

**E. PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE A SEPARATION REQUIREMENT FOR FAMILY CARE HOMES**

Assistant Planning & Development Director Shannon Tuch said that staff has been working on some revisions to the standards regulating Family Care Homes and Group Homes. The most significant change involves a proposed separation requirement between new and established homes that is allowed by the State but has not been exercised by Asheville. If this standard were to be adopted, it would require the locations of all existing facilities to be identified. Additionally, while not statutorily required, staff felt that a notification of the change to affected providers would be appropriate. Producing a list of providers has proven challenging and additional time is being requested to complete a more thorough and comprehensive outreach effort.

Therefore, Councilman Mumpower moved to continue this public hearing until August 25, 2009, in order for City staff to notify interested parties. This motion was seconded by Councilman Miller and carried unanimously.

**Closed Session**

At 8:13 p.m., Councilman Miller moved to go into closed session for the following reason: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: City of Asheville; DVL Pennco, Inc., d/b/a 1-800-Got-Junk; Holly Oxner, Jr.; Forrest Eugene Weaver; and similarly affected police officers of the City of Asheville. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(6); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Russell and carried unanimously.

At 8:35 p.m., Councilwoman Cape moved to come out of closed session. This motion was seconded by Vice-Mayor Davis and carried unanimously.

**V. UNFINISHED BUSINESS:**

**A. CONTINUATION OF THE WATERLINE INCENTIVE PROGRAM TO ENCOURAGE AFFORDABLE HOUSING AND INFILL DEVELOPMENT AND EXTEND THE REVIEW FOR AN ADDITIONAL 12 MONTHS**

**RESOLUTION NO. 09-179 - RESOLUTION AUTHORIZING THE CHANGE IN WATER POLICIES TO CLARIFY THE AFFORDABLE HOUSING AND INFILL DEVELOPMENT WATERLINE INCENTIVE PROGRAM**

Water Resources Director Steve Shoaf said that this is the consideration of (1) one-year review of the City of Asheville Waterline Incentive Program to encourage Affordable Housing and Infill Development with activity assessment and clarifications; and (2) resolution authorizing changes to the Water Polices to reflect the clarifying language.

On November 27, 2007, the City Council adopted a change in Water Policies to reflect the addition of funding incentives to encourage Affordable Housing and Infill Development throughout the water system service area.

The Water Policies currently read as follows:



Sec. IV.D.12. Affordable Housing and Infill Development Incentives.

- a. The water fund will budget \$500,000 annually to be allocated to affordable housing and infill development water line upgrade and extensions throughout the water system. Funds will be available annually on a first-come, first served basis upon project participation criteria.
- b. Budget line item will be established to transfer funds annually from the water capital improvement program funds with \$500,000 to be used on a first-come, first served basis for infill development and affordable housing water line upgrades or water line extensions.
- c. Single project incentive amount shall not exceed \$100,000 per project with a minimum 20-year return on investment payback. Water projects meeting affordable housing and infill development criteria in Buncombe County and Northern Henderson County are eligible to apply.
- d. Funds not expended annually will be rolled over to the next Fiscal Year. Funds will be allocated to ensure \$500,000 balance is maintained annually.
- e. Approval will be based upon applicant receiving minimum score of 80 points per established criteria form.
- f. Developers must provide the City with any necessary right-of-way or easements.
- g. Approved projects with four or fewer units that do not require water line extension may use funds to pay for water line taps and meters. These fully funded projects would not be eligible for any water fee rebates through the City of Asheville affordable housing rebate program.”

Since adoption of this amendment to the Water Policies, there have been three inquiries about the procedures to obtain funding. There has only been one reimbursement request in the amount of \$44,268 on August 1, 2008, for Crowell Park Apartments.

Staff thinks that the lack of participation in this program may be attributed to the weak economy and its effects on local development. Due to limited participation, there was discussion about adjusting the policy language to require a smaller dollar amount as a set-aside. Considering the state of the economy, it was decided to track this program for an additional year before making a recommendation.

The following policy interpretations by staff are used for implementation but are not expressly stated in the policy.

- a. On the application form, it is stated that the funds are available for 50% of the costs of water line infrastructure up to \$100,000 whichever is less. This is not written into the policy.
- b. Staff has informed applicants that the request for reimbursement must occur in the same fiscal year as the completion of the work. This is to avoid retroactive claims for past work. This is not written into the policy.

Continuation of this program is part of City Council's strategic plans to improve city infrastructure and encourage affordable housing and infill development.

Pros:

- Continuation of the program will allocate funds for affordable housing and infill development.
- This program, in combination with other City of Asheville programs, can substantially offset the burden of developing affordable housing.

Cons:

- The program allocation of \$500,000 annually reduces the amount of funds available for other projects such as small water line replacement, automated meters, and the N.C. Dept. of Transportation projects.
- Since there has been a lack of participation in this program, the allocation has not been used to support affordable housing (with one exception).

The annual allocation is maintained at \$500,000 per year. These funds are not available for other uses.

City staff recommends (1) continuation of the Affordable Housing and Infill Development Waterline Incentive Program, including the interpretations presented above; (2) adoption of a resolution updating the Water Policies to reflect the clarifying language; and (3) over the next 12 months, Council direct City staff to track participation and return to the Council with further

recommendations

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

Councilman Mumpower could not support the motion as he felt this was a special deal taking money out of one person's pocket and giving it to another.

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

Councilwoman Cape moved for the adoption of Resolution No. 09-179. This motion was seconded by Vice-Mayor Davis and carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

## **RESOLUTION BOOK NO. 32 – PAGE 184**

### **B. NUISANCE COURT**

Assistant to the City Manager Lauren Bradley said that this is the consideration of an implementation plan and budget for creation of a nuisance court.

At its May, 19, 2009, meeting, the City Council endorsed the recommendation to create a nuisance court that holds offenders who commit nuisance crimes (such as panhandling, public intoxication, trespassing, solicitation, etc.) accountable by requiring community service that restores the damage caused by crime as a part of sentencing. In addition to holding offenders accountable, City Council stated its goal to limit the cycle of repeat offenses by reducing the number of instances in which an offender receives "time served" as punishment for the crime. One component emphasized by the City Council for achieving these goals was developing a model that ensures expedient case processing and expedient community service, so that justice and accountability are swift. Based on these goals, City Council directed staff to meet with intergovernmental partners and develop an implementation plan and detailed budget for a nuisance court.

Since the May 19 meeting, staff has researched various models and reached out to numerous intergovernmental and community stakeholders including representatives of the Buncombe County Judicial District 28, the District Attorney's Office, the Public Defender's Office, the Clerk of Court, the Buncombe County Sheriff's Office, Buncombe County government (including the Human Services Support Team, Pre-Trial Services, and the Jail Diversion program), Western North Carolinians for Criminal Justice, the Asheville Downtown Association, the Downtown Asheville Residents Network (DARN), and several community agencies and treatment providers (Western Highlands Network, Pisgah Legal Services, RHA, Parkway Behavioral Health, Our Voice).

At the City Council Public Safety Committee on June 21, 2009, District Attorney Ron Moore presented a framework in which appropriate cases would be directed to the nuisance court. Under this model, if an individual pleads or is found guilty, community service could be presented as an alternative to an active jail sentence for the offense. If the offender opts to complete community service, he or she would be assigned to a City of Asheville project through the Judicial District 28 Probation Office. These community service projects would support City Council's goals for promoting cleanliness, beautification, and maintenance in the downtown area and throughout city properties and facilities. City staff would supervise the completion of community service and submit the necessary documentation to the probation office for court monitoring for compliance.

District Attorney Ron Moore discussed having the same judge and assistant district attorney assigned to this court in order to ensure consistency in case processing. In addition, under this model, the District Attorney's Office has offered to track and report on offenders who come through the court to evaluate performance measurements like repeat offenses. The District Attorney's Office has suggested holding the court once a month during its initial launch to evaluate progress and determine if additional court dates are needed.

This action achieves a goal included in the City Council's annual strategic plan. Under the focus area "safe," the strategic plan states, "Partner to launch a nuisance court to achieve more efficient and effective prosecution of offenses that impact quality of life; continue to encourage adequate funding of the District Court system."

The City Council Public Safety Committee unanimously supported the nuisance court plan as outlined in this staff report. The committee also voted to send a letter to Chief District Court Judge Cash requesting that Judge Calvin Hill be assigned to the nuisance court.

Pros:

- Dedicating resources to processing cases that may not otherwise receive the time and attention they require in an underfunded and overwhelmed State Court system.

- Supports intergovernmental partnerships with the Buncombe County Judicial District 28 and the District Attorney's Office to address quality of life issues.

Cons:

- Launched as a pilot initiative that may require adjustment over time to achieve stated goals.
- This may include a budgetary adjustment to accommodate additional court dates if requested by the District Attorney.

The costs for the nuisance court implementation are outlined below. Court administration costs will be paid to the North Carolina Administrative Office of Courts. Community service supplies will be purchased and managed by City staff.

- |  |                 |
|--|-----------------|
| • Court Administration (Courtroom, Judge, Clerk)   | \$10,000        |
| • Community Service Supplies (Vests, Tools, Mulch) | <u>\$15,000</u> |
|  | \$25,000        |

Staff recommends allocating the \$25,000 from the \$100,000 included in the Fiscal Year 2009-10 budget for downtown cleanliness and beautification. Because these funds are already included in the budget, a budget amendment is not required. To date, City Council has designated from these funds:

- |                                  |                 |
|----------------------------------|-----------------|
| • Spare Change for Real Change   | \$2,500         |
| • Crimestoppers Graffiti Rewards | \$5,000         |
| • Nuisance Court (as proposed)   | <u>\$25,000</u> |

SUBTOTAL	\$32,500
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- Graffiti Removal (separate item) \$45,500 (*pending approval*)

TOTAL	\$78,000
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If the nuisance court and graffiti removal program are approved as proposed, a \$22,000 balance would remain in these funds.

City staff recommends City Council approve the implementation plan for a nuisance court.

In response to Councilman Russell, Ms. Bradley said that staff is developing a list of community service assignments, e.g., weeding, picking up litter, cleaning under garbage cans, cleaning off graffiti, landscaping, spreading mulch, picking up cigarette butts, etc.

Regarding vests for the violators, Councilwoman Cape suggested staff look for a creative way to let the community know that when you violate our laws, that this community service is your consequence.

When Mayor Bellamy asked for public comment, no one spoke.

Vice-Mayor Davis moved to direct City staff with the implementation plan and budget for creation of a nuisance court as outlined above. This motion was seconded by Councilman Mumpower and carried unanimously.

**C. GRAFFITI REMOVAL**

Assistant to the City Manager Lauren Bradley said that this is the consideration of staff recommendations for implementing graffiti removal services on private property.

At the City Council meeting on May 19, 2009, City Council directed staff to explore the potential for contracting or partnering with a non-profit agency or agencies for graffiti removal.

After reviewing research on best practices, legal and liability considerations, and speaking with to local non-profit agencies about potential partnerships for graffiti removal, staff presented options and further policy questions to the City Council Public Safety Committee at its meeting on July 21, 2009. At that meeting, the Public Safety Committee directed staff to:

- Develop for City Council consideration a graffiti removal ordinance that requires property owners to remove graffiti within seven days of notification, and to include a six month grace period on enforcement of the ordinance to allow for adequate public outreach and an opportunity for voluntary compliance, and;

- Develop an option for voluntary graffiti removal services for private property owners that utilizes a partnership with an outside agency so that rates for removal offer a competitive value for property owners and also produce enough revenue to cover public costs associated with the service.

The City Attorney's Office is working on the graffiti removal ordinance and will be prepared to bring it back for City Council consideration this fall.

Based on the City Council's stated goals and Public Safety Committee direction, City staff has determined that the most efficient and cost effective option would be for the City to administer and oversee graffiti removal services utilizing labor under the terms of the organization's existing contract with FIRST at Blue Ridge, Inc.

This action supports a focus area in the City Council's annual strategic plan to make Asheville one of the safest and most secure communities when compared to cities of similar size.

Pros:

- Contract labor can be scaled up or down to meet the demand for the program.
- Contract with FIRST at Blue Ridge, Inc. could be extended immediately, allowing the program to be launched within 30 days.
- Considerations such as workers compensation and liability insurance are addressed under a city-managed program.
- When the crew is not providing graffiti removal services, it can be assigned to other downtown and main corridor cleanliness projects including sidewalk cleaning, litter remediation, landscaping and weed removal, and other similar tasks.
- Crew can be supplemented by community service assignments made through the nuisance court.
- Cost recovery efforts can offset public investment in the program while providing property owners a valuable and consistent service for graffiti removal.

Cons:

- Existing resources will be reallocated to absorb administrative requirements and to assign a labor crew supervisor to launch the program. It is anticipated but not guaranteed that a portion of these costs will be recovered through charges for services.
- Launched as a pilot initiative that may require adjustment over time to achieve stated goals.

Staff recommends extending the existing contract with FIRST at Blue Ridge, Inc. to allow for two additional labor crew personnel at a cost of \$36,000 per year. In addition, \$9,500 will be needed for materials and supplies, bringing the total for the program to \$45,500.

Based on the staff recommendation, graffiti removal services would be billed to the property owner at \$80 per hour, which is the full cost recovery rate for supervision, labor, materials and equipment. A crew of one labor crew supervisor (allocated using existing resources) and two laborers would remove graffiti for this rate.

Staff recommends allocating the \$45,500 from the \$100,000 included in the Fiscal Year 2009-10 budget for downtown cleanliness and beautification. Because these funds are already included in the budget, a budget amendment is not required. To date, City Council has designated from these funds:

• Spare Change for Real Change	\$2,500
• Crimestoppers Graffiti Rewards	\$5,000
• Nuisance Court	<u>\$25,000</u>
 SUBTOTAL	 \$32,500
• Graffiti Removal (as proposed)	<u>\$45,500</u> (pending approval)
 TOTAL	 \$78,000

If the nuisance court and graffiti removal program are approved as proposed, a \$22,000 balance would remain in these funds.

City staff recommends City Council approve the implementation plan for the graffiti removal program, and to instruct staff to provide Council with quarterly reports on its progress. City staff also recommends that City Council schedule consideration of a graffiti removal ordinance this fall.

Councilman Mumpower felt this action is penalizing the victim by forcing property owners to participate in a system before we have a strong, clear graffiti vandalism intervention effort in place, e.g., the reward program.

Vice-Mayor Davis supported this action in that the ordinance require property owners to remove graffiti within seven days of notification, and to include a six month grace period on enforcement of the ordinance to allow for adequate public outreach and an opportunity for voluntary compliance.

Councilwoman Cape noted that the graffiti removal ordinance will be reviewed by Council in a later date.

When Mayor asked for public comment, no one spoke.

Councilman Miller moved to (1) approve the implementation plan for the graffiti removal program; (2) instruct staff to provide Council with quarterly reports on its progress; and (3) schedule consideration of a graffiti removal ordinance this fall. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

## **VI. NEW BUSINESS:**

### **A. TOWN OF MILLS RIVER FIRE HYDRANT REQUEST**

Mayor Bellamy said that Town of Mills River Mayor Roger Snyder has requested the City of Asheville to install a fire hydrant on the City's waterline, at Mill's River's expense, on Hooper Lane. After investigation by City staff and after consulting with multiple independent engineers, City staff recommended the request for the hydrant by denied, with the alternative option for them to draw domestic waterline service from the City of Asheville instead of the Hendersonville trunk line. Since Mayor Snyder has asked for a formal letter signed by herself, as Mayor, she felt it would be appropriate to notify City Council of the request as it is outside of the normal operating process.

As City Council felt this is a staff operational issue, it was the consensus of Council that an appropriate notice of the decision of the City of Asheville be written to Mayor Snyder.

### **B. SMOKING ON PUBLIC PROPERTY**

City Attorney Oast said that as City Council has probably heard, the N.C. General Assembly has enacted a law giving local governments increased authority to regulate smoking. The ratified law, Session Law 2009-27, makes changes to several provisions of the N. C. General Statutes. It was signed by Governor Perdue on May 19.

Previously, local governments could regulate smoking in government buildings, but this authority did not extend to parks or other public spaces. The new law extends the local government authority to regulate smoking to "grounds," encompassing unenclosed areas owned or leased by the government, and "public places," meaning places to which the public is invited.

For counties, a prerequisite to local government action is that a rule or policy must be adopted by the local board of health after July 1, 2009. Pursuant to this provision, the Buncombe County Board of Health has adopted a resolution recommending that smoking be prohibited in all County facilities and on all County property.

He has been in touch with the County Attorney's office, and we think that consideration should be given to making the ordinance as consistent as possible across political jurisdictions within the County. He has also spoken with the town attorneys for Weaverville and Black Mountain about this, and will speak to the attorneys for the other towns to determine their level of interest.

The new law is not effective until January 2, 2010, but Council should begin consideration of how and where it wishes to apply this regulatory authority.

Issues that Council may wish to consider and provide direction on include:

- Whether to apply a prohibition to all City facilities and grounds
- Whether to apply a prohibition to other public places
- How the regulations will be enforced.

Since many of the facilities to which the regulations might be newly applied are public parks, or are operated by the City's Parks Department, a suggestion has been made to refer the matter to the Recreation Advisory Board for initial recommendations on facilities to be included. A reference to the Public Safety Committee is recommended as to issues of enforcement.

We expect to receive information on this new law in the coming weeks.

Councilman Mumpower supported a smoking ban in public parks; however, personally he encouraged staff to look for opportunities to create outdoor smoking areas for people who want to exercise their right to smoke.

Councilwoman Cape felt it was a good idea for the smoking ordinance to be consistent with across political jurisdictions within the County. She also supported carving out areas in parks that can be smoking areas.

In response to Councilman Newman, City Attorney Oast said that we cannot regulate smoking on streets or sidewalks.

Councilman Newman felt it was important to balance the concerns of municipal employees who are on City property every day with the concerns of the general community.

A recent graduate of Asheville High School felt that people make the choice to smoke, but when they smoke in public areas, their right is compromised. She urged Council to adopt a strict policy that does not allow any smoking areas.

It was the consensus of Council to (1) instruct City Attorney Oast to continue conversations with Buncombe County and other attorneys in Buncombe County to determine their level of interest; and (2) refer this matter to the Public Safety Committee and Recreation Board.

### **C. BOARDS & COMMISSIONS**

It was the consensus of Council to re-advertise for the vacancies on the Americans with Disabilities Act Compliance Committee.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Mr. Steve Cochran, Ms. Cheryl McMurry, Ms. Kim MacQueen and Mr. Scott Dedman to each serve an additional three-year term on the HUB Community Economic Development Alliance Board.

It was the consensus of Council to re-advertise for the vacancies on the Planning & Zoning Commission.

It was the consensus of Council to interview David Mosrie, Wayne Wheeler, Mary Ann West and Nelson Sobel for vacancies on the Recreation Board.

It was the consensus of Council to re-advertise for the vacancy on the Tourism Development Authority.

It was the consensus of Council to interview Tom Tomlin, Georgia M. Shannon and Rachel Bliss for a vacancy on the Transit Commission.

It was the consensus of Council to re-advertise for the vacancy on the URTV Inc. Board of Directors. The Board & Commissions Committee suggested an appointment be someone with a financial background. Mayor Bellamy suggested someone who has mediation skills.

Ms. Dale Joyner was concerned that her appointment by City Council to the URTV Inc. Board of Directors was not carried out. She also expressed concern of some type of conspiracy against her by a private citizen and a Council member. Mayor Bellamy suggested Ms. Joyner discuss her concerns with City Attorney Oast and instructed City Clerk Burleson to review the Council minutes regarding Ms. Joyner's understanding of the appointment process.

Councilwoman Cape felt Council should not appoint anyone who has contributed to the turmoil at URTV Inc. Therefore, she made a motion to remove Ms. Joyner and any other people who have been involved in these altercations from the ability to apply for appointment to the URTV Inc. Board of Directions. This motion died due to lack of a second.

The following individuals supported the work of URTV Inc. and its Board of Directors:

Mr. Matt Howard, City Council representative on the URTV Inc. Board of Directors

A URTV producer

Ms. Lisa Landis, URTV producer

Mr. N. Nelson Staley, URTV co-producer

Ms. Connie Nappy, URTV producer

Mr. John Blackwell explained why he did not support the current executive director of URTV.

**VII. OTHER BUSINESS:**

When Councilman Mumpower asked to raise several issues, Mayor Bellamy said that City Clerk Burleson has already responded to him in writing per her instructions, according to the protocol used for requesting items on the agenda.

When Councilman Mumpower felt he should have the opportunity to bring issues to Council's attention, Mayor Bellamy said that she has responded to the items requested as is protocol.

Councilman Newman suggested Councilman Mumpower contact the Chairs of the appropriate City Council committees to include his items on their agendas, prior to coming to the full Council. Councilman Mumpower preferred to discuss these items with the full Council and then have Council refer them to the appropriate Council committee.

When Councilman Mumpower began raising his issues, Mayor Bellamy announced he was out of order.

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

**IX. ADJOURNMENT:**

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

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CITY CLERK

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MAYOR