

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

Councilwoman Cape gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 2009 AS "LIFE INSURANCE AWARENESS MONTH"

Councilman Russell read the proclamation proclaiming September 2009 as "Life Insurance Awareness Month". He presented the proclamation to Mr. Chris Clark, Financial Representative from Northwestern Mutual, who briefed Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING SEPTEMBER 2009 AS "PREPAREDNESS MONTH"

Councilman Newman Bellamy read the proclamation proclaiming September 2009 as "Preparedness Month". He presented the proclamation to Interim Fire Chief Scott Burnette, who briefed Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING SEPTEMBER 8, 2009, AS "NOAH RATNER DAY"

Mayor Bellamy read the proclamation proclaiming September 8, 2009, as "Noah Ratner Day" in the City of Asheville. As Noah has started college, she presented the proclamation to Noah's parents Bob and Susan Ratner. She said that Noah, a recent graduate of Asheville High, grew up playing golf at Asheville Municipal Golf Course. He just returned from the Maccabiah Games in Israel as part of the USA team. He took 2 gold medals and named the Junior Champion in golf at these world games. The Maccabiah Games are held every four years and attract Jewish athletes from around the world. Noah will be attending Guilford College in the fall where he will play golf.

D. PROCLAMATION PROCLAIMING SEPTEMBER 9, 2009 AS "FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY"

Vice-Mayor Davis read the proclamation proclaiming September 9, 2009 as "Fetal Alcohol Spectrum Disorders Awareness Day". He presented the proclamation to Ms. Leslie McCrory with Fullerton Genetics Mission Hospitals, who briefed Council on some activities taking place during the day.

E. PROCLAMATION PROCLAIMING SEPTEMBER 15 – OCTOBER 15, 2009 AS "HISPANIC HERITAGE MONTH"

Councilman Miller read the proclamation proclaiming September 15 – October 15, 2009 as "Hispanic Heritage Month". He presented the proclamation to Pastors Raul and Lidia Gonzalez who briefed Council on work they have accomplished and what they will continue to work on to accomplish.

F. PROCLAMATION PROCLAIMING SEPTEMBER 21-25, 2009 AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Councilwoman Cape Bellamy read the proclamation proclaiming September 21-25, 2009 as "Minority Enterprise Development (MED) Week". She presented the proclamation to Ms. Brenda Mills, 2009 MED Week Chair, Mr. James Lee, Minority Business Coordinator, Ms. Sharon Oxendine and Ms. Joyce Harrison, who briefed Council on some activities taking place during

the week.

II. CONSENT AGENDA:

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

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 25, 2009**
- B. RESOLUTION AUTHORIZING THE CITY MANGER TO WAIVE THE FORMAL BID REQUIREMENTS AND AWARD THE BID FOR FIVE HYBRID BUSES USING THE "PIGGY BACK" PROVISION FROM THE AWARD OF BID FROM THE KANAWHA VALLEY REGIONAL TRANSPORTATION AUTHORITY TO GILLIG LLC**

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

- C. RESOLUTION NO. 09-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A N.C. DEPT. OF TRANSPORTATION TRAFFIC CONSTRUCTION AGREEMENT FOR ROAD IMPROVEMENTS TO US 70, COLLEGE STREET FROM BEAUCATCHER TUNNEL TO CHARLOTTE STREET**

Summary: The consideration of a resolution authorizing the Mayor to enter into a N.C. Dept. of Transportation (NCDOT) traffic construction agreement for road improvements to US 70, College Street between the Beaucatcher Tunnel and Charlotte Street.

The NCDOT is making roadway improvements on US 70, College Street between Beaucatcher Tunnel and Charlotte Street. The Water Resources Department installed a new 24-inch water line in this section of College Street as part of the Revenue Bond Projects, which replaced the three water lines on top of the tunnel.

The Water Resources Department has negotiated a participation rate of \$50,000 of the total project cost to replace aging infrastructure with the minimum repaving cost of \$50,000. This is a local NCDOT project and was not on the State NCDOT project lists for capital improvement funding, so funding was not specifically set aside for this project. Due to cost savings on some of the bond projects, the funds are available for this project within the Central Business District Revenue Bond Project. Approximately 1,900 feet of road will be repaved, which will improve roadway conditions for local motorists.

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

Pros:

- This project will improve local roadway conditions by the milling and resurfacing of US 70, College Street between Beaucatcher Tunnel and Charlotte Street.
- Water infrastructure over 90 years old has been upgraded.
- This partnership between agencies allows both parties to cost share and experience savings on the overall project.

Con:

- There are no cons to this project. The Water Resources Department would have to resurface Tunnel Road as part of the infrastructure improvements, which would cost more than partnering with NCDOT.

The cost share on this project is \$50,000, which is currently available in the Central Business District Revenue Bond Project.

Staff recommends approval for the Mayor to execute the Traffic - DOT Construction Agreement with NCDOT for the US 70, College Street improvements in the amount of \$50,000.

RESOLUTION BOOK NO. 32 – PAGE 202

- D. RESOLUTION NO. 09-196 - RESOLUTION AMENDING THE POLICY GOVERNING CITY COUNCIL BOARDS AND COMMISSIONS**

Summary: The consideration of a resolution amending the policy governing City Council appointments.

On August 11, 2009, the City Council Boards & Commissions Committee reviewed proposed amendments to their policy governing City Council appointments.

Although there are some minor policy changes regarding clarification, the following represent the major changes added to the policy:

- An oath of office (or affirmation) is required for some boards and commissions. Where applicable, newly appointed board members will take and sign an oath of office or affirmation following their appointment.

If a board member enters on the duties of his or her office before taking, subscribing and filing the oath of office, he or she may be removed from office.

- The board will comply with open meeting laws, including notice of meetings.
- The board is to provide the City Clerk with their schedule of regular meetings with the predetermined time and place. The schedule will be revised only in accordance with legal requirements for notice.
- In order to conduct official business at a regular or special meeting, a quorum of the board must be present. In the absence of a rule, by-law, or statute providing otherwise, a quorum is more than half of the members of the board, not counting vacant seats. If a quorum is not present at any meeting, the chairperson will postpone the meeting until such time as a quorum can be present, provided adequate notice is given pursuant to the open meetings law.

Staff recommends City Council adopt a resolution amending the policy governing City Council appointments.

RESOLUTION BOOK NO. 32 – PAGE 203

E. BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE ASTON PARK FIT COMMUNITY COLLABORATIVE

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

F. ORDINANCE NO. 3780 - BUDGET AMENDMENT TO ACCEPT A DONATION FROM BB&T TO COVER COST OF MATERIALS AND NEW EQUIPMENT TO SUPPORT A VOLUNTEER PROJECT AT THE SHILOH COMMUNITY CENTER

Summary: The consideration of a budget amendment for acceptance of a donation of \$10,600 from BB&T to cover cost of materials and new equipment to support a volunteer project at the Shiloh Community Center.

Nationally, BB&T has created a corporate volunteer program to encourage local branches to give back to the community. In addition to making a provision for paid time off for staff to volunteer, BB&T has created a pool of funds to be used to support projects identified by local BB&T branches. Asheville Area BB&T branches have chosen the Shiloh Community Center as the site for their 2009 project and, in addition to providing approximately 100 volunteers, will be donating \$10,600 to cover the costs of materials and improvements for the Center. A representative from BB&T has been working with Parks, Recreation and Cultural Arts staff to develop a scope of work and identify materials and equipment necessary to complete the project. The project will include painting the entrance hall and community room, refinishing the floor of the stage, installing new seating on outside bleachers and purchase of a recycling center and new chairs and tables for the community room. The project is slated to occur in late September 2009.

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 Shiloh Center. This action also reflects the City of Asheville's efforts to improve and extend services by identifying volunteer opportunities and working with community groups to accomplish improvement projects on public property and in public facilities.

The project has the support and approval of the Shiloh Community Association.

Pros:

- Improvement in infrastructure and customer experience at the Shiloh Center
- Demonstration of community support for the Shiloh Community
- Incorporates citizen volunteers in providing essential services to the community

Con:

None noted

The project has been budgeted so that the donation will cover all costs for the project.

City staff recommends City Council adopt a budget amendment to accept the donation from BB&T in the amount of \$10,600.

ORDINANCE BOOK NO. 25 – PAGE 399

G. BUDGET AMENDMENT FOR YEAR 2 FUNDING FROM THE N.C. DEPT. OF PUBLIC INSTRUCTION FOR THE 21ST CENTURY COMMUNITY LEARNING CENTER IN ASHEVILLE'S WEED & SEED TARGETED AREA AND AMENDMENT TO THE GENERAL FUND TO REFLECT A TRANSFER FROM THE GRANT FUND TO SUPPORT PERSONNEL COSTS ASSOCIATED WITH THE GRANT

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

H. BUDGET AMENDMENT FOR FOUR ADDITIONAL EARLY VOTING LOCATIONS ONE WEEK BEFORE THE GENERAL ELECTION

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

I. RESOLUTION NO. 09-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR INSTALLATION OF A PROTECTIVE/PERMISSIVE PHASE FOR SOUTHBOUND TRAFFIC AT THE INTERSECTION OF US 25 (BROADWAY) AND COLLEGE STREET

Summary: The consideration of a resolution to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) regarding the installation of a protective/permissive phase for southbound traffic at the intersection of US 25 (Broadway) and College Street.

In an effort to minimize "cut-through" traffic through the Pack Square Park, College Street from US 25 (Broadway) to Market Street will be converted to two-way traffic flow. Once this conversion is accomplished, eastbound traffic along Patton Avenue would be able to turn left onto US 25 (Broadway) and then make a right turn onto College Street. Please note that the current movements onto South Pack Square will *not* change. The proposed conversion of College Street will simply provide drivers an alternative. Asheville Transit will be required to use the new route.

Since the proposed conversion will directly impact the Biltmore Building, staff met with representatives of the Biltmore Company during May 2007 to share the idea with them. Staff has continually been in contact with representatives of the Biltmore Company in order to give them as much lead time as possible before the conversion is made.

This action complies with the City Council 2009-10 Strategic Operating Plan within the Sustainable Focus Area by maintaining and managing street infra-structure to improve traffic flow and efficiency to help support the healthy growth of the City.

Pros:

- Minimizes "cut-through" traffic through Pack Square Park.
- Improves traffic flow and efficiency.
- Enables direct right turns into the Biltmore Company parking structure.

Cons:

- Cost to the City is estimated to be \$5,000.
- Requires left turns into the Biltmore Company parking structure to yield for oncoming traffic.

The City is responsible to pay 100% of the actual cost of all work performed by the NCDOT, including administrative costs. The cost of the work is estimated to be \$5,000. The necessary funds will come from the current Traffic Engineering operating budget.

Staff recommends that City Council enter into an agreement with the NCDOT for the installation of a protective/permissive phase for southbound traffic at the intersection of US 25 (Broadway) and College Street.

J. RESOLUTION NO. 09-198 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE CURRENT CONTRACT WITH DIXON HUGHES, PLLC, CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS, FOR AUDITING SERVICES FOR FISCAL YEAR 2008-09 AMENDING THE CAFR CONTRACT

Summary: The consideration of a resolution authorizing the mayor to execute an amendment to the current contract with Dixon Hughes, PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2008-09.

NC General Statute sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. On June 23, 2009, City Council approved a contract for \$110,000 to retain the services of Dixon Hughes to conduct the basic audit of the city's accounts for the fiscal year ending June 30, 2009.

In addition the basic audit, various auxiliary financial services must be performed in order to ensure a complete and transparent representation of the City's financial condition. These services include preparation of various city financial statements and production of the Comprehensive Annual Financial Report and are traditionally performed in-house by various accounting staff.

Due to Finance staff's current involvement in converting to a new citywide core financial system (i.e. BTIP), which has a scheduled "go-live" date of January 1, 2010, staff currently does not have the capacity to simultaneously produce the Comprehensive Annual Financial Report (CAFR) and complete the BTIP conversion process without additional contracted support. As such, staff is requesting an amendment to the existing basic audit contract to allow for production of the CAFR to be outsourced to Dixon-Hughes. Staff feels that this is prudent use of resources in order to ensure that timely and successful completion of the CAFR and BTIP conversion processes.

Pro:

- Will help ensure the timely and successful completion of two high-priority, critical projects

Con:

- Requires a \$43,450 increase to the contract.

The cost to amend the contract and provide for outsourcing of the CAFR is \$43,450. This cost is currently provided in the Finance Department's professional services line item budget.

City staff recommends adoption of the resolution authorizing the Mayor to execute an amendment to the contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for production of the CAFR in the amount of \$43,450.

RESOLUTION BOOK NO. 32 – PAGE 211

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE TO PACK SQUARE CONSERVANCY FOR A PRIVATE EVENT IN ROGER MCGUIRE GREEN IN PACK SQUARE PARK ON SEPTEMBER 21, 2009

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

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

B. RESOLUTION NO. 09-194 - RESOLUTION AUTHORIZING THE CITY MANGER TO WAIVE THE FORMAL BID REQUIREMENTS AND AWARD THE BID FOR FIVE HYBRID BUSES USING THE "PIGGY BACK" PROVISION FROM THE AWARD OF BID FROM THE KANAWHA VALLEY REGIONAL TRANSPORTATION AUTHORITY TO GILLIG LLC

Summary: The consideration of a resolution authorizing the City Manager to waive the formal bid requirements and award the bid for five (5) 30 foot Low Floor hybrid buses in accordance with the N.C. Gen. Statutes using the "piggy back" provision from the award of bid from the Kanawha Valley Regional Transportation Authority, Charleston, West Virginia, Contract KRT 2008 – 4, issued on September 25, 2008.

In 2008, the City of Asheville received a grant from the State for the purchase of five hybrid buses. At that time, Council approved a budget amendment for the entire purchase allocating \$300,000 of City funds for the City's match of 10%.

The City has the opportunity to acquire these buses through a "piggy backing" process. Staff recommends that we utilize a contract from the Kanawha Valley Regional Transportation Authority, Charleston, West Virginia, Contract KRT 2008, issued on September 25, 2008. Kanawha Valley Regional Transportation Authority bid buses that will meet our operational needs. State statutes allow us to "piggy back" that bid. By doing so, the City avoids the cost increases and expedites the bidding process which can take between six months to one year.

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

The contract has been reviewed by the N.C. Dept. of Transportation and the Federal Transit Administration and complies with local, State and Federal regulations. Following the N.C. Gen. Statutes, an advertisement informing the Council's intent to utilize the "piggy back" option and waive the formal bidding process was posted on August 26, 2009.

The estimated cost of this project is \$2,625,000. The City is funding this project using section 5309 of the Federal Transit Administration which provides 80% for capital projects or \$2,100,000. The City will provide 10% or \$262,500 and the State will contribute the additional 10%. According to the manufacturer, the buses will be delivered in approximately fourteen months after the buses are ordered.

The acquisition of hybrid buses is in alignment with the 2009-10 Strategic Plan to reduce carbon emissions by 2% per year and in the acquisition of new technology that will support the area of environmental sustainability, as well as operating the organization to the highest responsibility.

Pros:

- Using an existing bid will allow us to make a better use of City's resources, specifically related to staff time and funds, since we can obtain a better price.
- The units will be delivered in approximately fourteen months, and put in service immediately, compared with twenty four to thirty six months if we follow the bidding process.
- These new vehicles will reduce emissions, improve fuel efficiency and will increase reliability by replacing the 13 year old buses.

Con:

- None at this time.

The project cost will be \$2,625,000, with 80% of this total to be paid by federal funds - FTA section 5309; 10% or \$262,500 by the City and 10% or \$262,500 by the State. In 2008, the City of Asheville received a grant from the State for the purchase of five hybrid buses. At that time, Council approved a budget amendment for the entire purchase allocating \$300,000 of City funds for the City's match of 10%.

City staff recommends City Council adopt a resolution authorizing the City Manager to waive the formal bid requirements and award the bid for five 30 foot Low Floor Hybrid buses in accordance with North Carolina General Statutes using the "piggy back" provision from the award of bid from the Kanawha Valley Regional Transportation Authority, Charleston, West Virginia, Contract KRT 2008 – 4, issued on September 25, 2008.

Councilman Mumpower questioned the utilization of borrowed federal dollars for a local effort.

Mayor Bellamy noted that we have a local company (Eaton) that produces engines for hybrid buses and wondered if there was a way to promote the cycle of keeping jobs in our community by assisting our local companies. At the Mayor's request, City Manager Jackson said that he would follow-up with Eaton to see who they sell their products to and report back to Council.

Councilman Newman moved for the adoption of Resolution No. 09-194. This motion was seconded by Councilwoman

Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 32 – PAGE 201

E. ORDINANCE NO. 3779 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE ASTON PARK FIT COMMUNITY COLLABORATIVE

Summary: The consideration of a budget amendment, in the amount of \$60,000, establish a budget for the Aston Park Fit Community Collaborative, reflecting a reimbursement grant from the North Carolina Health & Wellness Trust Fund, *Fit Community* initiative for costs up to \$60,000.

City Council authorized the application and acceptance of a North Carolina Health & Wellness Trust Fund *Fit Community* grant in January 2009. The City submitted the grant to act as the fiscal agent for the project, which is a community-led collaboration with multiple community groups. The City received an executed grant agreement in June 2009 and the City Manager has authorized the grant contract. The budget amendment is needed to establish the grant project budget.

The awarded reimbursement grant is for \$60,000 for two years to support the Aston Park Fit Community Collaborative project. The primary goal of the project is to promote physical activity by increasing the use of Aston Park. Funds will be used to purchase additional playground equipment as well as promote activities in Aston Park. A community collaborative will manage the programming aspects and program reporting of the grant.

This action complies with the Parks, Recreation, Cultural Arts & Greenway Master Plan in that it makes use of diverse funding sources for successful implementation in the delivery of parks, recreation and cultural art services.

Pro:

- Provide funds to support parks, recreation and cultural arts programming enhancements

Con:

- None

This \$60,000 amendment to the Special Revenue Fund is fully funded with grant proceeds. There is no impact to the General Fund budget.

Staff recommends City Council adopt a budget amendment, in the amount of \$60,000, to establish a budget for the Aston Park Fit Community Collaborative, for a reimbursement grant from the North Carolina Health & Wellness Trust Fund, *Fit Community* initiative for costs up to \$60,000.

Councilman Mumpower felt this is a nice program, but not necessary. He felt what Aston Park needs from the State is a court system that does not have a revolving door that keeps putting criminals back on the streets that help corrupt the neighborhood.

Councilwoman Cape moved for the adoption of Ordinance No. 3779. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 397

G. ORDINANCE NO. 3781 - BUDGET AMENDMENT FOR YEAR 2 FUNDING FROM THE N.C. DEPT. OF PUBLIC INSTRUCTION FOR THE 21ST CENTURY COMMUNITY LEARNING CENTER IN ASHEVILLE'S WEED & SEED TARGETED AREA AND AMENDMENT TO THE GENERAL FUND TO REFLECT A TRANSFER FROM THE GRANT FUND TO SUPPORT PERSONNEL COSTS ASSOCIATED WITH THE GRANT

Summary: The consideration of 1) a budget amendment in the Grant Fund, in the amount of \$130,000, for Year 2 funding from the N.C. Dept. of Public Instruction for the 21st Century Community Learning Center in Asheville's Weed & Seed targeted area; and 2) a budget amendment in the General Fund of \$61,566 to reflect a transfer from the Grant Fund to support personnel costs associated with the grant.

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

residents would be integrally involved in the planning and implementation of the initiative. In July 2006, the U.S. Department of Justice announced the designation of Asheville as an "Officially Recognized" site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life.

Weed & Seed sites are required to leverage additional funds to carry out their respective goals and objectives. The 21st Century Community Learning Center grants provide funds for academic based afterschool programs serving youth who are not performing at grade level. Asheville's model will serve any middle and high school student attending Asheville City Schools. Programs will take place at the Pisgah View Community Center and the Burton Street Recreation Center, both of which are designated Weed & Seed Safe Havens. This grant represents the first time these highly competitive funds have been awarded in Buncombe County.

This action complies with the City Council Strategic Operating Plan in that it expands community policing initiatives and supports recreation and employment alternatives for youth at risk of gang exposure.

This action also complies with the community driven Weed & Seed goals of 1) reducing crime and improving public safety, 2) enhancing the relationship between the community and law enforcement, 3) providing accessible programs for youth, 4) increasing parent involvement in education and afterschool activities and 5) increasing job readiness among youth and adults. The program also meets needs identified in other citywide collaborative efforts such as the Mayor's RICH Taskforce and Asheville City Schools' School Success Council.

Pros:

- Program will bring much needed academic assistance to middle and high school students who are struggling in school.
- Program works with community resources to affect change.
- Program will enhance the Weed & Seed strategy of providing a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs for residents of the targeted area.

Con:

- Additional funds will need to be leveraged during the 2010-2011 school year to sustain the program since funding decreases by 20% in that year and 40% the following year.

Grant revenue in the amount of \$130,000 will cover all personnel and operating expenses related to the afterschool program at no additional cost to the City. Expenses include, but are not limited to: salary for a full time program director, part-time assistants, contracted teachers and resource providers, and supplies and transportation costs. Additional funds are expected to be raised through grant applications and other funding opportunities in Year 3 and Year 4.

City staff recommends City Council adopt a budget amendment in the Grant Fund in the amount of \$130,000, to establish a budget for the 21st Century Community Learning Centers which will occur in Asheville's Weed & Seed target area; and adopt a budget amendment in the General Fund of \$61,566 to reflect a transfer from the Grant Fund to support personnel costs associated with the grant.

Councilman Mumpower felt what we need from the State is a court system that does not have a revolving door that keeps putting criminals back on the streets.

Councilwoman Cape moved for the adoption of Ordinance No. 3781. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 401

H. ORDINANCE NO. 3782 - BUDGET AMENDMENT FOR FOUR ADDITIONAL EARLY VOTING LOCATIONS ONE WEEK BEFORE THE GENERAL ELECTION

Summary: The consideration of a budget amendment, in the amount of \$60,000, for four additional early voting locations one week early for the general election on November 3, 2009.

On August 25, 2009, City Council approved a motion giving instructions to the Buncombe County Board of Elections to provide four additional early voting locations (one each in the north, south, east and west sections of Asheville, preferably a library or community center) for one week early for the general election on November 3, 2009.

Pro:

- Potential for increase of voter turn-out

Con:

- Additional costs

The funding will reduce estimated available Fund Balance from \$15.43 million to \$15.37 million, leaving a Fund Balance equivalent to 16.5% of the General Fund.

Staff recommends City Council adopt the budget amendment, in the amount of \$60,000, for four additional early voting locations one week early for the general election on November 3, 2009.

Councilman Mumpower had no problem with the early voting concept, but was concerned with changing the voting procedures after Council candidates have been announced. He is an announced Council candidate and feels it's morally and legally wrong for any Council member who is a candidate to vote on this. As Council refused to recues him from voting at the last meeting when this was discussed, he will vote against this action.

Councilwoman Cape said that if there was any way at all this was hindering voting or being a barrier to voting in our community she could understand why there would be objections. All this does is add more opportunities for the community to participate.

Vice-Mayor Davis liked the early voting concept; however, he felt the cost of \$60,000 for one week in four locations, when there is already one early voting location already now, is a high price to pay in a lean economy. He suggested we monitor the results to see the percentage difference from the primary and the general elections and compare it to times past.

Councilman Newman agreed and explained why we should monitor the results over a series of election cycles because a lot of different factors influence how many people vote in any given year.

Councilman Miller heard that 70% of those who ride our transit system ride out of necessity and he felt it would be a mistake not to offer that opportunity for many of those people who are working two jobs and take transit to and from work.

Councilwoman Cape moved for the adoption of Ordinance No. 3782. This motion was seconded by Councilman Newman and carried on a 4-3 vote, with Vice-Mayor Davis, Councilman Mumpower and Councilman Russell voting "no."

ORDINANCE BOOK NO. 25 – PAGE 403

K. RESOLUTION NO. 09-199 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE TO PACK SQUARE CONSERVANCY FOR A PRIVATE EVENT IN ROGER MCGUIRE GREEN IN PACK SQUARE PARK ON SEPTEMBER 21, 2009

Summary: The consideration of a resolution authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine to Pack Square Conservancy for a private event in Roger McGuire Green in Pack Square Park on September 21, 2009, from 6:00 p.m. to 8:00 p.m.

Pack Square Conservancy has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at a private event in Roger McGuire Green area in Pack Square Park for a private event.

Event organizers will follow all City policies outlined in the Outdoor Special Event Guide and ordinances regarding alcohol on City property.

This resolution is pending the issuance of an Outdoor Special Event permit to the Pack Square Conservancy for the Roger McGuire Green in Pack Square Park and the event organizers receipt of the one-time use permit from NCABC.

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:

- None.

Cons:

- Potential for public safety issues;

- The event is not open to the public.

City staff recommends City Council adopt a resolution authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine for a private event on the Roger McGuire Green in Pack Square Park on September 21, 2009, from 6:00 p.m. to 8:00 p.m. for Pack Square Conservancy.

Councilman Newman moved for the adoption of Resolution No. 09-199. 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 212

Mr. Gary Giniat, Executive Director of the Pack Square Conservancy, asked City Council to waive the building/fire/safety permit fee (\$150) and the parking meter closing permit fee (8 meters at \$15 each = \$120) for a total fee waiver request of \$270 for their event.

Councilman Mumpower felt the Conservancy has known about the opening for at least a couple of months and had the time to go through the proper channels for a requested fee waiver. He felt this is a special deal and it's not fair to others who have had similar requests.

In response to Councilman Mumpower, Mr. Giniat said that this is a private event for donors that have supported the Park over the years.

As there was not time to go through the normal process of waiving fees and since the City is a partner with the Pack Square Conservancy in the Pack Square Park, Vice-Mayor Davis moved to waive the \$270 fee for building/fire/safety permit fee (\$150) and the parking meter closing permit fee (8 meters at \$15 each = \$120) for a total fee waiver request of \$270 for their event. This motion was seconded by Councilwoman Cape and carried on a 4-3 vote, with Councilmen Mumpower, Newman and Russell voting "no."

III. PRESENTATIONS & REPORTS:

A. ECONOMIC STIMULUS PACKAGE UPDATE

ORDINANCE NO. 3783 - BUDGET AMENDMENT TO ACCEPT FUNDS FOR THE DINGLE CREEK STORMWATER IMPROVEMENT PROJECT

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of City staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council, staff is seeking Council consideration and review of the following:

- A budget amendment, in the amount of \$454,500, to accept funds for the Dingle Creek Stormwater Improvement project awarded through ARRA; and
- Providing City Council with an update on the ARRA funding announcements and opportunities.

Budget Amendment Dingle Creek Stormwater Improvement

The budget amendment, in the amount of \$454,500, includes funding in the amount of \$336,000 for construction, \$33,600 for contingencies, \$80,400 for project administration and \$4,500 for the loan closing fee. This project includes installing a one acre wetland and provide approximately 400 feet of stream stabilization and stream enhancement.

The City had the opportunity to apply for and was granted funding through the American Recovery and Reinvestment Act (ARRA) for the implementation of this project. The City of Asheville was awarded \$454,500 under the ARRA of 2009. This would be a 50% grant with a 50% loan requirement. The loan must be paid over a 20 year period. The Clean Water Management Trust Fund (CWMTF) has agreed to cover a portion of the loan (\$165,000) up to half of what was originally approved for this project through the CWMTF in 2008 (\$335,000). The remaining portion of the loan (\$62,250) will be paid over the 20 year period out of the Stormwater Enterprise Fund.

This action complies with a goal included in City Council's Strategic Operating Plan by developing a green project that will provide environmental sustainability for our City.

Pros:

- Approval of this action will allow the City to move forward with a portion of the Dingle Creek Master Plan
- The project is funded from both ARRA and the CWMTF
- This project will provide both water quality and flood reduction benefits.

Cons:

- Coordinating both of these funding sources will be time consuming.
- There will be a cost to be covered by the City of \$62,250 over a 20 year period. This cost will be paid for out of the Stormwater Enterprise Fund.

The City will be responsible to pay the loan amount not covered by the CWMTF which is \$62,250 over a 20 year period paid out of the Stormwater Enterprise Fund.

Staff recommends approval of a budget amendment, in the amount of \$454,500, to accept funds for the Dingle Creek Stormwater Improvement project awarded through ARRA.

Updates and Funding Announcements

Community Development Block Grant-R (\$332,942) - Funding for CDBG-R is currently in the contract stage with sub-recipient agencies.

Homeless Prevention and Rapid Re-Housing (\$509,460) - Public hearing on September 8, 2009, to review the proposed grant funding distribution as a collaborative application approved by staff and the Council Housing and Community Development Committee.

NCDEER Mobile Emission Grant (\$30,000) - The City of Asheville has been awarded a \$30,000 grant to reinstate the "Clean and Green Local Fuel" program for the municipal fleet. This grant will support the use of biodiesel fuel for all 450 city diesel vehicles over the course of next year. The North Carolina Department of Natural Resources awarded Asheville this grant with stimulus funding so that the City can reduce its carbon footprint. The \$30,000 will supplement the additional cost to purchase half a million gallons of a 5% biodiesel blended fuel. This program expects to reduce the municipal carbon footprint by 223 tons which is equal to planting 6,600 trees. Per NCDENR, funding for this grant is expected on or around September 11th.

NCDENR Drinking Revolving Fund (\$510,000) - Water Resources held a pre-bid meeting August 25, 2009, for the North Fork WTP Pumping System Improvement Project. There were six interested construction companies who attended the meeting. Outreach for this project was accomplished by posting on the City of Asheville website including the Economic Recovery area, Minority Business Development Agency, Small Business Administration vendors and the State of North Carolina's Interactive Purchasing System as of August 10, 2009. The bid opening is still expected on September 9, 2009, with recommendation for bid award to City Council on September 22, 2009.

Transparency and Accountability - NC Recovery providing outreach historically underutilized businesses on September 23, 2009, from 9:30-12:30 p.m. at the Morning Star First Baptist Church, 126 4th Avenue, SW in Hickory, NC. All vendors welcome to attend.

Locally, outreach session planned for all local vendors on ARRA update funding areas and doing business and funding along with a session on capital access options. The session is scheduled for October 15, 2009, from 9:30 a.m. to 3:30 p.m. at the A-B Tech Enka Campus Haynes Room. No RSVP required. Presenters include the City of Asheville, Buncombe County, regional business service providers and local financial institutions.

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

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

When Councilman Mumpower asked if there is a provision to ensure contractors have to hire legal workers, City Attorney Oast said that these are contracts administered by the City of Asheville and we use our usual safeguards and will do what the law allows.

Councilman Mumpower felt that the law is making no provision for E-Verify and other things that improve our changes of making sure that the people that are hired are legal workers. He felt this is borrowed dollars that our children will have to repay and felt we should take care of the things we have control over because the federal and state governments have their own

responsibilities.

Director of Public Works Cathy Ball responded to Vice-Mayor Davis when he asked if this will resolve the problems of the Dingle Creek stormwater or if it is another step along the way to resolve the issue. She responded that this is a big piece of the puzzle but there is still flooding upstream issues that need to be addressed.

Vice-Mayor Davis suggested the next time a drainage project comes before Council, it would be helpful to have staff provide a report on what are we doing with stormwater revenues.

Councilman Miller moved for the adoption of Ordinance No. 3783. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 405

Public Contracting and Local Preference Determination

Ms. Mills said that the following information is to provide Council with an overview of public contracting guidelines according to the North Carolina General Statutes and as a part of this, discuss local preference and the City's options in support of local vendors. The information will hopefully assist you in your efforts to support local vendors while maintaining the proper procedures for contracting and purchasing.

There are recommendations for outreach efforts that City staff can undertake to help support vendors in our area. These options can be done in the short run and can provide support to our vendors in time to help them get prepared for ARRA funding which is expected to start more significantly in the next 30-45 days through the City of Asheville and the region.

Statutes Governing Purchasing and Contracting \$30,000 and Above

General statutes for the State of North Carolina govern award of contracts \$30,000 and above to the lowest responsible, responsive bidder. There is a reference page on the School of Government's webpage that references these statutes for construction, purchasing and service contracting per the North Carolina General Statutes.

Here is the breakdown as it pertains to this level of contacting:

G.S. 143-129 – formal bidding required for

- Purchases costing \$90,000 or more, and for
- Construction and repair contracts costing \$500,000 or more

G.S. 143-131 – informal bidding required for

- Purchases costing \$30,000 up to the formal limit (\$90,000), and for
- Construction and repair contracts costing \$30,000 up to the formal limit (\$500,000)

G.S. 143-64.31 – architectural, engineering, surveying, and construction management at risk services

- Must use a qualifications based (not cost based) selection process, unless local government exempts itself under G.S. 143-64.32;
- No other services are addressed in the statutes, so it is up to the local government to determine how best to procure those services

Statutes Governing Purchasing and Contracting Below \$30,000

Bidding requirements are not required until the \$30,000 threshold. The statutes do not specify award under this amount and for service contacting beyond G.S. 143-64.31 above. Local governments have options for award of contracts at this level.

In obtaining information in this area, it should be noted that there has been no precedence in North Carolina for local preference and the impact to contracting and contracting dollars. Consideration will be needed to think about the following:

- a. How will local be defined?
- b. What exemptions will be made, if any? These would include costs above a certain amount budgeted for projects in the below \$30,000 threshold.
- c. What impact will this have on our Minority Business Program policy currently in affect?

d. What impact will this make for outside vendors seeking to do business with the City of Asheville?

N.C. General Statutes and Local Preference

As for local preferences, here's an excerpt from "A Legal Guide To Purchasing and Contracting for North Carolina Local Governments," by Frayda S. Bluestein, Professor of Public Law and Government (p. 73):

Section 121. Can a local government establish a preference for local bidders?

Local governments have no statutory authority to establish preferences of any kind and are bound by the "lowest responsible bidder" standard when awarding contracts that are subject to the bidding requirements. (See Question 117.) The fact that a bidder is local cannot, by itself, be a basis for awarding a contract to a higher bidder. Some argue that doing business with local companies will help build and maintain the local government's tax base. (This of course depends on how "local" is defined and whether such a policy stirs other jurisdictions to adopt similar policies, which might ultimately cause losses for local companies.) Local governments do have authority to engage in local economic development, but this authorization does not include the use of the contracting function to provide what amounts to a subsidy to a local company that is not otherwise the lowest responsible bid.

In some cases, local companies may provide better, more cost-effective, or more timely service. These factors can legally be considered under the lowest responsible bidder standard, which explicitly allows consideration of quality, performance, and time. Local governments are not, however, entitled to assume that a local company will be superior in these areas and should be careful to document the basis for a decision based on these factors.

Local governments can promote local businesses by making sure they are given notice of opportunities to bid and can use local businesses for convenience when purchasing small items or obtaining quotes for informal bids. The governing board could legally adopt a policy of sending individual notice of bidding opportunities only to local bidders, since the statute does not require such notice in the first place and local governments may have authority to establish a local preference for contracts that are not subject to the competitive bidding requirements. (See Question 33.) Boards considering this option should evaluate whether the loss of competition and potential cost savings is outweighed by the benefit to be gained from promoting local businesses in this way.

Options to Support Local Businesses

There is encouragement for local governments to help support their businesses with additional and targeted outreach which will keep them apprised of bidding opportunities. This has been widely accomplished through the Minority Business Program over the years to register minority and women businesses and to show them how to access bidding opportunities in our region and beyond.

City staff can hold a series of sessions at convenient locations to help local companies understand how to register, find bidding opportunities and how to follow the ARRA funding. We could advertise this on the ARRA site, email online vendors, send through the ARRA newsletter, use the VendorLink System to notify all those in the local (City Council will need to define this for staff) on these sessions and use our current vendor database to contact vendors.

In addition, an ARRA Business Update and Information Session is planned in conjunction with the region's business service providers such as Mountain BizWorks, Self Help Credit Union, our local SBA office and the financial institutions to support local vendors with obtaining business assistance, understanding ARRA and doing business with government and access to capital in the current economic market.

These options will go a long way to supporting businesses with having immediate knowledge of the city's contracting opportunities and how to submit bids.

Conclusion

Staff will rely on City Council's direction on this matter. The support of businesses in our region has been a priority for City staff and even more with the ARRA funding with the current economic issues we are facing.

The next 30-45 days will see more contracting opportunities and we will continue to provide outreach education to the public on all opportunities that are available to them.

In response to Councilman Russell, Ms. Mills said that going forward we will have the ability to track local vendors for contracts under \$30,000.

Councilman Mumpower suggested we direct staff to make every effort to pursue whatever exemptions we can to magnify our capacity within the limits of state law, e.g. contacting the State Contracting Construction Office to find out how Asheville can exempt itself under G.S. 143-64-32.

Councilman Newman supported doing everything we can within our power to know about jobs and have our local businesses compete for them, but we also need to be aware of the pros and cons of these kinds of policies to make sure it is a good deal for the taxpayers and local businesses.

In response to Councilman Miller, City Attorney Oast said that it is illegal to split a project to evade the purpose of the article on formal bidding requirements.

Councilman Miller felt it was important to let people know how they can get on an approved vendor list.

When Councilman Mumpower asked if we give preference to minority businesses, Ms. Mills replied that only the federal government gives preference to minorities. However, we do reach out to them to make sure they know the process, just like local vendors.

Mayor Bellamy suggested on our agendas that we identify companies who are being awarded contracts with the City so people can see their money is staying within our community. She did note, however, that times there are no local companies that provide the service, e.g., bulletproof vests.

B. QUARTERLY REPORTS

Planning & Economic Development Committee Chair Report

Councilwoman Cape, Chair of the City Council Planning & Economic Development Committee, provided Council with an update of their activities during the last quarter. She thanked her other Committee members of Vice-Mayor Davis and Councilman Russell for their hard work on this Committee.

End of Year Strategic Operating Plan Update

Assistant City Manager Jeff Richardson reviewed with Council the End of the Year Strategic Operating Plan.

In the affordable focus area (1) Housing (a) 95 New Affordable Housing Units; (b) 24 First Time Homeowners Used the City's Down Payment Assistance; and (c) 4,500 Households Received Housing Counseling Services or Homelessness Prevention and Housing Services; (2) Asheville as an Employer of Choice (a) CAYLA; (i) 100% of Graduates Currently in College; (ii) Over 400 Hours of Community Service Per Year; and (iii) Over \$100,000 in Scholarships awarded annually; (3) Homelessness; (a) 5% up From January 2008; (b) Chronic Homelessness: down by 25% from January 2008; (c) 231 People in Permanent, Supportive Housing; and (d) 36% increase in People Using Homeless Management Information System; and (4) City Owned Land - Five City Properties (a) Armory Update; and (b) 4 City Sites/Developer Request for Qualifications Process Still Underway.

In the green focus area (1) Sustainability Office (a) Completed Sustainability Master Plan; (b) Municipal Electricity Usage down by 6.3%, Totaling 867,380 kWh; (c) 20% of Employees working 4/10 schedules; (d) 90% of Computers on Shutdown Program; and (e) 75% of All Municipal Buildings Displayed Energy Reduction; (2) Pack Square Park Key Dates (a) Phase One: Vance Monument Now Open; (b) Phase Two: McGuire Green (Fall 09/Open Spring 2010); (c) Veterans Monument Dedication: Nov 11; and (d) Urban Trail Reinstallation: Late Sept; and (3) Pack Square Park Still Left to Fundraise (a) \$1.2 Million: Complete Park; (b) \$2.1 Million: Pavilion; and (c) \$1.5 Million: Endowment; (3) Received ARRA Funds for 5 Replacement Buses (\$2 M); (4) Received Funds for Hybrid Bus; (5) FTA Grant for Development of ISO 14001 Training Program; and (6) Completed the Avon Road and New Haw Creek Sidewalk Projects.

In the safe area (1) Asheville Police Department (a) Nuisance Court; (b) 8-Member Downtown Patrol Unit Formed; and (c) Increase Dedicated Resources to Address Internet Child Pornography; (2) Asheville Police Department in Fiscal Year 2008-09: (a) Answered 113,104 calls for service; (b) Proactively contacted more than 4,600 businesses and responded to 4,200+ calls for service in CBD; (c) 1,130 charged in drug cases (i) 332 charged classified as dealers; (3) Asheville Police Department from Fiscal Year 2007-08 to Fiscal Year 2008-09: (a) 6.6% down in violent crime; and (b) 12.6% down in property crime; (4) Asheville Fire and Rescue (a) Activation of 300 Merrimon Ave Fire Station: Response Time Coverage Up 31%; (b) Haw Creek Partnership; and (c) Capital Fleet Replacement.

In the sustainable area (1) UNC-Asheville Partnership; (a) Memorandum of Understanding; (b) Emergency Planning Surveys; (c) UNC-A NEMAC to Develop Powerful Tools; (d) RENCI for an Engagement Site Downtown; and (e) Civic

Center/Campus Event Coordination; (2) ARRA Grant Success (a) Entitlements - \$7,597,242; (b) Grant Funding Applied for to Date - \$12,800,149; and (c) Grant Funding Awarded to Date: - \$994,500; (3) WayFinding Update; (4) 6.09 miles of sidewalk; (5) Neighborhood Partnerships Plans (a) - South French Broad Neighborhood Plan; (6) Civic Center (a) Capital Improvement Plan Project Finished; (b) Arena Roof Starts in Sept 2009; and (c) Customer Service Survey Fiscal Year 2009: 92% Satisfaction Level; and (7) Development Review – One Stop Shop (a) All Effected Departments Moved by August 28; (b) Cooperation from Asheville Fire & Rescue, Dept. of Public Works, Parks & Recreation, and Building Safety saved in Excess of \$220,000 in Labor Costs; (c) Energy Efficient Lighting will save \$5,000 Per Year; (d) “Green” Carpet Project; and (e) Improved Efficiency and Customer Service.

Mr. Richardson said that Council has been provided with an economy report for Fiscal Year 2008-09 (4th Quarter); the Asheville Police Department’s outreaches/actions for the month of July, as well as a wrap-up of Fiscal Year 2008-09; and an update on the South French Broad Neighborhood Visioning project.

Throughout discussion, Mr. Richardson and Police Chief Bill Hogan answered various questions/comments from Council, some being, but are not limited to: was the City successful in the grant for 12 additional police officers; was the City successful in the security grant to upgrade the Municipal Building and if so, is that included in this report; why is the discrepancy in the crime statistics reported in the Asheville Citizen-Times vs. the information presented to Council; has the Police Department identified patterns in the downtown area for calls of service with the new 8-person downtown unit; what type of crimes are not included in this report; has our efforts to more enthusiastically go after hard drug crime in public housing have any impact of these statistics; and homelessness and crime statistics are interconnected.

Mayor Bellamy noted that from January 2009 to the present, we are seeing a double digit decrease in violent and property crimes.

Mayor Bellamy recalled that Council mandated anyone who received Community Development Block Grant funding from the City to utilize the HMIS system. She was pleased that there is a 36% increase of people using that system. We are now able to track who is receiving services and what type of services they are receiving to avoid abuse of the system. Regarding accountability, she said that the service providers are committed in holding themselves accountable with the services they provide as well as the users. She felt that we are addressing the chronic homelessness in our community.

Councilman Mumpower questioned why we create new housing stock for the homeless when there are vacancies in our own public housing developments. He questioned if it is success to create publicly subsidized housing that doesn’t reform people, but basically provides a temporary escape from reality. He felt there are better models for helping people than this one.

Vice-Mayor Davis was concerned about the number of homeless on the west end of our downtown gateway and expressed his, and other property owners in that area, frustration with the use of drugs and intimidation. He hoped that the nuisance court and more police patrol will eliminate some of the problems.

Mayor Bellamy said that since Council makes policy direction, we need to direct the Police Chief to look at more coverage in that area, particularly on Ann Street, and the possibility of placing a police substation in that area.

At 7:16 p.m., Mayor Bellamy announced a short recess.

Planning & Development Director Judy Daniel briefed Council on the Downtown Master Plan. She said that Council adopted the Downtown Master Plan in May of this year, with instructions to the staff that the details of implementation would be critical in their support for the required changes to the Unified Development Ordinance (UDO) necessary for full implementation. The Council directed the staff to strongly take into consideration the concerns over certain recommendations of the Master Plan expressed by those who testified at the public hearing.

Since that time, the staff has been working on both a framework for implementation and drafting the UDO changes that will implement the Master Plan recommendations. She provided Council with the action timeframe matrix. Implementation Matrix highlights include (1) Arts and Culture Subcommittee to track Strategy One (A-H) - primarily private sector led actions; (2) Historic Preservation Subcommittee to track Strategy One (I-N) – most recommended actions already in process by HRC; (3) Transportation and Parking Subcommittee to track Strategy Two – many actions already in process by public and private sectors; (4) Urban Design and Development (UDO changes) Subcommittee to track Strategies Three to Six – staff already working on drafts; and (5) Downtown Management Subcommittee to track Strategy Seven – fully private sector led actions. A major part of that effort has been to coordinate these efforts with the Downtown Commission, and gain their support for methodologies to begin the implementation process. In August, the Downtown Commission gave its support to both an overall matrix for implementation and the formation of committees that will work to push for implementation of the seven major strategies recommended.

She said the activity since Council adoption is as follows: (1) Spring 2009 - Downtown Master Plan Adopted in Concept by

City Council; (2) Summer 2009 (a) June – Planning staff begins work on UDO changes; (b) July - Staff works with Downtown Commission on implementation plans; (c) August - Downtown Commission supports Implementation Matrix and Implementation Pursuit Committees, and begin to discuss revisions to Downtown Design Guidelines. Proposal for five sub-committees to pursue implementation strategies for: Arts and Culture; Historic Preservation; Transportation and Parking; Downtown Management; and Urban Design and Development (UDO Changes) (d) September – (a) DMP Subcommittees to begin meeting; (b) Urban Design & Development (UDD) Sub-committee begins evaluating first set of UDO changes (*project review processes*); and (c) Dates set for other Sub-Committees to begin meeting; (e) October – (a) Downtown Commission (DC) considers UDD recommendations for first set UDO changes; (b) Planning and Zoning Commission reviews first set of UDO changes; and (c) UDD Sub-Committee begins review of second set of UDO Changes; and (f) November – (a) City Council reviews first set of UDO changes; (b) Downtown Commission, then Planning and Zoning review second set UDO changes.

The Downtown Commission is working to assure balanced membership on the “Implementation Pursuit Committees”, so that the energy that worked to create the Master Plan will continue. As noted in the Implementation Matrix, a large portion of the recommendations will require action on the part of the private sector; and it has been exciting to see those groups start to coalesce and move toward action without staff participation. With all the committees, the standard for their work will be to advise and push for implementation of the Plan recommendations not to change or modify those recommendations; unless significant problems are seen in the technical aspects of the recommendations.

The current timeline for the Downtown Master Plan during this fall will include the formation of the committees, and the review of the first set of UDO changes by the “Urban Design and Development” Committee, then the Downtown Commission and Planning and Zoning Commission – and then presentation to the Council sometime in November. The first set of changes will be the modifications to the development review process. The staff has already drafted these changes, and has begun drafting the second set pertaining to the actual design related standards (which will be more complicated). The planning staff has been working with the Downtown Commission’s Design Review Committee on these changes, which has been a very helpful process.

Implementation staffing includes (1) Planning and Development staff working with Urban Design and Development Subcommittee – primarily UDO changes; and (2) Sasha Vrtunski – contract employment to provide staff support for implementation for (a) Arts and Culture Subcommittee; (b) Historic Preservation Subcommittee; (c) Transportation and Parking Subcommittee; and (d) Downtown Management Subcommittee.

Finally, the implementation work by the Planning and Development staff (primarily the UDO changes for the Urban Design elements and the Historic Preservation aspects) is now being augmented by the addition of Sasha Vrtunski, who is working on a short term contract to provide staff support for the other aspects of implementation related to the Arts and Culture, Transportation and Park, and Downtown Management elements. Finally, it is important to convey that many aspects of implementation are already underway from both the public and private sectors.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER SPECIFIC RECOMMENDATIONS FOR THE DISTRIBUTION OF HOMELESSNESS PREVENTION AND RAPID REHOUSING PROGRAM GRANT FUNDS

RESOLUTION NO. 09-200 - RESOLUTION AUTHORIZING AGENCY FUNDING USING HOMELESSNESS PREVENTION AND RAPID REHOUSING PROGRAM GRANT FUNDS

Mayor Bellamy opened the public hearing at 7:41 p.m.

Mr. Jeff Staudinger, Community Development Director, said that this is the consideration of a resolution authorizing agency funding using Homelessness Prevention and Rapid Rehousing Program grant funds. This public hearing was advertised on August 28 and September 4, 2009.

The City of Asheville was approved to receive \$509,460 in Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds. In May, City Council approved the Action Plan amendment for the use of funding, which was subsequently approved by U.S. Dept. of Housing & Urban Development (HUD). The Action Plan approved by HUD detailed the process by which the City would distribute those funds.

In June, the City initiated a pre-application process to assess whether interested parties qualified to apply for HPRP funds, using thresholds set by HUD’s HPRP guidelines. The pre-application process resulted in five agencies qualifying to submit full applications. Those agencies are:

- Asheville Buncombe Christian Community Ministry (ABCCM)

- Eblen Kimmell Charities (Eblen)
- United Way 2-1-1 (2-1-1)
- Pisgah Legal Services (PLS)
- Western North Carolina Aids Project (WNCAP)

As the application process unfolded, it became clear that rather than a competitive process, each of the qualified agencies felt they had a clear role to play in meeting a portion of the HPRP priorities. A collaborative application was proposed, and the concept accepted by staff.

Collaboratively, the agencies agreed to the following:

- Participate in joint City-County HPRP Oversight Team—The oversight team will meet to ensure that the HPRP is efficiently and effectively implemented since it is an entirely new source of funding from HUD;
- Case managers will participate in the HPRP Case Review—these reviews will be a collaborative team of HPRP staff and other relevant staff from community partner agencies. This team will meet monthly to review assessments and scan the environment for additional resources available to all applicants;
- Based on national and state best practices, WNCAP, ABCCM and Eblen-Kimmel will establish uniform assessment, screening tools, and evaluation processes tailored for our community.
- Make interagency referrals designed to best meet particular households' needs beyond the scope of HPRP;
- Enter data into HMIS consistently;
- Provide reports as necessary;
- Send all payments to third party vendors directly.

2-1-1 will provide community wide outreach. When potential HPRP participants call, 2-1-1 will perform a short assessment and, if the household seems eligible, refer callers to an HPRP lead agency for a full assessment. 2-1-1 will perform follow-up calls on a sample of people referred to evaluate the process.

ABCCM, Eblen-Kimmel Charities, and WNCAP are lead agencies. They will accept referrals from 2-1-1, community agencies, and individuals. Agencies will evaluate to ensure households would remain or become homeless but for HPRP assistance, and verify that there are no other resources available to the household. If a household qualifies, lead agencies will provide housing stabilization, case management, and housing search and placement services. If clients need specialized supports, referrals will be made to Pisgah Legal, On Track, or other community support agencies.

Pisgah Legal will offer legal services to clients so that they can maintain or obtain housing.

OnTrack will subcontract with HPRP agencies to provide Credit Counseling and credit repair as needed.

Community Partner Agencies are not funded, but are an essential support to HPRP. Agencies providing services such as mental health, public health and human services, employment training and education, family reunification, and domestic violence counseling will accept referrals from HPRP funded agencies and make referrals as appropriate.

On August 26, 2009, the Housing & Community Development Committee (HCD) met, reviewed the application requests, staff report for the distribution of HPRP grant funds, and heard presentations from the agencies.

Funds must be committed before September 30, 2009. HPRP guidelines require that all funds be used within a thirty-six month period, or by September 30, 2012.

Regarding the City Council Strategic Operating Plan, this hearing is part of the process that will enable funds to be directed to prevention and rapid re-housing, strategies that have been proven nationally to reduce homelessness.

Pros:

- The collaborative HPRP proposal advances our homeless service delivery system to one designed to prevent homelessness and reduce the effect of homelessness on households.
- It directly supports the goals of the Asheville-Buncombe 10-Year Plan to End Homelessness.
- It advances a System of Cares model in which agencies collaborate to provide client services based upon the agency's strengths, avoiding service duplication and ensuring that clients access housing and supportive services, achieving the most cost-effective and responsive results.
- The collaborative commitment to use HMIS will enable the City to better understand the scope and nature of homelessness in our community.

- The lead agencies bring other funding resources to the table. By skillfully combining a variety of funding sources to meet people's housing crisis needs, agencies ensure that HPRP funds will be maximized to the best possible extent. Along with additional funds, lead agencies also offer experienced and caring human resources as part of their service models. .

Con:

- There is very little administrative funding in this program given the proposed outcomes and scopes of work. The City and agencies will be sharing only 5% of the total grant (or about \$26,000) for administration, which (according to the terms of the grant) is supposed to cover all administrative activities over 3 years.

By preventing homelessness and rapidly re-housing households that are in a housing crisis, we limit the probability that individuals will become chronically homeless. The 10-Year Plan estimates that it can cost up to \$12,000 annually in public funds to pay for someone who is experiencing chronic homelessness. The project increases the likelihood that households will obtain or maintain housing as well as employment, education, and community relationships.

The HCD recommends approving the collaborative proposal and budget as presented. The proposal was also reviewed and endorsed by the Homeless Coalition Advisory Committee.

Mayor Bellamy closed the public hearing at 7:46 p.m.

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

When Councilman Russell asked what the City's administrative costs would be over the 3-year period, Mr. Staudinger said that he didn't think there would be any costs that would be attributed to the City's General Fund.

Councilman Mumpower explained why he felt this is will be a failed effort of well attended social engineering but it does not address the core issues.

Councilwoman Cape spoke in support of the action and said that we have looked at duplication of services for years and these agencies have stepped up to the plate and found a way to collaborate together.

Councilman Newman was pleased with the collaboration of these agencies. He said there will always be a need for strategies to address people, due to whatever circumstances, might be homeless, but during this recession, this need is unique and at a level that a response is necessary. The response put together by these agencies is the right one.

Councilman Miller spoke in support of this action and suggested in one year the agencies report to Council the impact of this collaboration.

Councilman Newman moved for the adoption of Resolution No. 09-200. This motion was seconded by Councilman Miller and carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

RESOLUTION BOOK NO. 32 – PAGE 215

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY IDENTIFIED AS IRENE WORTHAM ADULT DAYCARE CENTER LOCATED AT 16 AND 18 AZALEA STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE CONSTRUCTION OF A NEW 7,169 SQUARE FOOT ADULT DAYCARE CENTER TO REPLACE THE EXISTING STRUCTURE AT 18 AZALEA STREET

ORDINANCE NO. 3784 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY IDENTIFIED AS IRENE WORTHAM ADULT DAYCARE CENTER LOCATED AT 16 AND 18 AZALEA STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE CONSTRUCTION OF A NEW 7,169 SQUARE FOOT ADULT DAYCARE CENTER TO REPLACE THE EXISTING STRUCTURE AT 18 AZALEA STREET

Mayor Bellamy opened the public hearing at 7:59 p.m.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property identified as Irene Wortham Adult Daycare Center located at 16 and 18 Azalea Street from 16 and 18 Azalea Street from RS-8 Residential

Single-Family High Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning to allow for the construction of a new 7,169 square foot adult daycare center to replace the existing structure at 18 Azalea Street. This public hearing was advertised on August 28 and September 4, 2009.

Ms. Bernstein said that the applicant is requesting a Conditional Zoning for two parcels located at the end of Azalea Street from RS-8 (Residential Single-Family High Density District) to RM-16 (Residential Multi-family High Density District) 16 in accordance with Section 7-7-8 of the UDO.

The site consists of two separate parcels located at 16 and 18 Azalea Street with a combined area of approximately 1.49 acres. The lots are currently zoned RS-8, as are adjacent parcels.

Both parcels are owned by the Irene Wortham Center for their adult day care facility, which has been operating at this site since the early 1980s. There is a one-story brick structure on the westernmost parcel, which will remain. The one-story modular structures on the easternmost parcel will be removed and although both parcels will be conditionally-zoned, all construction activity (and staging) will occur on this eastern parcel only.

The applicant is proposing to construct a new building on the eastern parcel for their "Adult Day Activities Program," currently operating in the existing structures. The building will be sited towards the rear of the parcel, with parking in the front, accessed from Azalea Street. The single-story structure is proposed at 7,169 square feet and approximately 17 feet in height. Twenty-two parking spaces (including 2 accessible spaces and 2 bike spaces) are included in the vehicular use area.

Landscaping and open space are required on this site due to both the rezoning and the new construction, and includes a Type A (20') property line buffer around the entire project area, street buffer in front of the parking area, street trees, parking lot landscaping and building impact landscaping. Although not technically required on the parcel where no development activity will occur, staff is recommending that street trees and sidewalks be extended across the entire road frontage of the project area to enhance walkability in the neighborhood and to maintain a consistent streetscape.

The applicant is requesting a conditional zoning to RM-16 to expand their facility and rectify what appears to be a legal (grandfathered) non-conforming situation. The use was established prior to the Unified Development Ordinance (UDO) and would have been allowed under its previous zoning designation (R3), however this use is not allowed in the current (RS-8) zoning district.

Adult Day Care Centers are considered as a Use By Right Subject to Special Requirements (USSR) in the RM-16 zoning district. In these situations, the special requirements are that the maximum building size allowed is 20,000 square feet and there must be a courtyard space facing the street. Both of these conditions have been met and the RM-16 CZ designation would allow the Center to rebuild a more modern and capable facility.

The project was approved with conditions by the Technical Review Committee (TRC) on Monday, July 20, 2009. No members of the public were present and no comments have been received as of the writing of this report. Discussion at the TRC meeting was centered on two issues – the applicant's opposition to staff's recommendation to extend street trees and sidewalks across the entire property frontage and the extent of the water line improvements required by the water allocation process and associated costs. Further study by the applicant revealed that the original waterline improvements indicated in the Letter of Commitment will not be required and the existing waterline provides adequate capacity.

The Planning & Zoning Commission unanimously recommended approval (6-0) of this proposal at their August 20, 2009, meeting. A representative from the Shiloh Community Association voiced support of the project.

Representatives from Irene Wortham Center and the architect met with members of the Shiloh Community Association on Wednesday, July 1st and Monday, July 6th to share the details of this project and answer questions.

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

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic

features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed use and development of the land is compatible with the natural features and topography of the site as well as the surrounding area. Significant landscaping and open space will be provided that will mitigate any incompatibility with the residential neighborhood surrounding this location. There are no significant topographic features on the site.

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

The proposal is not expected to injure the value of adjoining or abutting properties. The use has been in operation on the same site for more than 20 years and neither the use nor the existing boundary limits are changing.

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

The proposed development includes a structure that is larger than the average single-family home and a parking lot which is somewhat inconsistent with single-family residential development; however, the proposed project complies with planning and zoning requirements for non-residential uses allowed in residential districts and will be buffered from the adjacent homes by a 20' wide landscape strip of trees and shrubs that should mitigate any negative visual impact.

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

This proposal meets several goals and objectives of the *Asheville City Development Plan 2025*, including infill development and locating an employment center along a transit route. Additionally, the Sustainable Economic Development Strategic Plan lists the health-care sector as a locational advantage for the City of Asheville. This proposal is to support the continued operations of a local, existing health-care related facility that serves primarily low to moderate-income Asheville residents and improves their quality of life.

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

This proposed development is located near major road facilities within walking distance to two City bus routes (# 6 & 8). In addition, basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.

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

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

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

Pros:

- Remedies a non-conforming zoning situation.
- Allows an existing community support organization to upgrade their facility to improve the client experience.
- Significant landscaping will be installed onsite to provide a buffer to adjacent homes.

Con:

- Will result in a larger parking area than currently onsite, which is not typical in residential areas.

Based on the above findings, staff recommends approval of the conditional zoning as requested by the applicant.

The Executive Director of the Irene Wortham Center explained the mission of Irene Wortham Center and noted they have been in the Shiloh community for over 45 years. They are currently licensed for 47 but they would like to provide services to 77 people. Their current building is not large enough nor does it have the quality their clients deserve. She urged the Council to vote in support of this action.

Mayor Bellamy closed the public hearing at 8:05 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. 3784, to conditionally zone property identified as Irene

Worham Adult Daycare Center located at 16 and 18 Azalea Street from 16 and 18 Azalea Street from RS-8 Residential Single-Family High Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning to allow for the construction of a new 7,169 square foot adult daycare center to replace the existing structure at 18 Azalea Street, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) Staff recommends that street trees and sidewalks be installed across the entire frontage of the site (both parcels) to enhance walkability in the neighborhood and to maintain a consistent streetscape. This motion was seconded by Vice-Mayor Davis and carried unanimously.

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V. UNFINISHED BUSINESS:

A. W.C. REID CENTER CAPITAL PLAN

Project Update and Reid Center Funding and Project Design Status

Parks, Recreation and Cultural Arts Director Roderick Simmons said that this report is to provide City Council an update on the status of funding for the development of a new community center and the progress on completion of the construction documents.

On January 13, 2009, City Council reviewed and approved the new construction plan for the WC Reid Center for the Creative Arts. This action was recommended by the WC Reid Center Advisory Board and the Parks and Recreation Advisory Board.

On May 12, 2009, City Council approved authorizing the City Manager to enter into a contract with Mathews Architecture to develop Master Plan for site development and construction documents for the construction of the WC Reid Center for Creative Arts for an amount not to exceed \$278,600.

On August 25, 2009, City Council was notified that a North Carolina Parks and Recreation Trust Fund grant extension and site change for the project was not granted. City Council approved authorization for the City Manager to withdraw from the North Carolina Parks and Recreation Trust Fund grant for Reid Center Renovation Project (#2006-476, DENR PO7033) for \$500,000, and gave authorization to reapply for a PARTF grant funding in January 2010 for construction of a new W.C. Reid Community Center. City Council requested an update on project funding and facility design.

Funding Update

Assistant Parks, Recreation and Cultural Arts Director Debbie Ivester said that staff has managed relationships and regular communication with all major funders since the inception of the project. All funds committed to the first phase of construction are designated for theater, classrooms, office, restrooms, storage and parking. The City allocated \$500,000 as part of the Fiscal Year 2006-07 capital improvement budget for the project. A portion of the funds have been used for project design and minor improvements at the Reid Center.

Most recent update to funders includes (1) December 2008 regarding change from renovation to construction, and (2) May 2009 regarding phase I and II of project. Below is information pertaining to the major funders.

Funder: Junior League of Asheville	Amount: \$45,000
Award Date: 2004	Expire Date: NA
Purpose: Theater, classrooms, office, foyer, design	
Comment: Agrees to the use of funds for construction rather than renovation, expects construction to begin by end of 2009. Funds are committed to project.	

Funder: Janirve Foundation	Amount: \$600,000
Award Date: 2006	Expire Date: 2010
Purpose: General construction	
Comment: Agrees to the use of funds for construction rather than renovation, expects construction to begin by end of 2009. Currently in discussion regarding commitment of funds in relation to withdrawal of PARTF grant and feasibility of project.	

Funder: Eaton Charitable Fund Amount: \$25,000
Award Date: 2007 Expire Date: NA Purpose: General construction
Comment: Agrees to the use of funds for construction rather than renovation, expects construction to begin by end of 2009. Funds are committed to project.

Funder: Glass Foundation Amount: \$50,000
Award Date: 2007 Expire Date: NA Purpose: General construction
Comment: Agrees to the use of funds for construction rather than renovation, expects construction to begin by end of 2009. Funds are committed to project.

Funder: U.S. Dept. Housing & Urban Development Amount: \$137,200
Award Date: TBA Expire Date: 5 years Purpose: General construction
Comment: Currently conducting technical change in award from renovation to new construction.

Funder: Eckerd Family Foundation Amount: TBA
Award Date: TBA Expire Date: NA Purpose: General construction
Comment: Will reconsider its commitment once the final construction plan is complete that ensures timely completion of the project.

Facility Design Update

Mr. Simmons said that Mathews Architecture began work when the contract was approved in June 2009.

Mathews Architecture is responsible for fulfilling two stages of project development that would enable the project to be bid out: (1) Master Plan for site development and (2) Construction documents for the construction.

(1) Master Site Plan for the building and site.

The master plan stage has been completed and entailed a site survey, researching and designing the facility for every phase of development to meet UDO requirements, preparation for LEED requirements, and addressing utility easement considerations.

(2) Construction documents for the construction

The second stage of design development/construction documents is well under way and is expected to be completed by October. This includes the next level of refinement design and engineering that addresses the layout of the facility, basic structural components and foundations, finishes and preliminary observation of costs. The fundamental plans will be laid out in this stage along with specifications and finalized by the architect and engineers prior to going to bid.

- The timeline we are currently working on is the bids will go out on November 4, the bid opening is set for December 4, depending on Council's schedule they hope to bring it back in December, with construction starting in late December or early January.

This project complies with the Parks, Recreation, Cultural Arts and Greenway Master Plan in that it supports strategically increasing recreational programming level of service, ensures a continued high level of service in parks, and increases connectivity to parks and greenways. In the Master Plan neighborhood input indicates a strong desire to continue a variety of programs for youth at this site and highlights the need for the continuation of neighborhood services in this part of the city. The Master Plan prioritizes this project as the highest ranking new facility in the park system.

- With the lost of PARTF funding in the amount of \$500,000 the budget available now for construction of a first phase is \$1,500,000. After paying architect fees in the amount of \$278,600, we will have \$1,221,400 remaining for building the new community center.

Final cost estimations from the architect will not be available until November, but the preliminary review suggests the project scope will be in the range of \$2,000,000 or more.

- Staff met with the Chief Financial Officer Ben Durant to discuss possible funding options if the bid price for the project comes in higher than expected.

There is approximately \$650,000 of un-programmed funds in the City's capital reserve accounts that could be appropriated as needed to fund higher than expected bids for the Reid Center project:

General Capital Reserve Account	\$180,000
Donations from Jake Rusher Estate	<u>\$470,000</u>
Total	\$650,000

Alternatively, there may be an opportunity to combine any additional Reid Center costs with a larger financing package that is planned for Fiscal Year 2009-10 that currently includes the acquisition of fire trucks, two sewer projects, installation of an irrigation system at the golf course, and pool improvements.

If the financing option is chosen, debt service costs would increase depending on the additional amount that is financed.

Pros:

- By proceeding with the final design and appropriating funds keeps the project on track with key components of the master plan
- Leverages the private funding already in place to support the project

Cons:

- Construction at the Livingston Street Park site removes one adult size ball field from the City's inventory
- Appropriating additional funds from the City's capital reserve accounts would deplete the capital reserve

Staff is recommending proceeding with the final designs for the project and asks City Council to provide policy direction on appropriating funds to replace the loss of the PARTF grant for project construction or placing project construction on hold for future development.

He provided Council with a cost breakdown for renovations of the current W.C. Reid Center (total probable cost is \$5.4 Million), along with a list of minor improvements that have been made to the existing facility.

In response to Councilwoman Cape, Mr. Simmons said that after we apply for the PARTF grant in January, we would know be notified in July, would enter the contract in August, and expend funds in September. Any funds awarded would have to be for construction that hasn't occurred up to that point. We would be looking at elements that were left out of Phase I.

In response to Councilwoman Cape, Ms. Jane Mathews, with Mathews Architecture, said that they have not discussed a staging aspect that would adhere to the ¼ reduction of PARTF funds. They won't know an exact more defined budget until they complete the design development which is scheduled to be completed in a few weeks. That will be the first point they will have detailed independent cost estimates. They only now have a conceptual budget that doesn't take into account the bidding climate, which is now very favorable.

Upon inquiry of Councilwoman Cape, Ms. Ivester said that the Junior League of Asheville, Eaton Charitable Fund and Glass Foundation funders have been flexible. The Janirve Foundation is also flexible; however, the only thing binding them now is their close-down process. When we met with them in May to talk more specifically, they focused on the close-down process. They felt that if construction could start by the end of the year and then see some good progress into the first couple of months of 2010, they could continue to commit the funds. If the breaking ground occurs in January vs. December, staff would be happy to have that conversation with the funders.

In response to Councilwoman Cape about possible funding options, City Manager Jackson said that (1) the applicable Energy Block Grant funds have been committed, but the ARRA Project Manager will look for other sources of funds; and (2) the Jake Rusher funds are held by the Trust for Public Lands and there is \$470,000 available for land acquisition and possibly park development; however, Council shouldn't bank on that entire amount but may need to supplement it with a combination of funds. He would need Council direction if they want staff to follow-up with the Trust for Public Land as well as with other funding sources.

After hearing from Mr. Simmons and Ms. Mathews about the schematic designs and the current bidding climate, Vice-Mayor Davis said that he would really like to see a good facility at the Reid Center and this is a worthwhile project, but we need to be realistic about how much it will cost.

Councilwoman Cape noted that when Council compared the cost of a new building vs. renovation, the new building would be cheaper to construct. We have a community in that area that relies heavily on an active engaged center for our children. We need a safe, healthy and warm place for children to keep them off the streets. We have had a commitment to that area community for a long time to do something. She wanted to see some innovative funding options to fill this gap. She said there are some new

funding mechanisms that are available to cities to get good infrastructure loans. She didn't want to walk away from fulfilling some project in this area.

Councilman Mumpower felt that we had an unreliable budget from the beginning and Council can't make good decisions without a reliable budget.

Councilman Mumpower presented the following proposal to reconsider the new Reid Center. He said that the problem is that last year the Council majority committed a half million of City tax dollars to the renovation of the Reid Center. This past winter the Council majority passed a resolution supporting the construction of a new Reid Center on the site of the current ballpark on the corner of Depot and Reid. In May, the majority followed-up with a vote to commit \$250,000 of the roughly \$2 Million existing budget for architectural fees. Two weeks ago, the majority voted to return a jeopardized half million grant – reducing the current funds to \$1.5 Million. There are several problems associated with these actions (1) \$1,250,000 is an inadequate budget for the first (and largest) phase of the proposed project; (2) We are losing a ballpark and will still need action on the existing facility; and (3) The need for a functional facility in this community remains, but the project continues to struggle under unrealistic proposals, budget limitations, and procedural missteps.

Councilman Mumpower's proposal is (1) that the Council majority instruct the City administration to stop action on the new Reid Center site; (2) That the administration be instructed to fast track (90 day) a *plan* for the incremental repair and cosmetic upgrade of the existing Reid Center in a manner that limits code considerations but increases the utility and attractiveness of the facility; (3) That a budget be developed to assure a 3+/- year plan to enhance the existing Reid Center; (4) That the City sponsor a aesthetic design competition for key rooms of the facility and thus borrow from the creative energies of local designers/artists/citizens who can assist in making cosmetic changes to the facility that assure a long-term, special, affordable, and functional role for the existing Reid Center facility; and (5) That an informal design contest be held to develop visions for the cosmetic improvements of the outside of the building and landscaping of the facility.

He said that incremental repair that does not trigger primary code considerations, and we can use local talent to maximize our limited dollars and make the best of what we have. The Civic Center renovations are one model of incremental improvements without triggering code considerations and the City Hall is another.

In response to Councilman Newman, Mr. Simmons said that for renovations we must meet the Minimum Building Code, but he did not know what triggers that code. One problem with renovation incrementally is that if we do electrical or plumbing work, it has to be the entire building, not one section. The building is in compliance with the Fire Code.

In response to Councilman Newman, Mr. Simmons said that staff's decision came after they looked at the life of the building – an 80 year old structure – and how much money they would have to put in it to make it functional. We could put a lot of money in it to make it a presentable community center, but it still won't function in the best way to deliver programs and services because it wasn't designed as a community center – it was designed as a school. Even though the square footage is 37,000, there is a lot of square footage that is lost because it's not programming area, just dead space within the building. Even if we renovated the building we still wouldn't be able to take advantage of that square footage and space.

Mayor Bellamy felt the process was flawed. When staff met with the community to refurbish the Reid Center there were some things that should have been in place at that time, but we don't need to go back and rehash that process. But, we can learn from it. She felt that Council needs to understand that we have to stop asking other people to take care of our assets, whether it's the Grove Arcade or the Pack Square Park, or our facilities that are in disrepair. The City should have taken the leadership in repairing the Reid Center, but the community responded with grants. Regarding renovation, the Stephens-Lee Center is an example of a facility that has been in existence for many years, or the Municipal Building. We must take the leadership and say we are going to invest the money to fix up our facilities, in this instance the Reid Center. She said that 7,000 square feet vs. 37,000 square feet is not apples to apples, but it doesn't meet the needs of the community either. If you go to the Reid Center any time of the week you will see the number of children and adults that use that facility. The number of independent uses in that building is significant. She felt it's important not only to complete Phase I, but the entire Master Site Plan and we need a complete timeline for the different phases too. Council needs all information to make an informed decision. She would love to have a new building but the LEED certification by Council is an additional 15% of the cost. That's an example of what needs to be laid out so it's transparent. We need to be committed to start the project and finish it. She felt it was realistic to say that we will finish the project and find the money, whether through a creative green grant financing or using our bond capacity. We do not want that community to be let down as they say we have done with the Eagle-Market Street area in that nothing has moved forward. She asked Council to stand firm on a commitment to finish what we start. We cannot turn our backs on another project and allow the community to step forward and say we'll do it. The City must take care of their assets in the community. We could have a new Council come in and this might not be their priority. She could not support 7,000 square feet when we have lost ¼ of the funding. She disagreed with the amount of dead space in the 37,000 square foot building. When we looked at refurbishing the building, there was a commitment to utilize every square foot in the building. She felt what's dead is the desirability to complete the project.

Throughout discussion, Mr. Roderick and Ms. Ivester responded to various questions/ comments from Council, some being, but are not limited to: is there a programming enhancement piece associated with the 7,000 square foot new building; what do we get with the new building that may not be offered in the new building; will the gymnasium be added in Phase II; has there been a priority list put for the renovation piece; what risk do we have if we deplete the City's capital reserve fund; when staff spoke with the Eckerd Family Foundation did they get a sense of whether they will contribute to the project or not; was there a problem with the U.S. Dept. of Housing and Urban Development's technical change in the award; what is the status of the effort with the Chamber of Commerce to look at a greenhouse; and what is the status of conversations with UNC-Asheville using the facility, in what phases and at what cost.

Ms. Meg White, former fundraising specialist for the City of Asheville, said that with the work of a committee of 16 people they raised \$1 Million, all of the money outlined above except for the Junior League of Asheville money and the U.S. Dept. of Housing and Urban Development money. That \$1 Million was to be matched with \$500,000 by the City and \$500,000 from PARTF. The Eckerd Family Foundation grant was \$300,000 but she was not sure if that is still accurate. She noted that \$25,000 was also raised by the community – a dinner they hosted, individuals writing \$5-50 checks, and pennies collected from the children. She urged Council not to let the community down and build a new Reid Center.

In response to Mayor Bellamy, Mr. Simmons said that his goal is to get Phase I completed and then they can start identifying how much it will cost with the gym since we have the footprint. Then when we do apply for grants we can break ground and start the project right away, instead of using the grant dollars to design the gym. With UNC-Asheville, there are a couple of grants they have identified for an initiative to do some interaction with students coming into the Reid Center to do program space, the greenhouse component, etc. They have been meeting with UNC-Asheville representatives to see what that program would look like. Also, after we reapply for the PARTF grant and, if we are successful with that grant, we will use it for the gym, along with matching money in our Capital Improvement Plan (CIP) process.

Mayor Bellamy felt that staff has not given Council the entire picture of the scope and process of this initiative. Council must have details about funding at every level. Council should be provided information on all the funding partners and what grants they are pursuing. She asked the City Manager to provide Council a clear picture of what is in the architect's purview, what staff is working on in terms of funding sources, what is lacking, and how those funds will be raised. We need to look at where we are with our debt capacity and go after the funding to complete this project.

Councilman Mumpower moved to cease all operations on the development of a new Reid Center, to adjust our contractual arrangements within whatever parameters are set up in those contracts, and to re-direct our efforts to developing a 30-day plan for a 3-year incremental repair and cosmetic upgrade of the existing Reid Center facility using old and current information.

Councilman Russell offered a friendly amendment that we not cease progress, but pause it for 30 days while we look into options of this other proposal.

Councilman Mumpower accepted Councilman Russell's friendly amendment. Councilman Russell then seconded Councilman Mumpower's amended motion.

Upon inquiry of Vice-Mayor Bellamy, Mayor Bellamy said there is no plan in place to pay for Phase II. She wanted Council's commitment to complete the entire project, not just phasing the project on paper.

Vice-Mayor Davis agreed with Mayor Bellamy in that we need a clear direction from staff in how we are going to fund the entire project. The new building makes sense if we can pay for it. If necessary, we can rehabilitate the old facility in increments.

Councilman Russell withdrew his second to Councilman Mumpower's amended motion in that he felt Council should move forward with this project.

In response to Councilwoman Cape, Ms. Mathews said they have prepared a detailed Master Site Plan that shows all phases. They are taking the Phase I component of the Master Site Plan and expanding that into complete detailed drawings and documentation for bidding. She did note that architects do not work alone and what the City is paying is a lot of people working on this project between her office and other consultant offices who are participating in the project.

Councilwoman Cape moved to move forward with Phase I of the Master Plan, with the understanding that we are underfunded at this point, and direct staff to continue to look for other funding options. This motion was seconded by Vice-Mayor Davis.

When Mayor Bellamy asked what happens to Phase II, Mr. Simmons explained that their goal is to finish the Master Site Plan. As we move into the CIP process we will be able to present to Council with Phase II of the project, along with possible

funding sources and the amount of money they need in their CIP so we know what the City commitment is even before starting fundraising for the project. We contracted with Mathews Architecture to do a Master Site Plan for the entire site knowing that we will need future elements. We are now doing construction drawings for Phase I because we need to get it out to bid and build it. After we get that moving forward we start to look at Phase II, with staff time identifying the funding sources. Again, his goal is to meet the Phase I deadline and get bids out for construction and then look at how we design Phase II and how much it will cost and build that cost into the CIP budget.

When Mayor Bellamy asked City Attorney Oast what she could do to make that commitment happen, City Attorney Oast said that City Council, in their planning processes, sets the CIP. If Council moves ahead with Phase I, they can give direction that Phase II be brought to Council as appropriate with the funding sources and the other aspects of the project identified.

Mayor Bellamy asked for a friendly amendment to Councilwoman Cape's motion to make sure that there is a commitment that Phase II be brought back to Council with funding sources identified. She wants a commitment to complete the entire Master Site Plan.

Councilwoman Cape accepted the friendly amendment, noting that we have a goal to complete the Master Plan for the whole project and we are going to phase it as opportunities arise and funding options become available.

City Attorney Oast re-stated the motion that staff is directed to move forward with Phase I and that at the appropriate time (whether through the budget process or the CIP process) that Mr. Simmons will come back to Council with more details about Phase II to include funding and implementation.

Councilman Miller suggested the following friendly amendment language "and provide Council with a detailed staging plan complete with estimate costs and funding options as available."

Councilman Mumpower felt that with our 10% unemployment rate, undertaking new capital construction is ill advised. And, we will continue to own 37,000 square feet that we will have to renovate. He suggested that if we drop down our vision and start thinking incrementally, cosmetically and creatively we are not talking about an \$8-10 Million proposal. He felt you can take a 37,000 square foot facility and work on it a piece at a time.

The following amended motion made by Councilwoman Cape and seconded by Vice-Mayor Davis carried on a 6-1 vote, with Councilman Mumpower voting "no": Staff is directed to move forward with Phase I (with staff directed to continue to look for other funding options) and that at the appropriate time (whether through the budget process or the CIP process) staff is directed to provide Council with a detailed staging plan, complete with estimate costs and funding options as available.

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

At the recommendation of the Boards & Commissions Committee, Councilwoman Cape moved to instruct the City Clerk to prepare the proper paperwork to appoint Ms. Julie Fulwood (representing the business or non-profit sector) and Ms. Teresa Foster-Moorehead (representing the education and the health/medical profession) to the Americans with Disabilities Act Compliance Committee, to each serve a three-year term respectively, terms to expire August 22, 2012, or until their successors have been appointed. This motion was seconded by Councilman Russell and carried unanimously.

At the recommendation of the Boards & Commissions Committee, Councilman Mumpower moved to instruct the City Clerk to prepare the proper paperwork to extend the terms of Mr. Steve Sizemore and Mr. Tom Byers for an additional six months, term to expire February 14, 2010, or until the stormwater and erosion control ordinance has been adopted by City Council, whichever occurs earlier. This motion was seconded by Councilman Russell and carried unanimously.

It was the consensus of Council to interview Bob Patel for a vacancy on the Buncombe County Tourism Development Authority.

It was the consensus of Council to interview Stephanie Weil for a vacancy on the URTV Inc. Board of Directors.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Angela Smith spoke to Council about a failed stormwater adversely affecting 96 S. French Broad Avenue. Mayor Bellamy referred Ms. Smith to City Manager Jackson, who in turn said that he would investigate the concern and would update Council and Ms. Smith.

The following claims were received by the City of Asheville during the period of August 14-27, 2009: Doug Chrisawn (Police), Greg Lewis (Water), Stewart Coleman (Streets), AT&T (Water), Lula Mays (Water), AT&T (Water), Ray Quate (Fire) and Donald Taylor (Streets). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:37 p.m.

CITY CLERK

MAYOR