

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

Councilman Newman gave the invocation.

I. PROCLAMATIONS:

A. INTERNATIONAL CITY MANAGER ASSOCIATION

Mayor Bellamy was pleased to present City Manager Jackson with a plaque from the International City Manager Association recognizing Mr. Jackson for 30 years of local government service. She then recognized City Manager Jackson's wife Kathy and their son Mark.

All Council members thanked him for his leadership.

B. RECOGNITION OF BB&T FOR THEIR DONATION TO SUPPORT A VOLUNTEER PROJECT AT THE SHILOH COMMUNITY CENTER

Mayor Bellamy said that we have invited representatives of BB&T to join us today so we can show our appreciation for their recent partnership with the City of Asheville on a volunteer project at the Shiloh Community Center. For 3 days, BB&T staff donated their time, energy, and expertise to making our Shiloh Community Center a more attractive place for citizens to gather. Fifty volunteers painted the community room and halls of the Center and the out buildings near the ball field, refurbished the stage floor, replaced outdoor bleacher seating and installed plants to make the front and entrance of the building more inviting. The materials for the improvements were paid for with a donation of \$10,600 that the local BB&T branches designated for this project. In addition to the work completed during the workday, the donation will allow the Center to purchase new tables and chairs for the community room and a new recycling center for the facility. We also want to take this opportunity to thank Kathy Connor and her Parks and Public Facilities crew members for their outstanding support for this project and the BB&T volunteers.

This project is a great example of the community partnerships we are in the process of building through the creation of a comprehensive City of Asheville volunteer program. By facilitating a greater level of coordination among staff on these projects, we make it easier for members of our community to identify volunteer opportunities and take part with a high level of success.

She then introduced Mr. Mike Willet, BB&T's Regional President, who then introduced members of his team, explained the BB&T Lighthouse initiative and shared a brief slide show on the project.

C. PROCLAMATION PROCLAIMING OCTOBER 2009 AS "BREAST CANCER AWARENESS MONTH"

Councilwoman Cape read the proclamation proclaiming October 2009 as "Breast Cancer Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Earleen Bennett, representing Beauty Through Cancer, who thanked City Council for their support.

D. PROCLAMATION PROCLAIMING NOVEMBER 2009 AS "ADOPTION AWARENESS MONTH"

Vice-Mayor Davis read the proclamation proclaiming November 2009 as "Adoption Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Alisha Davis, from the Buncombe County Department of Social Services, who

briefed City Council on some activities taking place during the month and thanked City Council for their support.

E. PROCLAMATION PROCLAIMING NOVEMBER 2009 AS "NATIVE AMERICAN INDIAN HERITAGE MONTH"

Mayor Bellamy read the proclamation proclaiming November 2009 as "Native American Indian Heritage Month" in the City of Asheville. She presented the proclamation to Ms. Renissa Walker, Manager Kituwah Preservation & Education Program for the Eastern Band of Cherokee Indians, and her mother Ms. Myrtle Driver. Ms. Driver is a tribal elder and a fluent speaker. She was named Beloved Woman in 2007 – the highest honor a female member of the tribe can hold. She also worked with Charles Frasier to translate his novel 13 Moons. The only occurrence in history that a contemporary novel was translated into an indigenous language. Ms. Walter thanked City Council for their support.

II. CONSENT AGENDA:

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

At the request of Councilman Miller, Consent Agenda Item "H" was removed from the Consent Agenda due to a conflict of interest.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 13, 2009

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY IN ORDER TO RECEIVE A GRANT FOR A MEDICAL AMBULANCE BUS

BUDGET AMENDMENT TO RECEIVE A GRANT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR A MEDICAL AMBULANCE BUS

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

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY IN ORDER TO RECEIVE A GRANT TO CONTINUE THE BUILD OUT OF THE STATEWIDE VIPER INTEROPERABLE COMMUNICATION SYSTEM

BUDGET AMENDMENT TO RECEIVE A GRANT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY IN ORDER TO RECEIVE A GRANT TO CONTINUE THE BUILD OUT OF THE STATEWIDE VIPER INTEROPERABLE COMMUNICATION SYSTEM

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

D. RESOLUTION NO. 09-222 - RESOLUTION ADOPTING THE FIRE DEPARTMENT'S STANDARDS OF RESPONSE COVERAGE

Summary: The consideration of a resolution adopting improved standards of response coverage for the City of Asheville for fire and rescue emergencies.

The Commission on Fire Accreditation International (CFAI) has established minimum emergency response performance objectives for accredited fire departments. CFAI requires these minimum response standards to be adopted by City Council. These requirements are:

Service Level Objectives for Distribution

For all incidents in the coverage area with a population density classification of Metropolitan or Urban, the first due unit shall arrive with 5 minutes and 12 seconds travel time, 90 percent of the time.

For all incidents in the coverage area with a population density classification of Suburban, the first due unit shall arrive within 6 minutes and 30 seconds travel time, 90 percent of the time.

For all incidents in the coverage area with a population density classification of Rural, the first due unit shall arrive within

13 minutes travel time, 90 percent of the time.

Service Level Objectives for Concentration

For all incidents in the coverage area with a population density classification of Metropolitan or Urban, the second due unit shall arrive within 10 minutes and 24 seconds travel time, and the remaining total effective response force shall arrive within 10 minutes and 24 seconds travel time, 90 percent of the time.

For all incidents in the coverage area with a population density classification of Suburban, the second due unit shall arrive within 10 minutes and 24 seconds travel time, and the remaining total effective response force shall arrive within 13 minutes travel time, 90 percent of the time.

For all incidents in fire management zones with a population density classification of Rural, the second due unit shall arrive within 18 minutes and 12 seconds travel time, and the remaining total effective response force shall arrive within 18 minutes and 12 seconds travel time, 90 percent of the time.

This was reviewed by the Public Safety Committee on October 20, 2009, and was recommended for approval.

This action complies with the Strategic Operating Plan by making Asheville a safer city, based on approved metrics for similarly sized cities.

Pros:

- Adoption of these standards of response coverage will allow the fire department to be in compliance of the minimum requirements to be an accredited agency.
- Firefighter and citizen safety will be enhanced by ensuring quick response and operational effectiveness during emergencies.
- The fire department is currently meeting these minimum standards.

Con:

- None identified.

- There is no fiscal impact associated with the adoption of these minimum standards.

City staff recommends that City Council adopt the standards of response coverage described in this report.

RESOLUTION BOOK NO. 32 – PAGE 240

E. RESOLUTION NO. 09-223 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY ON DR. MARTIN LUTHER KING JR. DRIVE TO SIMON WESTERN PROPERTIES LLC

Summary: The consideration of a resolution authorizing the sale of property off of Martin Luther King Jr. Drive to Simon Western Properties, LLC.

This vacant tract of land off of Martin Luther King Jr. Drive (PIN # 9648-58-8911-00000) was acquired by the City as part of the East End/Valley Street Community Improvement Program. It is a sloping to steep parcel measuring approximately 0.67 acre±. The parcel has frontage on Martin Luther King Jr. Drive and is appropriate for sale as a residential lot with current zoning RM8.

An appraisal prepared by Dry Ridge Appraisal Service, LLC dated August 28, 2009 estimates the fair market value of the property to be at \$115,000. Simon Western Properties LLC submitted a bid to purchase the parcel in the amount of \$115,000. This bid was advertised in the Asheville Citizen-Times on September 25, 2009. No upset bids have been received.

The Parks, Recreation and Cultural Arts Department has verified that this parcel does not lie within an existing or proposed greenway trail according to the Greenway Master Plan and therefore is not an advantageous property to be held for use by the City of Asheville. The Streets Division of the Public Works Department has indicated that the parcel is not needed for street/right-of-way purposes at Martin Luther King Jr. Drive or Dundee Street. Staff has determined that the highest and best use of the parcel is infill development.

The sale of this parcel complies with the Strategic Operating Plan in that income from the sale of this property will directly benefit the Community Development Block Grant Program (CDBG), thus providing funding towards affordable housing.

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Pros:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.

Con:

- There is no negative impact.

The proceeds from the sale of this parcel will be CDBG Program Income in the amount of \$115,000.

Economic Development staff recommends adoption of the resolution which will authorize conveyance of the property in conclusion of the sale by upset bid.

RESOLUTION BOOK NO. 32 – PAGE 241

F. RESOLUTION NO. 09-224 - AUTHORIZING THE CITY MANAGER TO APPROVE THE PURCHASE OF AN AREARAE RAPID DEPLOYMENT KIT SYSTEM PACKAGE FOR HAZARDOUS ENVIRONMENT DETECTION FOR THE IDENTIFICATION OF UNKNOWN CHEMICAL GAS AND RADIATION FOR HAZARDOUS MATERIAL RESPONSE UTILIZING STATE HOMELAND SECURITY GRANT MONEY THAT HAS ALREADY BEEN RECEIVED

Summary: The consideration of a resolution authorizing the City Manager to approve the purchase of an AreaRAE Rapid Deployment Kit System Package in the amount of \$116,092.00 for Hazardous Environment Detection for the identification of unknown chemical gas and radiation for hazardous material response utilizing State Homeland Security Grant Money that has already been received.

This item will be procured through a previously Council approved grant (Resolution 08-92) through the U.S. Dept. of Homeland Security and the Office of Domestic Preparedness State Homeland Security Grant Number: Fiscal Year (FY) 2007-GE-T7-0048-1016 to implement the State Homeland Security Strategy. This grant approved the NC Hazardous Materials Response Team Asheville (RRT-6) to procure equipment to be better prepared and respond to manmade and natural emergencies and disasters. The equipment to be procured through this grant will be used in the field to detect and identify unknown and potentially hazardous chemical gases and radiation during a hazardous material response.

Five other RRT's have procured this specific piece of equipment from RAE or a distributor of RAE for the purchase of the AreaRAE. Due to compatibility of existing equipment on RRT-6, there are no other comparable pieces of equipment that will be able to identify specific hazardous gases and radiation.

The equipment consist of a one-to five sensor gas detector equipped with a wireless radio frequency modem which allows the unit to communicate and transmit readings and other information on a real-time basis with a remote located base controller. This will enable the Asheville Fire Department Personnel to establish an emergency perimeter by setting out multiple monitors at strategic locations, then backing off to a position of safety to monitor readings over the wireless link.

This equipment will become the property of the City of Asheville.

This was reviewed by the Public Safety Committee on October 20, 2009, and was recommended for approval.

This action complies with the Strategic Operating Plan by better equipping the Hazardous Materials Team with upgraded equipment; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- The Department of Crime Control and Public Safety, Division of Emergency Management, provided the funds for the purpose of upgrading Asheville and Western North Carolina's terrorism response capabilities.
- The equipment is state of the art and will better address the risk of hazardous materials incidents.
- All statewide regional response teams will be comparably equipped and interoperability will be realized should an event require the resources of additional teams.
- This equipment is immediately available to Asheville residents and businesses. This level of equipment would most likely not be able to be obtained through the city's general budget process.
- Firefighter and citizen safety will be enhanced.

Con:

- The City of Asheville will be responsible for maintenance and upkeep of the equipment.

This equipment allows the City to enhance services without an increase in capital expenditures.

City staff recommends that City Council approves the resolution for the purchase of the AreaRAE through funds made available from State Homeland Security Grant Number: Fiscal Year (FY) 2007-GE-T7-0048-1016 to protect Asheville and Western North Carolina.

RESOLUTION BOOK NO. 32 – PAGE 242

G. RESOLUTION NO. 09-225 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR INSPECTION OF BRIDGES ON THE MUNICIPAL STREET SYSTEM

Summary: The consideration of a resolution authorizing the Mayor to enter into a municipal agreement with the N.C. Dept. of Transportation (NCDOT) on a bi-annual basis for the re-inspection of bridges on the Municipal Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. The program is funded 80% through federal funds and 20% through City funds and administered by the NCDOT. To remain eligible for replacement funds and avoid penalties, it is required that all public bridges are inspected every two years. The NCDOT offers three options for meeting the bi-annual inspection requirements – (1) do the inspection with City forces; (2) the City to hire a consultant to do the inspections; (3) the City to allow NCDOT to do the inspections through a qualified private engineering firm.

Since 1983 the City has elected to execute an agreement with NCDOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and therefore, results in minimum inspection cost per bridge. It is anticipated the inspections cost to be \$2,600 per bridge for the upcoming inspections. The City has 31 bridges requiring inspection this year, which brings the cost to \$80,600. The City's share of 20% is \$16,120. Funds for the City's share are budgeted in the Public Work's Contracted Services budget line.

This action complies with City Council's Strategic Operating Plan in the Focus Areas – Fiscal Responsibility and Safe

Pros:

- Lower cost of bridge inspection due to high volume.
- Use of qualified engineering firms through NCDOT.
- Fulfills requirement for bi-yearly bridge inspections.
- Indicates areas for repair for Public Works staff.

Cons:

- None identified

The fiscal impact is that the expenditure of \$16,120 is budgeted in Public Work's Contracted Services.

City staff recommends adoption of the resolution authorizing the Mayor to execute a municipal agreement with the NCDOT for inspection of bridges.

RESOLUTION BOOK NO. 32 – PAGE 252

H. RESOLUTION APPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

This item was removed from the Consent Agenda due to a conflict of interest.

I. RESOLUTION NO. 09-227 - RESOLUTION APPOINTING A MEMBER TO THE URTV INC. BOARD OF DIRECTORS

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

On September 8, 2009, it was the consensus of Council to interview Stephanie Weil.

On October 13, 2009, it was the consensus of Council to appoint Ms. Stephanie Weil as a member of the URTV Inc. Board of Directors to serve a two-year term, term to expire June 30, 2011, or until her successor has been appointed.

RESOLUTION BOOK NO. 32 – PAGE 254

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS THROUGH THE BULLETPROOF VEST PARTNERSHIP PROGRAM THROUGH THE U.S. DEPT. OF JUSTICE

BUDGET AMENDMENT TO ACCEPT GRANT FUNDS THROUGH THE BULLETPROOF VEST PARTNERSHIP PROGRAM THROUGH THE U.S. DEPT. OF JUSTICE

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

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. 09-220 RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF HOMELAND SECURITY FOR A NON-MATCHING GRANT FOR A MEDICAL AMBULANCE BUS

ORDINANCE NO. 3797 - BUDGET AMENDMENT TO RECEIVE A NON-MATCHING GRANT FROM THE U.S. DEPT. OF HOMELAND SECURITY FOR A NON-MATCHING GRANT FOR A MEDICAL AMBULANCE BUS

Summary: The consideration of a resolution authorizing the City Manager to accept a non-matching grant in the amount of \$357,000 from the U.S. Dept. of Homeland Security Fiscal Year 2009 Homeland Security Grant Program; and the associated budget amendment in the amount of \$357,000.

The U.S. Dept. of Homeland Security (DHS) has made funds available to increase emergency preparedness and response through the Fiscal year 2009 Homeland Security Grant Program. The N.C. Dept. of Crime Control and Public Safety, Division of Emergency Preparedness, has been charged with distributing these funds through Disaster Preparedness Regions (DPR) throughout North Carolina. The City of Asheville was a member of DPR 6 when these funds were applied for. Geographically located Medical Ambulance Buses which have the capability of transporting large numbers of patients in major incidents has been identified as a prevailing need in which the Fiscal Year 2009 Grant Funds should be expended. This need was identified utilizing NC Emergency Management's Annual Capabilities Assessment Program. The City of Asheville has been identified as the prime location to locate this Medical Ambulance Bus within our DPR. This grant provides for the City of Asheville to receive this Medical Ambulance Bus.

The grant is a non-matching grant.

This was reviewed by the Public Safety Committee on October 20, 2009, and was recommended for approval.

This action complies with the Strategic Operating Plan by better preparing the Hazardous Materials Team to assist in making Asheville a safer city, based on approved metrics for similarly sized cities.

Pros:

- DHS will provide \$357,000 in non-matching funds for the purpose of purchasing a Medical Ambulance Bus for Asheville and Western North Carolina to improve major incident emergency response capability.
- Firefighter and citizen safety will be enhanced.
- The City of Asheville will have an excellent resource to shelter displaced citizens during

inclement weather or emergency incidents.

Con:

- The City of Asheville will be responsible for operation and maintenance of this vehicle.

There is no fiscal impact associated with this grant, as it is non-matching.

City staff recommends that City Council accept the non-matching grant from DHS, to enhance the fire department's capabilities to serve Asheville and Western North Carolina, and the associated budget amendment.

Interim Fire Chief Scott Burnett responded to various questions from Councilman Mumpower regarding the critical nature of this investment.

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

Vice-Mayor Davis moved for the adoption of Resolution No. 09-220. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 238

Vice-Mayor Davis moved for the adoption of Ordinance No. 3797. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 - PAGE

C. RESOLUTION NO. 09-221 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF HOMELAND SECURITY FOR A NON-MATCHING GRANT TO CONTINUE THE BUILD OUT OF THE STATEWIDE VIPER INTEROPERABLE COMMUNICATION SYSTEM

ORDINANCE NO. 3798 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF HOMELAND SECURITY GRANT FOR A NON-MATCHING GRANT TO CONTINUE THE BUILD OUT OF THE STATEWIDE VIPER INTEROPERABLE COMMUNICATION SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to accept a non-matching grant in the amount of \$250,000 from the US Department of Homeland Security FY 2009 State Homeland Security Grant Program, and the associated budget amendment in the amount of \$250,000.

The U.S. Dept. of Homeland Security (DHS) has made funds available to increase emergency preparedness and response through the Fiscal Year 2009 State Homeland Security Grant Program. The N.C. Dept. of Crime Control and Public Safety, Division of Emergency Preparedness, has been charged with distributing these funds through Disaster Preparedness Regions (DPR) throughout North Carolina. The City of Asheville was a member of DPR 6 when these funds were applied for. Communication interoperability equipment has been identified as a prevailing need in which the Fiscal Year 2009 Grant Funds should be expended. This need was identified utilizing NC Emergency Management's Annual Capabilities Assessment Program. The City of Asheville has been identified as the prime location to locate this equipment within our DPR. This grant provides for the City of Asheville to receive this interoperability communications equipment. The equipment that will be purchased will be communications gateways that allow the statewide VIPER system functionality for responding jurisdictions on differing radio frequencies to communicate in emergencies.

The grant is a non-matching grant.

This was reviewed by the Public Safety Committee on October 20, 2009, and was recommended for approval.

This action complies with the Strategic Operating Plan by better preparing the Hazardous Materials Team to assist in making Asheville a safer city, based on approved metrics for similarly sized cities.

Pros:

- DHS will provide \$250,000 in non-matching funds for the purpose of purchasing VIPER Interoperable Communications Gateways for Asheville and Western North Carolina to improve major incident emergency response capability.
- Firefighter and citizen safety will be enhanced.

Con:

- None identified.

- There is no fiscal impact associated with this grant, as it is non-matching.

City staff recommends that City Council accept the non-matching grant from DHS, to enhance the fire department's capabilities to serve Asheville and Western North Carolina, and the associated budget amendment.

Councilman Mumpower supported improving our communications, but could not support the motion as it is using borrowed federal dollars.

Vice-Mayor Davis moved for the adoption of Resolution No. 09-221. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 239

Councilman Newman moved for the adoption of Ordinance No. 3798. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 - PAGE

H. RESOLUTION NO. 09-226 - RESOLUTION APPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Herman Turk (owner or operator of a hotel, motel or other taxable tourist accommodation with more than 100 rental units) expired on August 30, 2009.

On September 8, 2009, it was the consensus of Council to interview Bob Patel.

On October 13, 2009, it was the consensus of Council to appoint Mr. Bob Patel as a member of the Buncombe County Tourism Development Authority (representing the owner or operator of a hotel, motel or other taxable tourist accommodation with more than 100 rental units) to serve a three-year term, term to expire August 30, 2012, or until his successor has been appointed.

Councilman Mumpower moved to excuse Councilman Miller from participating in this vote due to a conflict of interest. This motion was seconded by Councilman Russell and carried unanimously.

Councilman Russell moved for the adoption of Resolution No. 09-226. This motion was seconded by Councilman Newman and carried unanimously (Councilman Miller excused).

RESOLUTION BOOK NO. 32 – PAGE 253

J. RESOLUTION NO. 09-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS THROUGH THE BULLETPROOF VEST PARTNERSHIP PROGRAM THROUGH THE U.S. DEPT. OF JUSTICE

ORDINANCE NO. 3799 - BUDGET AMENDMENT TO ACCEPT GRANT FUNDS THROUGH THE BULLETPROOF VEST PARTNERSHIP PROGRAM THROUGH THE U.S. DEPT. OF JUSTICE

Summary: The consideration of (1) a resolution authorizing the City Manager to accept grant funds through the Bulletproof Vest Partnership (BVP) Program; and (2) the associated budget amendment, in the amount of \$6,453, to cover partial costs of bulletproof vest for officers.

The City of Asheville Police Department currently participates in the U.S. Dept. of Justice BPV program. The funds allocated through this program are designed to offset departmental cost associated with purchasing bulletproof vests. The City of Asheville is allocated \$6,453. The acceptance of these funds and allocating to Patrol's safety equipment line will enable the purchase of 25 plus bulletproof vests.

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

Pros:

- Reduction in cost to the City of Asheville for the purchase of bulletproof vest
- Increase in officer safety by providing crucial safety equipment

Con:

- None

There is no fiscal impact to the City of Asheville by accepting these funds.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager accept funds through U.S. Dept. of Justice for grant monies; and (2) the associated budget amendment, in the amount of \$6,453.

Councilman Mumpower believed that we should be taking care of our own officers and not contributing to the extraordinary federal debt picture with our intra-city needs.

Vice-Mayor Davis moved for the adoption of Resolution No. 09-228. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 255

Councilman Miller moved for the adoption of Ordinance No. 3799. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

III. PRESENTATIONS & REPORTS:

A. ECONOMIC STIMULUS PACKAGE UPDATE

American Recovery & Reinvestment Project Manager Brenda Mills updated Council on the City's American Recovery & Reinvestment Act (ARRA) contracting opportunities and upcoming event announcements for vendors.

STP-DA (North Carolina Department of Transportation)

We were notified through N.C. Dept. of Transportation that we could proceed with advertisements for two improvement projects funded by economic stimulus allocations. The projects include landscaping services for gateways and corridors in the downtown area and traffic signal upgrades.

The landscaping project includes the installation of decorative plant material and irrigation systems in the median islands, round about, and parking bulb outs along College Street from Spruce Street to Charlotte Street which was funded as an enhancement to the downtown transportation network. The project was originally developed as part of City Council's efforts to address the cleanliness and beautification of downtown Asheville.

The traffic signal upgrade project includes the replacement of signal lights and control panel boxes with the installation of pedestrian crossing signals on Fairview Road at the intersections of Oteora Boulevard and Cedar Street. This work will take place next to Oakley Elementary School which will provide pedestrian safety, especially for school children.

Information about these projects and other ARRA bidding opportunities can be found at www.ashevilenc.gov/economicrecovery and/or the department's webpage.

Dingle Creek Watershed Improvements (NCDENR)

Plans are awaiting final approval from the N.C. Dept. of Environmental and Natural Resources to begin advertisement for ARRA funding under the State Revolving Loan fund for Dingle Creek Watershed improvements. We expect to begin advertisement by the end of October. These improvements will continue to work on the watershed by way of the Stormwater Master Plan by stopping impairments to the watershed via the urban runoff and reduction of the increased pollutant concentration in the area.

Pumping Station Improvements (NCDENR)

Water Resources has prepared and provided a compliance package to submit to NCDENR's Public Water Supply (PWS) Section on DBE outreach on the project and awaiting review of that documentation to proceed. Hickory Construction Company, the lowest bidder, will be recommended to PWS for the award of the construction contract in the amount of \$328,474. Water Resources must receive written PWS approval prior to City Council awarding the contract to Hickory which we hope to bring for approval at your regular meeting on November 10th. This project will replace pumps that will increase production efficiency, save energy and improve water service for fire coverage.

Edward J. Byrne JAG Local Solicitation Grant (Department of Justice)

Request for proposals for this funding went out on Monday, October 19, 2009, to online vendors and posted on the State's Interactive Purchasing System (IPS). Asheville Police and Buncombe County Sheriff were allocated \$372,630 with Asheville receiving \$265,466 and Buncombe receiving \$107,164. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes.

The improvements will update the video security system within the Municipal Building, update and add key card access to doors as needed, and integrate an alarm system that makes internal notification of unauthorized entries to secure areas. Additionally, APD plans to purchase a SPEX AFIS system that will enable APD to scan and enter fingerprints and palm prints into a local system that will analyze the prints and compare with previous sets.

Upcoming Events & Information Sessions

Over 65 local vendors, non profits and citizens attended the October 15, 2009, local outreach seminar on ARRA update funding and doing business.

The next session will be hosted by the City of Asheville on November 18th from 9:30 a.m. to 12:30 p.m. at the City's Municipal Building Training Room. Notification has been provided to online vendors, community and minority businesses.

Councilman Mumpower was concerned that these are borrowed dollars that our children and grandchildren will have to repay which will have a significant impact on their future.

In response to Councilwoman Cape, City Manager Jackson said that the International City Manager Association is developing a model on the economic impacts of the stimulus dollars. We would also want to partner with the Chamber of Commerce on the tracking of job creation, the amount of money going to local contractors and the total economic impact on our local community.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE MASTER PLAN AND REZONING FOR THE PROJECT IDENTIFIED AS HORIZONS, LOCATED AT 136, 176 AND 180 MERRIMON AVENUE AND 17 AND 23 ELOISE STREET FROM HIGHWAY BUSINESS DISTRICT, COMMUNITY BUSINESS I DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN VILLAGE DISTRICT FOR A MIXED USE DEVELOPMENT

Mayor Bellamy said that this public hearing was continued from January 15, 2008, at the applicant's request in order to work with the neighborhood, especially since a valid protest petition was submitted, which remains in effect. Then again on July 15, 2008, the public hearing was continued to October 28, 2008, at the applicant's request in that it became necessary, due to the recent economic conditions, the ownership group is currently exhausting opportunities and trying to secure financing and/or additional partners to help with the project economics. On October 28, 2008, at the applicant's request, this motion was continued to this date.

Mayor Bellamy said that on September 1, 2009, Mr. Chris Peterson requested this matter be removed from City Council consideration.

On October 23, 2009, the following letter was received from Mr. Marty Kocot, PE, from LandDesign Inc.: "The ownership group (Mr. Foster Shriner, Mr. Chris Peterson and Mr. Cam Pace) of the proposed "Horizons" Urban Village project have asked me to formally request an additional twelve (12) month extension on the Urban Village Rezoning currently in progress. We realize this request to extend this project again is a bit unusual but the economic conditions we are all experiencing are bit unusual as well. It is and has always been the desire of the partnership group to create a wonderful project on the Merrimon Avenue site as a gateway point to the City and an extension of time on the Urban Village Rezoning request for this project gives us the best chance to succeed. To date thousands of dollars have been spent crafting and guiding the project through TRC and P&Z only to have the economy delay us from obtaining the needed financing. We are hopeful that this additional time will allow the economic market to

improve and the project to move forward for consideration by City Council. This project has the ability to create local jobs and help with the economic recovery.”

After Mayor Bellamy asked for a two week extension to provide residents additional information, Councilman Mumpower moved to reschedule the consideration of this matter until November 10, 2009. This motion was seconded by Councilman Russell and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS THE BUNCOMBE INTERMEDIATE SCHOOL SOUTH, LOCATED AT 305 OVERLOOK ROAD

ORDINANCE NO. 3800 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS THE BUNCOMBE INTERMEDIATE SCHOOL SOUTH, LOCATED AT 305 OVERLOOK ROAD

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 5:50 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the project identified as Buncombe Intermediate School South, located at 305 Overlook Road, for a new 106,646 sq. ft. school building (Location and Aerial Maps – Attachments to City Exhibit 3).

The applicant is requesting review of site plans for the construction of a new intermediate school building and associated site improvements. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which designates review for institutional developments with a gross floor area of more than 100,000 square feet. The existing school campus on the parcel contains approximately 247,000 square feet and the total new construction is proposed at 106,646 square feet. Level III projects are reviewed as Conditional Use Permits in the Institutional District.

The project site consists of a 58.11 acre parcel located at Long Shoals and Overlook Roads in South Asheville. The parcel is zoned Institutional and surrounding properties are zoned RS-2, RS-4, RS-8, RM-6, RM16 and CBII. This site is currently the location of the Buncombe County – Roberson District campus which includes Valley Springs Middle School and Estes Elementary School.

The applicant is proposing to construct a new building on the southeastern corner of the parcel for an Intermediate School which will accommodate 5th and 6th grades in 47 classrooms. The structure is 106,646 square feet and two-stories in height (26'2" to the ceiling – 44'4" to the top of the highest architectural element) (Master Plan – Attachment to City Exhibit 3).

An existing access point from Long Shoals Road will be closed as a part of this proposal and all vehicular traffic will be routed to an entry and exit on Overlook Road. These new driveways provide access to the student drop-off area as well as a number of small vehicular use areas. This project review also includes improvements to an existing driveway from Long Shoals Road up to the Valley Springs Middle School building, as well as reconfiguration of the existing vehicular use area and the construction of a new bus parking area. In total, there are 138 vehicular parking spaces as a part of this proposal (47 adjacent to Valley Springs Middle School and 91 for the new Intermediate School). There are also 20 bus parking spaces, located in between the existing middle school and the new facility.

Landscaping is required on this site and includes street trees, building impact landscaping, street buffer, parking lot landscaping and a Type A (20') property line buffer along a portion of the western property line that is adjacent to residential zoning districts. The plans include 18.56 acres of open space, which significantly exceeds the required amount (15% of lot area – 8.72). Some of this area includes playing fields.

Sidewalks will be extended along the project area, including Overlook Road and the existing driveway from Long Shoals Road to Valley Springs Middle School. There is already an existing sidewalk along Long Shoals Road (Internal Pathway – Attachment to City Exhibit 3). The plans include an accessible pathway located internal to the site, linking the three school buildings and playing fields. The applicant is hoping that school children walking from adjacent neighborhoods will enter the site for access on this pathway to the school buildings rather than walking along Overlook Road. There is also an internal pedestrian connector between the new Intermediate School parking area and the church's parking area along Living Savior Way. The school lot will be made available to church patrons for overflow parking needs.

There are several retaining walls proposed (located on the northern and southern ends of the new building). The maximum height of the walls is indicated at 16 feet. Any retaining walls over eight feet in height shall be faced with natural or artificial stone, brick, form-liner art or patterns or vegetation in order to avoid a stark appearance.

This project was approved with conditions by the Technical Review Committee (TRC) on September 21, 2009. Several members of the community were present and expressed concerns over the current heavy volume of traffic on Overlook Road and the potential danger for schoolchildren walking along Pinchot and Overlook Roads where there are presently no sidewalks. Several emails have been received expressing similar concerns, requesting that sidewalks be installed along the entire length of Overlook Road on both the west and east sides to accommodate pedestrian activity not only from the adjacent neighborhoods to the three schools and back but also to and from the Skyland Library, located on the east side of Overlook Road. The applicant expressed that they have designed an accessible pathway throughout the interior of the site, linking all three schools as well as the ball fields and open space areas. Concern was expressed by the community members in attendance that students may still attempt to walk along the roadway, regardless of the interior pathway, and that sidewalks are needed. Staff explained the potential difficulty in requiring installation of sidewalks on property under private control, not owned by the Buncombe County School Board, and that any requirement to pursue this option would have to be a condition placed upon the project City Council.

A representative from the Lutheran Church attended the meeting to speak in favor of the project and expressed some concerns about site work that will affect their property. The applicant addressed the concerns and will continue to work closely with the church. The church will be able to use school parking for overflow on Sundays and an accessible walkway from the school's parking lot to the church has been included in the plans.

The Planning & Zoning Commission voted unanimously (4-0) to recommend approval of this project at their meeting on October 7, 2009. A representative from the Biltmore Park Neighborhood Association's board was present to offer similar concerns as were expressed at the TRC meeting regarding the need for sidewalks along both sides of Overlook Road and the potential hazard towards pedestrians because of heavy and fast traffic volumes. Ken Putnam, Interim Transportation Director, presented information about the insufficiency of the existing right-of-way along the portions of the west side of Overlook Road where a cemetery currently exists. He explained that there may be the ability to install sidewalk there but it could involve significant engineering, possible moving of plots and cooperation from the church. Planning & Zoning Commissioners expressed understanding of the community representative's comments and agreed that sidewalks would be best, but felt that the school is doing a more than adequate job addressing this issue by including the internal walkway. They included a condition of their approval that the applicant will continue to explore the feasibility of sidewalk installation along the west side of Overlook Road.

Ms. Bernstein noted that a letter has been received from Pastor Cecil Robinson, Mt. Zion Baptist Church, stating that a sidewalk on the west side of Overlook Road would conflict with their cemetery.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

- 1. That the proposed use or development of the land will not materially endanger the public health or safety.**
The project will meet State building code requirements and will be reviewed in detail by the Technical Review Committee to ensure compliance with safety requirements.
- 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 and topographic features on the site in that the area intended for construction of the Intermediate School is where playing fields were previously located. This area is reasonably flat and any areas of topographic challenge will be appropriately managed through retaining walls.

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

The parcel containing the Buncombe County Roberson District schools is quite large (over 58 acres) and already contains two other school buildings (Valley Springs Middle School and Estes Elementary) so the use as a school campus has been established in this location. Schools are a complementary use to have in proximity to residential neighborhoods (located to the west and north) and should enhance the value of these abutting properties. The church, library and other various uses to the east and south are also compatible with this type of development and are not expected to see a decline in value (especially given that the other school buildings have been occupying this site for some time).

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

The new Intermediate School will be located in the southeastern corner of this large parcel, which already contains two school buildings and associated open space and playing fields. As mentioned in #3, this is an appropriate location for an educational use and this use has been established on the site for some time.

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

The Asheville City Development Plan 2025 proposes a Smart Growth development pattern by encouraging infill development, promoting walkability and furthering sustainability and green building through LEED certification). This project meets these objectives by locating the new school building on an existing school campus with significant infrastructure; installing an accessible pedestrian pathway internal to the site, linking all three school buildings, open space and ball fields to the surrounding neighborhood sidewalks; and seeking LEED certification. The Plan also recommends facilitating the effective functioning of public schools and to support the construction of new schools in areas that lend themselves to good neighborhood and community access. Multiple locations throughout the Buncombe County School system are integrating this Intermediate school concept, placing 5th and 6th grades in a separate facility.

This proposal works to achieve City Council's goals on being green by seeking LEED certification on the facility and safe by incorporating an accessible pedestrian pathway internal to the site, linking all three school buildings and playing fields while seeking to remove pedestrian activity from the roadway where infrastructure may not be adequate.

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 and interstate connections. In addition, the project has been reviewed by the Technical Review Committee who found that existing infrastructure appears adequate and preliminary review 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 traffic impact study has been received and reviewed by staff. The two roadways that border this project (Overlook Road and Long Shoals Road) are maintained by NCDOT. Therefore, any proposed recommendations will ultimately need the approval of NCDOT. The review by City staff indicates that there will not be an adverse impact that is atypical to normal school ingress/egress scenarios assuming that the recommended mitigation factors are incorporated.

The need for sidewalk installation along both sides of Overlook Road from Long Shoals Road up to Pinchot Drive has been raised by neighbors and members of the public due to a potential hazard between pedestrians and vehicles along Overlook. This project proposes an internal pathway to remove pedestrians from the street and safely accommodate travel between the three schools on this parcel, as well as new sidewalk along the west side of Overlook Road from Long Shoals Road up to Living Savior Way. Following the recommendation from the Planning & Zoning Commission, the applicant will continue evaluating the existing right-of-way along Overlook Road to determine feasibility of future sidewalk installation with existing uses on parcels under separate ownership.

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

Pros:

- The proposal satisfies a need to provide a new facility for 5th and 6th grade students on an existing school campus site.

- The applicant will be seeking LEED certification, meeting key “green building” goals of the City.
- The accessible pathway internal to the site links all three school buildings and playing fields, allowing for safe connectivity while removing pedestrians from the roadways where there may be conflict with inadequate sidewalk infrastructure on adjacent parcels.
- The parking area proposed with this project will be shared with the Living Savior Lutheran Church (adjacent to the north) for overflow parking on Sundays and there is an accessible walkway from the school property to the Church.

Con:

- Neighbors have expressed concern over existing traffic congestion and hazardous speeds along Overlook Road, where the primary ingress/egress to the Intermediate School is proposed.

Staff recommends approval of the Level 3 development proposal for a new Buncombe County Intermediate School - South.

Mr. Dean Shatley, representing the Buncombe County Board of Education, gave Council background information on the project. He explained the internal sidewalk route through the campus from Pinchot to Long Shoals Road which will eliminate any pedestrian conflict with vehicular activity on Overlook Road. They did make contact with the Mt. Zion Baptist Church and received a letter stating that a sidewalk on the west side of Overlook Road would disturb the graves. Lastly, any delay in approval will delay school opening for one entire school year due to their financing and construction schedules.

Mr. Chris Day, with Civil Design Concepts representing the applicant, briefed the Commission on how this innovative and green project began. After looking at the site, they felt they could eliminate one of the access points along Long Shoals Road which would help them create a route that would start at Long Shoals, come through the site and go to Estes Elementary, with an accessible pedestrian route that has no conflict with vehicles. The City, the N.C. Dept. of Transportation and the Buncombe County School Board have been working to install pedestrian heads at the crossing of Pinchot, across Overlook, over to Springside. They feel like with the internal connection and the new crosswalk they have provided the safest route they can to get students through the area and off Overlook Road. This will be a LEED certified project with many learning opportunities for the students. He urged the Commission to support this project.

Rev. Christopher Chiaromonte felt that we should not segregate the children by age in that they not only learn from teachers, but fellow students. He also suggested the schools be used to house the homeless after hours.

After rebuttal, Mayor Bellamy closed the public hearing at 6:06 p.m.

When Councilman Mumpower suggested a smaller sidewalk through the church's property on the west side of Overlook Road, Mr. Day showed a picture of the area in question (Applicant Exhibit 1) and said they have evaluated a sidewalk on that property and explained that the most appropriate place to safely cross the road is at the intersection of Springside and Pinchot. When you bring the students on campus, we are able to keep an eye on them.

In response to Councilman Mumpower, Transportation Director Ken Putnam felt the County Schools have a good alternative of moving the sidewalks in internally. However, long term, we still need to actively pursue sidewalks along Overlook Road as they are identified on the Pedestrian Plan as one of the main areas to do this. He explained there has been some headway made on the east side of Overlook Road in terms of sidewalks.

When Mayor Bellamy voiced concern of the students who park in Mt. Zion Baptist Church's parking lot and cross the street to the high school and those who come from the Biltmore Park area and cross Overlook Road to the high school, Mr. Putnam said that they are working with the N.C. Dept. of Transportation (NCDOT) and the County Schools to identify a problem to solve that concern. Using a map (City Exhibit 4), he showed where the NCDOT is going to build 400 feet of sidewalk at the intersection of Pinchot Drive and Overlook Road, add pedestrian signals and a cross-walk, and then the City will extend the sidewalk to the first entrance of the High School.

Mayor Bellamy asked that City staff update the Biltmore Park Homeowners Association with the NCDOT intersection project.

When Mayor Bellamy asked if there are any improvements planned for the entrance to the library, Mr. Putnam said there was not. He did say another project might be to bring the sidewalk from Pinchot Drive down to that area, but we still need to work with the Church. He said the City will contact the Church and see what can be worked out.

In response to Councilwoman Cape about signs, Mr. Putnam said that traffic counts were taken on Overlook Road in two locations. He noted that in both cases, the speed limit is 35 mph with an 85 percentile around 40 mph.

Councilman Mumpower moved for the adoption of Ordinance No. 3800, granting a conditional use permit adopting the proposed plan for the Buncombe County Intermediate School – South, 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; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilwoman Cape and carried unanimously.

ORDINANCE BOOK NO. 25 - PAGE

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS THE DAVIS ARENA RENOVATION AND ADDITION, LOCATED AT THE WNC AGRICULTURAL CENTER FOR THE RENOVATION AND ADDITION TO THE EXISTING BUILDING AND THE RECONFIGURATION OF VEHICULAR USE AREAS AND UPGRADES TO SITE LANDSCAPING

ORDINANCE NO. 3801 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS THE DAVIS ARENA RENOVATION AND ADDITION, LOCATED AT THE WNC AGRICULTURAL CENTER FOR THE RENOVATION AND ADDITION TO THE EXISTING BUILDING AND THE RECONFIGURATION OF VEHICULAR USE AREAS AND UPGRADES TO SITE LANDSCAPING

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:22 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the project identified as the Davis Arena Renovation and Addition, located at the WNC Agricultural Center for the renovation and a 14,706 sq. ft. addition to the existing 54,461 sq. ft. building; and the reconfiguration of vehicular use areas and upgrades to site landscaping (Aerial Map – Attachment to City Exhibit 3).

The applicant is seeking a Level III site plan review for the renovation and addition of the existing Davis Arena located on the grounds of the Western North Carolina Agriculture Center. The property is zoned Commercial Industrial (CI) and is located at 765 New Airport Road across from the Asheville Regional Airport and within the City's corporate limits.

The project proposes to renovate and expand the existing Davis Arena located on the western perimeter of the main midway. The facility is currently 54,461 square feet and the proposed renovation and addition will add another 14,706 square feet for a total of 69,167 square feet (Site Plan – Attachment to City Exhibit 3). The cumulative square footage of the previous Level I and II reviews coupled with the square footage of the proposed addition met the threshold for a Level III site plan review.

The addition to the existing building will include new bathrooms, offices, meeting rooms and a main lobby. Other improvements to the site include the reconfiguration of vehicular use areas along the midway and upgrades to site landscaping.

There is an existing outdoor rink used for livestock shows and similar events that is currently located to the south of the Davis arena but is proposed to be relocated to the northeast of the arena (Landscaping Plan – Attachment to City Exhibit 3).

The majority of the site is currently developed with numerous buildings, outdoor rinks, accessory structures and parking lots. The site is host to the yearly Mountain State Fair and numerous other indoor and outdoor events. Open space is interspersed throughout the site as well as existing parking areas and stormwater detention facilities. The UDO requires that the site surrounding the area proposed for expansion be brought into compliance with landscaping standards. In this case, the majority of the main midway which runs the length of the property in a north to south configuration and terminates in a central round about is affected. The midway is home to the majority of rides and other attractions for the Mountain State Fair. Other events held onsite utilize the midway for parking. For these reasons, the applicant has requested and received approval of an alternative compliance request from the Tree Commission to the parking lot landscaping standards for the area surrounding the arena. The majority of required landscaping will be shifted from the parking areas in the midway to the south and east of the arena. Access to the site is provided via multiple existing entrances along New Airport Road.

The subject site is bounded to the north by property owned by the State used in conjunction with the WNC Agriculture Center and located outside of the City's jurisdiction, to the east by I-26 and associated ROW, to the south by property located in the Town of Fletcher, and to the west by the Asheville Regional Airport Road and zoned Industrial.

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

At their September 21, 2009, and October 7, 2009, meetings the Technical Review Committee (TRC) and Planning and Zoning Commission (P&Z) approved this project subject to the conditions outlined in the staff report.

At the time of this writing, staff has received no communications from adjacent property owners or citizens regarding this project. There was no public comment regarding this project at the TRC and P&Z meetings.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

- 1. That the proposed use or development of the land will not materially endanger the public health or safety.**
This 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 all 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 and topographic features on the site. The entirety of the subject parcel is relatively flat with only about a 20 foot change in topography distributed across the site.
- 3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The few surrounding properties are being utilized for high intensity uses similar to the Agriculture Center, and the proposed development is not expected to have any negative impacts on adjacent properties.
- 4. That the proposed use or development or 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 Agriculture Center is located between the heavily traveled corridors of I-26 and New Airport Road. The proposed addition to the arena is located in the center of the largely developed Agriculture Center site. The scale and coverage of this site is consistent with the pattern of development evident on surrounding parcels like the airport.
- 5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
The application of compatible infill growth supports several goals and objectives as described in both The Asheville City Development Plan 2025 and the Strategic Operating Plan.

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 and interstate connections. In addition, the project has been reviewed by the Technical Review Committee who found that existing infrastructure appears adequate and preliminary review 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's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard. The proposed development did not trigger the need for a traffic impact study.

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

Pros:

- The renovation and addition provides for upgrades to an aging facility that hosts a number of local and regional events.
- The project is consistent with several City goals and strategies related to economic and infill development.
- The property will be further improved by additional plantings on a site that is largely devoid of landscaping.

Con:

- None noted

Staff recommends approval of the Level III development proposal for the renovation and addition to the Davis Arena at the Western North Carolina Agricultural Center.

Mr. Christopher Sean Hollifield spoke in support of improving the Agricultural Center.

After rebuttal, Mayor Bellamy closed the public hearing at 6:27 p.m.

In response to Councilwoman Cape, Mr. Brian Moffitt, representing the applicant, said that Asheville is the lease holder of this property and the improvements will be funded by the N.C. Dept. of Agriculture state appropriations.

Councilman Mumpower spoke in support of the City negotiating the lease in favor of keeping this gem alive and making it more special.

Councilman Mumpower moved for the adoption of Ordinance No. 3801, granting a conditional use permit adopting the proposed plan for the Davis Arena Renovation and Addition, and the reconfiguration of vehicular use areas and upgrades to site landscaping, 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; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Vice-Mayor Davis and carried unanimously.

ORDINANCE BOOK NO. 25 - PAGE

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 09-229 - RESOLUTION ACCEPTING THE TRANSIT MASTER PLAN REPORT FOR THE CITY OF ASHEVILLE PREPARED BY HDR INC.

Mr. Robert E. Bush, AICP, Transit Principal of HDR Engineering, reviewed the agenda as follows: (1) Major study findings; (2) Public input; (3) Service design & scheduling guidelines; (4) Short-term service concept; (5) Longer term additions; and (6) Cost impacts

He explained the major findings: (1) 5,371 average daily riders; (2) Most active routes – 1 Haywood & 11 Montford; (3) Least active daytime routes – 54 Weaverville & 5 Charlotte; and (4) Most active locations – Transit Center, Central Business District, Pisgah View Apartments, Hillcrest Apartments, Walmart.

Service attributes include (1) Riders are satisfied or very satisfied with all service aspects except hours of operation; (2) Best attributes: (a) Safety; and (b) Fare; and (3) Worst attributes: (a) Hours of operation; (b) Frequency; and (c) On-time.

When asked to name one improvement, the most needed improvements include: (1) Sunday service; (2) More frequent service; (3) More sidewalks; (4) Evening service; and (5) Service to more areas.

Most requested new services include: (1) Long Shoals area; (2) Haw Creek area; (3) New Leicester Highway; (4) Enka/Candler area; (5) Asheville Airport; and (6) Fairview.

Master Plan goals: (1) More frequent service on main corridors; (2) Marketing to choice riders; (3) Improve service for captive riders; (4) More environmental consciousness; (5) Target tourism market; (6) Emphasize health and wellness aspects; and (7) Make transit part of the community lifestyle.

Service design principles include: (1) Cost effective service; (2) More frequent service; (3) Establish focal points outside of Central Business District; (4) Minimize Route Deviations – (a) Reduce travel time penalty for through riders; (b) Exceptions made for major destinations; and (c) Sidewalk connections preferable to deviations; and (5) Dial-a-ride zones converted to fixed route or eliminated.

Scheduling improvements include (1) Weekdays (a) All routes should offer at least 12-hour service from 6 a.m. to 6 p.m.; (b) All routes offer 60-minute; and (c) headways, except for express/intercity; and (c) Evening service combined with daytime; (2) Saturdays (a) Same schedule as weekdays; and (b) No service offered on lower ridership routes; and (3) Sundays (a) Sunday service added, with at least 1 route on all trunk corridors; and (b) Initial span from 10 a.m. to 7 p.m..

He showed a picture of ATS recommended concept routes and the overall route map.

Short-term capital (Year 1) improvements include: (1) Replacement vehicles for buses past their useful life; (2) Automatic Vehicle Locators (AVL); (3) ADA-compliant shelters, signage, other amenities; (4) Additional sidewalks; and (5) Maintenance facility repairs and expansion.

Short-term cost considerations are (1) ATS Annual Operations costs \$6.1 million, ~\$700,000 increase; (2) Route rationalization ~\$500,000; (3) Sunday service ~\$200,000; (4) Marketing ~\$300,000; and (5) Decrease in intercity ~\$300,000.

City share increase (Year 1) is (1) Increase in City Share ~\$1.2 million; and (2) Without any service changes, City Share increases ~\$400,000.

Causes of Cost increase are (1) Network Redesign - \$500,000; (2) Sunday Service - \$200,000; (3) Marketing - \$300,000 – Less Additional Fare Revenue - \$200,000 – Plus Loss of FTA Funds - \$400,000 Equals City Increase of \$1.2 Million.

Potential issues include (1) Coordination with Housing Authority of the City of Asheville; (2) Discontinuation of some Saturday service; (3) Ticket and pass increase; and (4) Local funding increase

Near-term (Years 2-5) enhancements for operating changes (1) More crosstown frequency (30 minutes); (2) Increase frequency on one trunk corridor; (3) Two shuttle routes; (4) More Sunday service; and (5) New Long Shoals Express.

Near-term capital improvements are (1) Two new neighborhood transit centers; (2) Improvements/expansion of operating facility; (3) More shelters, sidewalks, amenities; (4) Expansion & replacement buses; and (5) AVL enhancements.

Long-term (Years 6-10) enhancements are (1) Improved frequency on two trunk routes; (2) More Sunday service; (3) Four additional shuttles; and (4) Two additional express routes.

Long-term capital improvements would be (1) Replace maintenance facility; (2) Replace downtown transit center; (3) Two neighborhood transit centers; (4) Expansion and replacement buses; and (5) Continued ITS expansion.

Transit Master Plan Detailed Information from Staff Report

“The City of Asheville, in an effort to make the service provided by the transit system more efficient, hired HDR Engineering, Inc. of the Carolinas (HDR) and its partners in August 2008 to develop the Transit Master Plan (TMP) for public transportation in Asheville and neighboring areas of Buncombe County.

As part of the process a steering committee was established to review the process and provide stakeholder guidance.

The purpose of the plan is to evaluate the current operations of Asheville Transit, collect input from stakeholders and make recommendations to improve the efficiency of the system.

The overall goals for the Transit Master Plan, as established with the Steering Committee included the following items:

- More frequent service on the main travel corridors
- Marketing to choice riders
- Improving service for captive riders
- More environmental consciousness
- Target tourism market
- Emphasize the health and welfare aspects
- Make transit part of the community lifestyle

To accomplish this purpose, several tasks are included in a three-phased approach:

- Evaluation of existing demographic and transit conditions
- Development of an overall vision for transit services in Asheville and surrounding communities
- Creation of a five-year implementation plan and 10-year vision plan

The results of the Transit Master Plan will chart the course for ATS for the next 10 years and beyond.

The public involvement portion of the Transit Master Plan was extensive and well attended. The consultants applied an on-board rider survey to determine service attributes and improvements the riders would like to see. This survey was to target mostly transit riders.

A second survey was applied targeting the non-rider population to determine what is needed to bring them to ride the system.

Two public meetings were held (January and April); the first one was to collect information among the population, riders and non-riders, about the most important attributes for the transit system and their requests. This meeting was attended for almost 200 persons.

The second meeting was to present the recommendations and receive feedback from the citizens (about 120 persons attended this meeting). Additionally the final draft report was published to receive public comment. About 200 comments were received during the period.

As mentioned earlier, this process was overseen by the Steering Committee which was composed by the all the stakeholders that represent transit riders, including residents. Among them were City Departments, Buncombe County, N.C. Dept. of Transportation, Land of Sky Metropolitan Planning Organization, Transit Commission, Chamber of Commerce, Housing Authority, etc.

The major requests made by the citizens that participated in the public involvement process are:

- Sunday service (most requested)
- More frequent service (second most requested) [major reason for non-riding]
- Sidewalks and shelters [also issue for non-riders]
- More evening service until midnight
- Additional transfer points without having to come downtown
- New routes, including express [also issue for non-riders]

Based on the analysis of the data and public input, HDR developed a concept that will restructure the whole system. The principle is to concentrate service on the main trunk corridors and to create additional routes to intersect with the trunk routes. The routes are connected through hubs to facilitate transfers. The whole concept seeks to increase mobility options for transit riders through and interconnected network. The recommended service changes are summarized below.

Short-term recommendations:

For routing changes, the principals are:

- More frequent service on heaviest corridors
- Additional transfer locations outside of downtown
- Improve on-time performance
- Reduce the number of deviations on a route; build sidewalks instead
- Eliminate dial-a-ride or convert to a fixed route
- Speed up longer routes
- Keep it simple for new users



For schedules, the guiding principals are:

- All routes should offer 12-hour service from 6 AM to 6 PM
- Additional trips added based upon demand
- Every route should have at least hourly service
- Evening route should be combined with its daytime route
- Sunday service added for 8 hours on the most productive routes
- Saturday service eliminated on less productive routes

Capital improvements

- Replacement vehicles for buses past their useful life
- Automatic Vehicle Locators (AVL)
- Shelters, signage, other amenities
- Additional sidewalks

Short-term cost considerations (2011 - 1st year)

- ATS Annual Operations costs \$5.4 million
 - ✓ Route rationalization ~\$500,000
 - ✓ Sunday service ~\$200,000
 - ✓ Marketing ~\$300,000
 - ✓ Loss of FTA funds ~\$480,000
- Increase in fare revenue from smaller discounts (~\$200,000)
- City share increase \$1.2 million
- Capital costs
 - ✓ ~\$5.1 million – 80% Federal, 10% State

Near-term recommendations (2012 – 2015).

Near-term enhancements:

- Operating Changes
 - ✓ More crosstown frequency (30 minutes)
 - ✓ Increase frequency on one trunk corridor
 - ✓ Two shuttle routes
 - ✓ More Sunday service
 - ✓ New Long Shoals Express

Capital Improvements

- Two new transit centers
- Improvements/expansion of operating facility
- More shelters, sidewalks, amenities
- Expansion & replacement buses
- ITS enhancements

Near-term cost considerations (2nd - 5th year)

- ATS Annual Operations costs \$6.5 to \$9.5 million
 - ✓ Route rationalization ~\$500,000 - \$550,000
 - ✓ Marketing ~\$250,000 - \$275,000
- Increase in fare revenue from smaller discounts
- City share increase \$700,000 to \$2.3 million (based on first year)
- Capital costs
 - ✓ ~\$4.7 to \$7.7million – 80% Federal, 10% State

Long-term recommendations (2016 – 2020)

Long-term enhancements

- Improved frequency on two trunk routes
- More Sunday service
- Four additional shuttles
- Two additional express routes

Capital Improvements

- Replace maintenance facility
- Replace downtown transit center
- Two neighborhood transit centers
- Expansion and replacement buses
- Continued ITS expansion

Long-term cost considerations (6th - 10th year)

- ATS Annual Operations costs \$6.5 to \$9.5 million
 - ✓ Route rationalization ~\$560,000 - \$620,000
 - ✓ Marketing ~\$300,000 - \$450,000
- Increase in fare revenue from smaller discounts
- City share increase \$2.7 to \$3.5 million (based on fifth year)
- Capital costs
 - ✓ ~\$16.5 to \$2 million – 80% Federal, 10% State

This project is in alignment with the Strategic Plan adopted by City Council in that the TMP supports the areas of environmental sustainability, promoting emission reductions through transit and identifying a sustainable funding structure for transit. The project also project complies with the City Development Plan – 2025, Transportation Goals and Strategies, as follows: (1) Goal

VI: Develop a transit system that is capable of meeting the needs of all residents of and visitors to the region; and (2) Goal X: Develop a comprehensive set of implementation strategies intended to reduce local vehicle miles traveled in accordance with the State of North Carolina transportation policies.

Pros

- The adoption of the TMP and further implementation will allow the City to operate the transit system in a more efficient way, rationalizing the routes and proposing new service.
- The TMP will improve reliability and performance, therefore improving quality of life.
- The new routing and service will increase mobility options for the community, potentially attracting more riders and reducing vehicle miles travelled, therefore reducing pollution and congestion.
- The TMP identifies capital improvements to respond appropriately to the City's growth.
- The TMP identifies funding opportunities to reduce the City's contribution from the General Fund.

Con:

- The proposed changes require an initial investment of \$1.2 M and successive investments that are detailed in the financial impact section.

There are significant financial impacts associated with the implementation of the Transit Master Plan. Staff recommends that the funding of the recommendations in the plan come back to Council as part of the budget process and be considered along with other City Council priorities. Staff will also recommend revenue options for Council's consideration at that time.

City staff has reviewed the Transit Master Plan Report prepared by HDR, Inc., and *recommends that City Council accept this Report*. The Report has been developed with significant public and stakeholder input and based on sound transportation planning practices."

The following individuals spoke in support of City Council accepting the Transit Master Plan and acknowledged the inclusiveness of the public in development said Plan:

Ms. Edna Johnson, General Manager with Asheville Transit
Mr. Gene Bell, Executive Director of the Housing Authority (opposed to eliminating service to Klondyke Apartments on Saturdays and Sundays)
Ms. Hanna Raskin, Chair of the Asheville Transit Commission
Rev. Christopher Chiaromonte
Mr. Tom Tomlin (opposed to elimination of Routes 5 and 11 on Saturdays)
Mr. Paul Van Heden, former City of Asheville Transit Systems Marketing Coordinator

Mr. Christopher Sean Hollifield explained to Council why he urged Council to not support this Transit Master Plan, mainly do to the impending deficit of up to \$38 Million in the 6-10 year time span.

Ms. Michelle Johnson, Weaverville resident, explained how she has purchased two 40-passenger buses and started a bus service to Sonopress, amongst other places, to help her community.

Councilman Newman moved to adopt Resolution No. 09-229, with a statement that the City Council will still have overview and review of any proposed fee changes or fare changes or other taxes that would be used to implement the plan. This motion was seconded by Councilwoman Cape.

Vice-Mayor Davis was concerned that the public's expectations will be that the Plan will be implemented after adoption, but without the financial part, we can't implement it.

Councilman Newman said that the intent of his motion is that we like the concepts outlined in the Plan and we will look at it, along with other priorities of Council, as part of our budget process. Other than adjustments to the fare boxes, which is a relatively small piece of the funding formula, there are several different potential revenues options identified, some which we don't have in our control. If Council supports the concepts outlined in the Plan, we need to make it clear that we do and that we will address the funding piece over time and figure out what we can afford and where those revenues would come from.

In response to Councilman Russell, City Manager Jackson said that the next step will be for Council to consider this during the operating and budget capital process. Staff's preference is always that budget decisions not be made out of context of the larger and capital budget. Mr. Putnam added that we are already working with a deficit of roughly \$500,000 because of some special money that we had available to us for the last two years. He agreed with the City Manager in that he envisioned that staff

will put together an action plan that will follow the normal budgetary process.

Councilman Russell felt we could work on items that can be done quickly and inexpensively, similar to the Downtown Master Plan, and review the other issues through the budget process.

In response to Councilman Mumpower, Mr. Mariate Echeverry from the Transportation Department, said the City paid \$100,000 for this study.

When Councilman Mumpower asked what the average subsidy is across the state of North Carolina for city transit services for every dollar of fare, Mr. Putnam felt it was about \$4-5.

In response to Councilman Mumpower, Mr. Putnam felt that Chapel Hill might be a model of a city that is comparable to Asheville that has a strong impressive mass transit system.

Councilman Mumpower believed that transit, like jobs and education, is one of our best social services and we should invest in it as a city. He explained why he felt the subsidy for transit is rising and we are creating unreasonable expectations that we all want, but can't afford.

Councilman Newman noted that since 2003 the annual increase in ridership is over 10% when our population is growing maybe 1% per year. Many things with transit is going well. It will be difficult to find funding for service level improvements, but as we continue to add density, this is the kind of service that makes sense for our future.

Vice-Mayor Davis found it difficult to eliminate Route 5, but overall he felt the Transit Master Plan was good. He hoped we use the Plan as a guideline and implement it as we can afford to. He did support implementing the "low-hanging fruit."

In response to Mayor Bellamy, Councilman Newman said that he would be happy to have some additional dialogue with City staff about the elimination of Route 5.

Mayor Bellamy wanted to make sure that the opportunity for dialogue about route structures, etc. is still open. She felt it would be good to have a comprehensive implementation committee, similar to the Downtown Master Plan, that would be composed of transit, downtown residents, Warren Wilson representatives, etc. and have them report back to Council on a regular basis.

Councilwoman Cape reaffirmed that we are accepting the plan and we expect to have regular updates on what we can start doing, how we can start doing it, when changes start to affect funding, etc. She felt that before any changes were made to existing routes, we would know about it and have the opportunity to engage the community to let them know what is going on.

Councilman Miller suggested staff put together a comprehensive implementation committee to prioritize the Plan and bring it back to the City Council Annual Retreat on January 8-9, 2010.

Councilman Newman felt we have an existing Transit Commission and there are many people who are not on the Commission that worked on creating the Plan. He felt we should build the implementation committee off the existing Transit Commission in terms of carrying this forward.

In response to Councilwoman Cape if we needed a committee process, City Manager Jackson said that he did not have readily available the role of the Transit Commission, but we would look to see if this is within their scope. He felt it's a policy decision whether Council wants to use them, modify them or create two separate bodies. He did say it would be extra work for staff to work with multiple bodies to accomplish that end.

Councilman Mumpower felt that we have an existing model of the Civic Center Commission. Staff works with the existing Commission and holds public hearings as necessary to flesh out the details. He felt we would be disrespectful of the Transit Commission if we didn't use them.

Mayor Bellamy said that there is a steering committee that has been working on this for awhile which includes some Transit Commission members. It was pointed out that Warren Wilson College should have representation, representation from the NAACP, Housing Authority, etc.

Councilman Newman suggested asking the steering committee that has been working on the Plan and the Transit Commission if they feel they would like to give us any further recommendations or if they feel they have done their job and let it default back to the Transit Commission. Mayor Bellamy agreed and asked that staff make that inquiry and let Council know.

The motion made by Councilman Newman to adopt Resolution No. 09-229 and seconded by Councilwoman Cape carried on a 6-1 vote, with Councilman Mumpower voting "no."

Weaverville Route # 54 Data from Staff Report

"At the City Council meeting on October 13, 2009, a Council member presented information including a petition to keep Weaverville Route # 54 funded and in service after October 31, 2009. A concerned citizen, who uses the service, had prepared the information and submitted it to the Council member prior to the meeting. City Council asked staff to review the information and provide a response at the October 27, 2009, meeting.

Currently, Route # 54 provides 5 daily trips, one at the beginning and end of each day and 3 trips during the middle part of the day. As shown in the following chart, 56% of the typical daily ridership uses the trips at the beginning and end of each day and 44% of the typical daily ridership uses the trips during the middle part of the day.



The N.C. Dept. of Transportation (NCDOT) informed the City in December 2008 that the intercity funding for Route # 54 would be discontinued effective November 1, 2009, because a recent assessment of the route determined that it was not compliant with Federal regulations. In addition, The Town of Weaverville indicated that they no longer wanted to partner with the City of Asheville in providing the route. Total ridership during Fiscal Year 2008-09 was more than 27,000 riders which average about 90 riders per service day including weekdays and Saturdays.

Provided to Council is a breakdown of the estimated costs to continue the funding of Route # 54 from November 1, 2009, through June 30, 2009. This breakdown also includes the costs from Fiscal Year 2008-09 for 12-month and 8-month timeframes for comparison purposes. In order to provide the most realistic operating cost estimate, the methodology of the Cost Allocation Model that is described in the Transit Master Plan was used. The total net cost to provide the same service that is provided currently until June 30, 2010, is about \$169,640. If only two trips per service day are provided, the total net cost would be about \$68,036.

Earlier this year, Buncombe County Mountain Mobility began a North Buncombe Trailblazer route which connects to the City's Route # 2 at the Manor Ridge Apartments along Elkwood Avenue. The subject route includes an early morning trip between 6:00 a.m. and 7:15 a.m. and an evening route between 5:30 p.m. and 6:50 p.m. The current fare is \$0.50 each way. City staff met with Mountain Mobility and they have indicated that they are going to change their routing to mimic the current routing making sure that all of their patterns use Main Street in downtown Weaverville."

Councilman Mumpower said that the taxpayers of Asheville are subsidizing the Weaverville route at least \$50 to \$1 and it's an unsustainable transit system. He didn't believe that our notice of intent to stop the Weaverville route was effective as it needed to be and so there is some concern about we are leaving people without transportation. He asked if Council would be willing to fund the continuation of the Weaverville route for at least two more weeks to allow for the transition or other options for those who are using that service.

A representative from Buncombe County Mountain Mobility said that they have a North Buncombe Trailblazer which is a smaller bus that runs in the North Buncombe county areas. They have worked to revise the routes so that in the morning and evening runs they are mirroring what Route 54 is doing. She explained the Trailblazer route, which will occur several times in the morning and several times in the afternoon. She said they have a 50-cent fare so this is an additional cost increase to the riders. They feel confident they can duplicate the same times that Route 54 is currently doing. They have put together brochures that were e-mail out today to many stakeholders at the public hearing last week and the brochure should go up on our website tomorrow. The new revised route will start on Monday, November 2.

In response to Councilman Mumpower, the estimated cost of one additional week of transit service to Weaverville would be approximately \$4,800.

Councilman Mumpower moved to continue the Weaverville route for one additional transitional week. This motion was seconded by Councilman Newman.

Mr. Christopher Sean Hollifield didn't think one additional week of transition was enough. He was concerned that there would not be enough room with the Trailblazer and stressed that the public was not made aware of the cancellation with proper notice.

Mayor Bellamy asked that City and County staff actively reach out to the public on this change of bus route. She suggested each person getting on the Weaverville route receive a flyer and that the City also place on it's cable channel the change in route, with the North Buncombe Trailblazer taking the route over, along with an update about the Transit Master Plan announcing some of the proposed changes.

When Councilman Mumpower wondered if he would have Council's support to amend his motion to continue the Weaverville route for two additional weeks, Councilman Newman said that he would second the motion; however, this is not received Council support.

The motion made by Councilman Mumpower and seconded by Councilman Newman carried unanimously.

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At 8:00 p.m., Mayor Bellamy announced a 20-minute recess at which time City Council would hold a closed session.

Closed Session

At 8:00 p.m., Councilman Miller moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: Holly Oxner; Forrest Weaver; Jeff Richardson; Lisa Roth; and the City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a) (6); (2) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Russell and carried unanimously.

At 8:20 p.m., Councilman Miller moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

VI. NEW BUSINESS:

A. UPDATE ON ANNEXATION AGREEMENT DISCUSSIONS WITH THE TOWN OF WOODFIN

City Attorney Oast said that the purpose of this memo is to update Council on the status of this matter. Using maps throughout his presentation, he said that back in 2005 Asheville and Woodfin began discussions regarding their plans for future growth. These discussions grew out of development of the Reynolds Mountain area, and annexations by both municipalities in that area, as well as growth and development in the Erwin Hills and Leicester area. These discussions included proposals to realign the boundary in the UNC-A area to address some service-delivery issues.

These discussions also involved consideration of an annexation agreement between the two municipalities. An annexation agreement is not a precursor to annexation, or a first step in the annexation process. Rather, it is a method authorized in the N.C. General Statutes, whereby two or more neighboring or (as in this case) abutting municipalities agree not to expand into certain defined areas that may be better served by the other municipality as they are developed for urban purposes. This is a way of giving some predictability to urban growth patterns, both for municipalities and residents / property owners.

In connection with these discussions, staff from Woodfin and Asheville developed a line that essentially extended

Asheville's and Woodfin's common boundary to the west and east, with reference to roads, ridgelines, and other topographic features. The areas created by these boundaries are frequently referred to as "spheres of influence." That proposal was incorporated into a draft agreement provided to Woodfin in 2007. Although an agreement has not yet been adopted, interest in reaching an agreement has remained.

Since discussions began, Asheville and Woodfin have both engaged in some annexation activities; some voluntary, some involuntary. Of concern to Asheville is that Woodfin has considered several annexations, and completed some, that are on Asheville's side of the proposed boundary line discussed above (Richmond Hill annexation) or straddle it (Sherwood Heights proposal).

Also since discussions began, a group of interested persons began an effort to incorporate the Leicester area. The area proposed for incorporation included some areas close to Woodfin and Asheville. The Leicester incorporation group solicited Asheville's support for their effort, and there were several discussions and presentations about it. The Asheville City Council ultimately adopted a resolution approving of the incorporation, with some reservations as to the size of the area. The Leicester incorporation became an issue in Woodfin's attempt earlier this year to involuntarily annex a fairly large area that included Erwin Hills. This attempt has been suspended pending further discussions regarding an annexation agreement.

Informal discussions have occurred over the summer between Asheville and Woodfin. In June the Asheville City Council adopted a resolution affirming its commitment to an annexation agreement. In September, the previous annexation agreement, with the same boundary line, was transmitted to Woodfin's Town Attorney, who responded with an alternative proposal from Woodfin.

The chief matter to be resolved is the location of the line separating the future growth areas of the two municipalities. Once this is determined, the statute outlines a process, including a public hearing, for finalizing and adopting an annexation agreement.

He provided Council with (1) the draft annexation agreement recently resubmitted to Woodfin. This is essentially the same agreement prepared in 2007; (2) a map showing Woodfin's alternative proposal; and (3) a previous staff report outlining the process for adopting an annexation agreement.

In summary, the following four issues are sub-parts of the annexation agreement for the location of the line separating the future growth areas between the City of Asheville and the Town of Woodfin: (1) realignment of the boundary in the UNC-Asheville area to address some service-delivery issues, and to get the University property entirely within Asheville's jurisdiction; (2) Sherwood Heights voluntary annexation proposal; (3) appropriate jurisdiction over the Leicester/Erwin Hills area; and (4) the location of the proposed round-about at the entrance to Reynolds Mountain in New Bridge being in two different municipalities. He noted that the round-about issue and the UNC-Asheville area will require legislative approval. City Council and staff are continuing to work with Woodfin in the hopes that we can come to some agreement.

Mayor Bellamy asked for Council discussion and direction on the following: (1) since Woodfin has made a commitment with Leicester not to annexation into Leicester Township, Woodfin is asking Asheville to make that same commitment for the next three years (in order to let the incorporation process move forward); (2) regarding the 3.54 miles that is in Asheville's extraterritorial jurisdiction area, Woodfin is asking Asheville for a good faith effort to allow Woodfin to move the boundary line into Woodfin and Woodfin would exclude that portion of the Coleman property that is being requested to be voluntarily annexed into Woodfin to be a part of Asheville; and (3) include all of the round-about in the Town of Woodfin.

After discussion, it was the consensus of Council to realign the boundary of UNC-Asheville to bring it all into the City of Asheville.

After discussion, Council felt the Sherwood Heights area should be in Asheville since it is in Asheville's extraterritorial jurisdiction area, the entire property is in Asheville's watershed and the subdivision is accessed by only two roads which are both coming through the City of Asheville. Even though the property owners have asked Woodfin to voluntarily annex them into Woodfin, it was the consensus of Council to have staff contact the property owners to perhaps negotiate with them to annex into the City of Asheville instead.

After discussion, it was the consensus of Council to locate the entire round-about in Woodfin.

Mr. Jerry Rice urged Council to deliberate this issue in open.

When Councilman Mumpower raised a concern about process, Councilman Newman said that elected officials are talking to elected officials from another town and the information is brought back to the full boards for direction.

Rev. Christopher Chiaromonte felt all meeting should be taped and aired on the City channel.

After discussion, Councilman Newman moved to make a commitment that Asheville will not annex into Leicester Township for the next three years, contingent upon Woodfin making that same commitment. This motion was seconded by Vice-Mayor Davis and carried unanimously.

Councilman Newman felt that Asheville has a stronger argument for the 3.54 miles in our extraterritorial jurisdiction area to be in Asheville as it is commercializing and it looks more of a part of Asheville since it is far from the core of Woodfin.

Mayor Bellamy said that she will provide timely updates to Council on this matter.

B. RESOLUTION NO. 09-230 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission.

Ms. Beth Gillespie has resigned as a member of the Asheville-Buncombe Historic Resources Commission thus leaving an unexpired term until July 1, 2012.

On October 13, 2009, it was the consensus of Council to interview Susan Eggerton, Susan West and John King Dean. Ms. West was interested; however, she was unable to attend the interview.

After Council spoke highly of the candidates, Councilman Newman moved to appoint John Dean as a member of the Asheville-Buncombe Historic Resources Commission to fill the unexpired term of Ms. Gillespie, term to expire July 1, 2012, or until his successor has been appointed. This motion was seconded by Mayor Bellamy and carried unanimously.

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C. RESOLUTION NO. 09-231 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Sustainable Advisory Committee on Energy & the Environment.

Mr. David Spector has resigned as a member of the Sustainable Advisory Committee on Energy & the Environment thus leaving an unexpired term until December 31, 2010.

On October 13, 2009, it was the consensus of Council to interview Duncan McPherson, David Brown and Claude Chandler. Mr. Brown was interested; however, he was unable to attend the interview. Mr. Chandler was unable to serve at this time.

Councilwoman Cape moved to appoint Duncan McPherson as a member of the Sustainability Advisory Committee on Energy & the Environment to fill the unexpired term of Mr. Spector, term to expire December 31, 2010, or until his successor has been appointed. This motion was seconded by Councilman Miller and carried unanimously.

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D. RESOLUTION NO. 09-232 - RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Tree Commission.

Ms. Starr Silvis has resigned as a member of the Tree Commission thus leaving an unexpired term until December 31, 2011.

On October 13, 2009, it was the consensus of Council to interview Josh O'Conner, Kathleen Zeren and Amy Kemp. Mr. O'Conner was unable to serve as he currently serves on the Mayor's Committee on Veterans Affairs and the Transit Commission. Ms. Zeren has moved out into the County.

Vice-Mayor Davis noted that the Tree Commission recently notified him that their recommendation is Debbie Emmons. After a brief discussion about the recommendation timing, Council said that they would consider her in their next vacancy on the Tree Commission.

Councilman Mumpower moved to appoint Amy Kemp as a member of the Tree Commission to fill the unexpired term of Ms. Silvis, term to expire December 31, 2011, or until her successor has been appointed. This motion was seconded by Councilman Russell carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilman Miller encouraged the public to (1) spread the word that Asheville is still open for business, despite the rock slide at the Tennessee/North Carolina border; and (2) take advantage of the early voting locations.

CTS Plant Site

Regarding the CTS Plant site groundwater contamination, Mr. Tate McQueen and Mr. Aaron Penland reviewed with Council the statistics of the toxic contamination of their groundwater and information on when the contamination was found. After their meetings with the Buncombe County Commissioners, the County adopted a resolution stating that any further wells that become contaminated the County will only bear up to 50% of the cost. They asked for City Council for a resolution to the U.S. Dept. of Agriculture asking them for earmarked money to help offset municipal water to their community. They presented Council with two petitions as follows (1) "Considering the level of TCE contamination detected at David Bradley's well on Chapel Hill Church Road, we the residents of Chapel Hill Church Road would like to receive Asheville City Water in the same manner as The Oaks development on Pinner's Cove Road."; and (2) "We, the undersigned, petition the City of Asheville to provide us with a safe source of water from the Asheville Municipal Water supply without delay. Our plea is based on the imminent threats of toxic contamination spreading to our well-water supply as detailed in the 2002 'Action Memorandum/Enforcement' document (Cerclis ID# NCSFN0406988) by James W. Webster, Ph.D., which has again been substantiated with the recent contamination of the well-water supply in the Oaks subdivision and on Chapel Hill Church Road." Mr. McQueen said that personally he would be happy to be annexed into the City of Asheville.

City Manager Jackson said that there are two manners in which water service can be extended. The standard process for water line extension for multiple properties is a letter of commitment process. For that process there is a \$312 processing fee and a letter of commitment from the property owners. The property owners would need to have an engineering study performed and the City would evaluate it. The other is the process under which Buncombe County has established is where a public purpose is served and there is cost participation of up to 50%. In that process, Buncombe County would have the engineering study performed on behalf of the property owners (as they did in the Oaks area) and do the analysis and the City would identify our costs of service in serving that area. City staff would then come to Council with a partnership plan. That was under the leadership of the County. The County's position is that they are continuing to do well monitoring outside of one mile from the CTS Plant. The EPA is doing well monitoring within the one mile area surrounding the CTS site. At this time, there aren't any wells that indicate a level of contamination that renders an active well undrinkable. For every place that the wells register an unsafe level there is now water available from our system. The County's position is that they are monitoring the situation and they are calling upon EPA and N.C. Dept. of Environment and Natural Resources to continue their assessments. The County does not see an imminent need for action. He asked for Council's direction to (1) wait on Buncombe County's assessment; (2) respond to a private property owner petition; or (3) evaluate the voluntary interest in annexation and put the service level plan together over a period of time for those areas that would be interested in voluntary annexation.

It was the consensus of Council that Mr. McQueen and Mr. Penland meet with City Manager Jackson to explore the different avenues available including the costs. If annexation is a part of that process, Council would be supportive of staff looking at that as a tool as well.

Mayor Bellamy noted that the City has staff writing recovery dollar grants and perhaps that might be something we could pursue with the N.C. Dept. of Agriculture. Mayor Bellamy asked for a report on this matter at the November 24, 2009, agenda, if not sooner.

Rev. Christopher Chiaromonte voiced concern over Council's rules not allowing a person to speak under informal discussion and public comment if the issue was on the agenda.

Ms. Patricia Pinner urged the City of Asheville to provide everyone within a 10 mile radius of the CTS Plant municipal water at the expense of CTS.

Mr. Jerry Rice urged Council to assist the residents around the CTS Plant.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:00 p.m.

CITY CLERK

MAYOR