

Tuesday – February 23, 2010 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; 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 Davis gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 9, 2010**
- B. RESOLUTION NO. 10-36 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH WILBUR SMITH ASSOCIATES FOR ENVIRONMENTAL ANALYSIS, ENGINEERING, AND DESIGN FOR A PORTION OF THE WILMA DYKEMAN RIVERWAY TRANSPORTATION PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Wilbur Smith Associates in the amount of \$556,692 to conduct environmental analysis, engineering, and design for a portion of the Wilma Dykeman Riverway transportation project.

This project is funded from a federal appropriation from the United States Department of Transportation (USDOT). No local match is required. In June of 2009 the City of Asheville received authorization from the N.C. Dept. of Transportation (NCDOT) to proceed with the process of procuring a consulting firm Wilma Dykeman Riverway Project. Staff released a request for proposals, and through a competitive process selected the firm of Wilbur Smith Associates (WSA). WSA will be assisted by the firms of LandDesign, MACTEC Environmental, Matthews Architecture, Blue Ridge Archaeological Consultants, and others.

The consultants will deliver a federally approved environmental document, and a preliminary design for the project. This will put the City in a position to begin acquiring right-of-way and seeking funding for construction.

This project will focus on Riverside Drive and Lyman Street, which are the city-maintained streets in the corridor. The project extends from Broadway near UNC-Asheville to Amboy Road, and will build on the previously developed conceptual design and economic development plan contained in the Wilma Dykeman Riverway Master Plan. The Riverway will balance the needs of motorists, cyclists, pedestrians, and transit riders, and will pay special attention to plans for economic development and redevelopment, flood protection, historic

properties, aesthetic considerations, pedestrian accommodations, and greenways development. The project will also include a significant public involvement component.

Pros:

- Executing this contract is one of the steps toward following through on the commitment to pursue this federal appropriation.
- No local matching money is required.
- Implementing the Wilma Dykeman Plan is one of the strategic goals of the City.

Cons:

- Administering a study of this size and following through on implementation will require staff time.

This project supports the City of Asheville's Sustainable Economic Development Plan, Greenway Master Plan, and the 2025 City Development Plan. It also supports the French Broad River MPO Long Range Transportation Plan.

On April 24, 2009, the City entered into a municipal agreement with the NCDOT to receive \$590,357 in federal funds from the USDOT. The reimbursement rate is 100%. No local matching funds are required. City Council established the budget for this project in a grant fund on August 21, 2007.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with Wilbur Smith Associates in the amount of \$556,692 to conduct environmental analysis, engineering, and design for a portion of the Wilma Dykeman Riverway project.

RESOLUTION BOOK NO. 32 – PAGE 349

C. ORDINANCE NO. 3826 - BUDGET AMENDMENT TOWARD THE COMPLETION OF THE OAKLEY RESOURCE CENTER PROJECT DECKING AND ACCESS RAMP

Summary: The consideration of a budget amendment, in the amount of \$2,500, to the City of Asheville's Capital Project Fund from Carolina First Bank toward the completion of the Oakley Resource Center Project decking and access ramp.

The City of Asheville began working on a project in 2009 to replace the Oakley Police Resource Center located at 711 Fairview Road. The goal of the project was to partner with AB Tech to replace the old structure with a sustainable structure that accented and complimented the neighborhood and to do so as economical as possible. Costs associated with the project have been higher than anticipated. The City of Asheville reached out to the local community for financial support to assist in the completion of the project. Carolina First Bank donated \$2,500 to the City of Asheville to be used in completing the project.

This action conforms to the City Council's Strategic Operating Plan under Goal 2 - Fiscal Responsibility; Objective G: Provide leadership in buying local products and services and Goal 5 – Sustainable; Objective H : Expand partnerships with UNC-A, AB Tech and other institutions to achieve common goals, including health and wellness, workforce development, and sustainable economic development.

Pro:

- Revenue to cover some of the cost of the materials to complete the construction of the Oakley Police Resource Center while keeping the cost to the City of Asheville at a minimum.

Con:

- None noted.

This action will not have any impact on the operating budget of the police department. There will be no re-occurring charges associated with the acceptance of these funds. These funds will reduce the amount of capital funds spent by the City of Asheville on the Oakley Resource Center.

City staff recommends City Council adopt the budget amendment in the amount of \$2,500 to the City of Asheville Capital Project Fund for the Oakley Police Resource Center.

ORDINANCE BOOK NO. 26 – PAGE

D. RESOLUTION NO. 10-37 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR THE FISCAL YEAR 2009-10 N.C. DEPT. OF TRANSPORTATION STATE MAINTENANCE ASSISTANCE PROGRAM GRANT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS IF AWARDED

Summary: The consideration of a resolution authorizing City staff to apply for the Fiscal Year 2009-10 N.C. Dept. of Transportation (NCDOT) State Maintenance Assistance Program (SMAP) in the amount of \$931,660 and authorizing the City Manager to execute the appropriate documents to accept the grant when it is awarded to the City of Asheville.

The SMAP is a recurring annual grant designated exclusively to assist transit systems with their non-Federal share of net operating costs. Operating costs, as defined in the Federal Section 5307 program, are those costs necessary to operate, maintain, and manage a transit system. These costs include driver salaries, fuel, preventive maintenance, and Americans with Disabilities Act service costs.

The SMAP funds are based on the Fiscal Year 2009-10 approved State budget and carryover funds from Fiscal Year 2008-09. The total funds available for Fiscal Year 2009-10 are \$33,958,183. These funds are allocated among eligible systems based on the existing formula approved by the N.C. Board of Transportation. The formula is based on performance including unlinked passenger trips per vehicle revenue hour, cost per trip, local commitment, and equal share among small urban, urban, and regional transit systems.

The SMAP Fiscal Year 2009-10 allocation for the City of Asheville is \$931,660. In order for the City to receive the grant, its annual support to the transit system must equal or exceed the Fiscal Year 1992-93 funding level, which was \$813,485. The City satisfies that requirement with a current budgeted amount of \$1,120,947 (\$872,831 from the General Fund and \$248,116 from the Parking Enterprise Fund). It should be noted that the City's current funding level equates to 21.8% of the total transit system budget.

The anticipated grant funding and the City's annual contribution are currently budgeted in the Transportation Department's approved budget.

This action complies with the current City Council's Strategic Operating Plan in the green and sustainable focus areas by helping to develop a sustainable funding structure for the Asheville Transit system.

The Transit Commission supports the subject action.

Pro:

- The subject grant is a recurring operating support that assists with transit operating expenses in the amount of \$931,660.

Con:

- Without the grant, the City would need to provide the additional \$931,660 from the General Fund.

The total anticipated grant funding for Fiscal Year 2009-10 is \$931,660. The anticipated grant funding and the City's local contribution in the amount of \$1,120,947 are currently budgeted in the Transportation Department's approved operating budget for Fiscal Year 2009-10.

City staff recommends that City Council adopt a resolution authorizing City staff to apply for the Fiscal Year 2009-10 N.C. Dept. of Transportation State Maintenance Assistance Program in the amount of \$931,660 and authorizing the City Manager to execute the appropriate documents to accept the grant when it is awarded to the City of Asheville.

RESOLUTION BOOK NO. 32 – PAGE 350

E. RESOLUTION NO. 10-38 - RESOLUTION ADOPTING REVISIONS TO THE CITY OF ASHEVILLE WATER DISTRIBUTION SYSTEM DESIGN STANDARDS

Summary: The consideration of a resolution authorizing revisions to the City of Asheville Water Distribution System Design Standards.

The Water Distribution System Design Standards was last updated and adopted by City Council on March 28, 2000. The current version of the Water Distribution System Design Standards is combined as part of the Asheville Standard Specifications and Details Manual. City staffs from multiple departments and a stakeholder group, consisting of local design professionals have participated in focus groups to review the current manual. From these reviews it was determined that some sections of the design standards needed to be revised to coincide with current departmental procedures, and industry standards and practices, to simplify requirements and procedures to aide the development process, to ensure sustainability, and to reduce future maintenance expenditures of new waterline construction. It was also determined that the water design standard should be separated from the overall Asheville Standard Specifications and Details Manual, which contains the design standards for other types of construction. The stand alone document will be named the City of Asheville Water Design and Construction Manual.

Council received the current Water Distribution System Design Standards and the proposed Water Design and Construction Manual which contained specific information on changes, deletions and additions to the water standards.

Pros:

- Ensure that the design and construction standards are compliant and up-to-date with current departmental procedures and industry standards
- Simplify requirements to aide the development process
- Ensure sustainability and
- Reduce future maintenance expenditures of new waterline construction.

Cons:

- Result in standards that are not compliant or up-to-date with current departmental procedures and industry standards
- Keep requirements that are unnecessary and cumbersome to development and
- Allow practices that add costs to future maintenance expenditures for waterline repair.

The changes incorporated in the Water Design and Construction Manual do not change any fees, charges, or operating procedures that would affect revenues or expenditures for the department. The expense of developing the updated Water Design and Construction Manual consisted of staff time and input from stakeholders.

Staff recommends City Council adopt the resolution authorizing the changes in the Water Design and Construction Manual to become effective March 1, 2010.

RESOLUTION BOOK NO. 32 – PAGE 351

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.

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

III. PRESENTATIONS & REPORTS:

A. ALCOHOLIC BEVERAGE CONTROL BOARD UPDATE

Alcoholic Beverage Control Board Chairman Charles Worley said that the Asheville ABC System has implemented many changes since 2004. Building renovations, site acquisitions and store relocations have taken place in response to population growth patterns and business activities.

The Board initiated a strategic planning study in 2005 and updated that plan in 2008 to determine how to best serve their customers. The relocation of the Tunnel Road store and the construction of a new store on Leicester Highway were completed last year. We also completed the purchase of a parcel located on south Sweeten Creek road to accommodate the growth in that area of the city. These three locations incorporate the new vision and “branding” for Asheville’s ABC system going forward. In total six of the eight original stores have been renovated or relocated. Evaluation of all store locations is ongoing as we continue in our efforts to enhance the customer shopping experience. We are focused on improvements in store merchandising and operational efficiencies while modernizing our facilities. Currently our operating results reflect the economic slowdown and rising unemployment in the area, the state’s struggle with its budget shortfall and increases in the excise and sales taxes on liquor added burden on sales. However, the Asheville ABC Store System is very strong financially and we continue to execute our strategic plan to meet the needs of the citizens of Asheville.

In the last five years, they have:

- Renovated existing stores and opened new locations for customer convenience and accessibility. We have reinvested capital resources in the renovation or replacement of six of our nine locations. The ABC Board is committed to having our system grow with its market.
- Developed a “Branding” campaign that was incorporated into our new store design that identifies our system with Asheville. The new store design provides a fresh, welcoming atmosphere for customers while updating and unifying the ABC brand. The new prototype design was utilized for the Tunnel Road and Leicester Highway stores incorporates energy-efficient features and a sustainable design that is easily adapted to various site locations.

- ❑ Developing in partnership with several ABC Boards across the state a Public Education Media Program. Our focus is to air several underage drinking prevention messages during the prom and graduation timeframe for local high schools.
- ❑ Developed product information training programs for employees. We identified that it was critical for individual store staff to be knowledgeable about both current and new products. Utilizing training materials provided by product distributors, management developed a program and shared with individual managers in a formalized way. Customers have shown an appreciation for the product knowledge our representative's share with them when making decisions about purchases.
- ❑ Enhanced our emphasis on customer service to promote a pleasant shopping environment for customers. Managers encourage employees to speak to customers; to be friendly and to suggest products. This practice occurs system wide and is a part of the employee review process. Customers remember how they are treated in retail establishments and we make every attempt to insure a positive shopping experience for them.
- ❑ Increased the use of creative store displays. ABC management encouraged staff to develop in conjunction with the product distributors, to creation of their own displays. Competition among stores encourages participation and customers appear to appreciate the different "themes" that are created in each campaign.
- ❑ Provided informational material to customers by having new stores equipped with information booths where information can be displayed. Touch screen computers have been placed in several stores to provide product specific recipes or entertainment tips. Throughout the system coupons and recipes are on display in the information booths as well as colorful flyers used to promote select products. Store employees are encouraged to offer suggestions to customers that have questions about holiday entertaining or general product questions.
- ❑ New Inventory Management and Financial Software System was implemented to meet the growing needs of the enterprise. Implemented in three critical phases over eighteen months this new platform creates the solid base the organization requires as we continue to grow.

Mr. Worley also presented the Council with information ABC distribution of income from 2004-2009.

In response to Mayor Bellamy, Mr. Worley said that they would be happy to give Council their recommendation on the impact of the proposed legislation for our system.

On behalf of City Council, Mayor Bellamy thanked Mr. Worley and the entire ABC Board for their hard work on this Board.

B. PUBLIC ART BOARD UPDATE

Mr. Kenn Kotara, 2009 Public Art Board Chair explained the mission of the Public Art Board is to provide public art of the highest quality with public participation.

He outlined the key accomplishments – (1) Re-installation of the *Energy Loop* in new downtown plaza; (2) Repair, restoration, re-installation and re-dedication of *Art Deco Masterpiece* (Urban Trail Station #7); (3) Repair, restoration, and re-installation of the *Flat Iron* sculpture (Urban Trail Station #8); (4) Re-installation of Urban Trail sculptures in Pack Square Park; (5) Collaboration with Black Mountain College Museum and Arts Center on the lecture and visit with Kenneth Snelson; and (6) Collaboration with Asheville Art Museum on lecture Public Art in Asheville as part of Christo & Jean Claude exhibit.

He then outlined the following key goals for 2010: (1) City Council adoption of new Public Art Board ordinance, policy, and implementation guidelines; (2) Acquisition of five new public art pieces in Pack Square Park; (3) Launch the first Art on Transit bus graphics program; (4) Launch the Urban Trail audio tour (early 2010); (5) Host the regional Public Art 360 Conference (Fall 2010); and (6) Identify new opportunities for permanent and temporary public art.

In response to Mayor Bellamy, Mr. Kotara said that the Public Art Board does not have a member on the aesthetics committee for the I-26 Connector.

On behalf of City Council, Mayor Bellamy thanked Mr. Kotara and the entire Public Art Board for their time and energy on this Board.

C. QUARTERLY REPORTS

Public Safety Committee Chairman Report

Councilman Russell, Chair of the Public Safety Committee, said that the purpose of this memorandum is to provide you with information highlighting the activities of the Public Safety Committee during the second quarter of FY 2009-2010. Please consider that this only includes the months of October and November, as the December committee meeting was cancelled due to the holidays.

- **Gun Buy-Back Program:** Prior to the Christmas holidays the City of Asheville took steps to initiate a Gun Buy Back program. The Committee successfully secured funds from Eblen Charities (\$5,000), Asheville Housing Authority (\$5,000), and the APD's Community Outreach fund (\$5,000) to implement this program. Through the four community meetings in December, we were able to purchase 256 rifles and pistols as well as two assault rifles for a total of \$13,000 in cash expended.
- **Newly Enacted Law Giving Local Governments Increased Authority to Regulate Smoking:** The committee heard a report from the Legal Department, discussed enforcement difficulties, and suggested potential revisions to the City's smoking ordinance prior to the formal City Council presentation.
- **Nuisance Court:** The committee received an update from staff on initial Nuisance Court activity as it was implemented.
- **A Policy to Incrementally Initiate Annual Fitness Tests for Police Officers and Firefighters:** Dr. Mumpower presented this report. Following the presentation the committee discussed the issue in detail, then agreed to place the issue on the November 24, 2009 City Council Agenda.

In response to Mayor Bellamy, Police Chief Hogan said that we are continuing to have on-line solicitation investigations.

Councilman Russell gave a brief update on the City Council Finance Committee meeting held earlier today. He noted that all of Council will be receiving a copy of the numerous fees and charges and urged all of Council to review the information and give their input to the Committee members as soon as possible.

Strategic Operating Plan

Assistant City Manager Jeff Richardson briefly reviewed with Council the Second Quarter of Fiscal Year 2009-10 following five focus areas: (1) Affordable; (2) Green; (3) Safe; (4) Sustainable; and (5) Fiscal Responsibility.

Regarding Affordable, he briefed Council on the following items: (1) Civic Center Parking Deck Monthly Pass Volume Discounts; (2) Bulk Parking Voucher Discounts; and (3) 2009 Housing North Carolina Award.

Regarding Green, he reported the (1) Energy Efficiency and Conservation Block Grant Program (a) Home Energy Rating System training; and (2) Bicycle Master Plan Implementation (a) Sustainability Outreach Partnerships.

Regarding Safe, he explained the (1) Downtown Patrol Unit (a) Business and Public Contacts: 10,694; (b) Citations/Arrests: 523; (c) Hours of patrol: 2,780; and (d) Budget for 29 Haywood Retrofit; and (2) Fire and Rescue (a) October: Fire Prevention Month; and (b) Fire Station Six Energy Reduction. He then reviewed the calendar year of crime counts excluding unfounded cases. In response to Councilman Smith, Police Chief William Hogan explained what he felt was attributable to the decrease in crime.

Also regarding Safe, Mr. Richardson explained that the nuisance court had (1) Cases: New: 48 and Revisited: 25; and (2) Community Service Hours: New: 435 and Completed: 327. Mayor Bellamy noted that there has been positive feedback from the District Attorney's Office as well as from downtown residents.

Regarding the ARRA Grant success, he explained the (1) NCDOT Contracts; and (2) Five projects totaling \$1.3M from original award amount of \$3.1M (a) Downtown Streetscapes: \$81,400; (b) Sidewalk Gaps: \$436,900; (c) Resurfacing and Restriping: \$214,200; (d) Kimberly Sidewalks: \$540,000; and (e) Fairview Road Signal Upgrades: \$58,700 *Of these projects, four (4) part-time jobs were created & 46 full-time job were retained, with an average wage of \$12.85.*

Regarding Sustainability, using a chart he showed permit activity from October – December, 2009. He explained the partnership with UNC-Asheville at McCormick Field. Also he explained that the feet of pipe replaced by the in-house construction crew for neighborhood enhancement.

Also regarding Sustainability, he reviewed with Council the following Water Resources: Customer Service Data:

	<u>FY-09</u>	<u>FY-10</u>	<u>Difference</u>
Calls Abandoned	6,558	4,519	31% down
Requests for Adjustments	447	396	11% down
Average Wait Time	6:23	4:53	23% down
Average Abandon Time	1: 54	1:44	9% down

He also provided Council with the economy report for this quarter. Using charts, he showed employment change by major industry; unemployment rates; monthly home sales – units; monthly home sales – average price; residential building permits – units; residential building permits – value; City business licenses; and Asheville Metro total nonfarm employment.

Quarterly Financial Report

Chief Financial Officer Ben Durant provided Council with the following overview: (1) Current year budget trends show a \$1.0 million General Fund revenue shortfall; (2) Available Fund Balance is projected to decline to 14.5%; and (3) The FY 2010-11 budget forecast continues to show a significant imbalance between revenues and expenditures. He showed a summary of the current General Fund budget. He then provided Council with a chart of the General Fund budget amendments, totaling \$789,057.

General Fund revenue highlights include (1) Sales tax revenue down 9.5% through the first six months of the fiscal year; (a) December was down 1.6%; and (b) Projected to fall \$1.35 million short of budget; (2) Property tax budget estimates are on target; (a) Received official FY 2009-10 tax base data from County; (b) Tax base grew 3.5% and (c) Growth driven by

Ridgefield/Airport Road annexation and Biltmore Town Center; and (3) Overall, general fund revenues are projected to fall short of budget by \$1.0 million.

General Fund expenditure highlights include: (1) Public Works budget strained by winter storms; (a) Storm control expenses \$300,000 over budget; (b) March budget amendment; and (c) Possible FEMA reimbursement after July 1; and (2) Overall operating budgets are tight and we expect \$341,000 in savings.

Using a chart, he showed the Fiscal Year 2010 current year estimate (fund balance).

Regarding the Health Care Program, (1) Health Care Reserves: \$1.13 million as of June 30, 2009; (2) Trends continue to indicate that expenses will exceed revenues by \$1.0 million; and (3) March 9 overview of Insurance Fund and FY 2010-11 budget alternatives.

Using a chart, he showed the enterprise funds (water, civic center, transit, parking, festivals, golf and stormwater) revenue estimates, expenditure estimates and revenue over or under expenditures.

Capital improvement update includes (1) Reid Center (a) \$1.8 million construction amendment; and (b) Debt proceeds & donations; (2) 5% Sullivan Act Funding (a) \$1.6 million for street & sidewalk projects; and (b) Project list under development; (3) ARRA Funds (quarterly operating update); and (4) City Hall Roof Repairs (a) Report due March 9th.

Quarterly report conclusions (1) General Fund expenses will exceed revenue by \$1.0 million (a) Sales tax revenue below estimates; (b) Snow removal/storm clean ups costs; (c) Limited savings opportunities; and (d) Continued reliance on fund balance; and (2) Fund balance below policy level; and (3) Budget balancing for FY 2010-11 will be challenging given existing conditions.

He provided Council with the following executive summary of financial information which reflects the City's overall financial position for the fiscal year through December 2009.

Amendments. The General Fund budget presented in this second quarter report reflects the adopted budget of \$92,688,293; plus \$1,097,031 in prior year encumbrances that rolled over from FY 2008-09; along with thirteen budget amendments approved by Council since the start of the fiscal year that total \$789,057. Three budget revisions involved the appropriation of fund balance: 1) \$366,812 was used as the City match for transportation improvement projects that were partially funded with an ARRA grant; 2) \$60,000 was used to expand the number of early voting sites; and 3) \$71,451 was used to cover civil service board expenses that arose from a General Assembly mandate. The other amendments were funded with various grants and donations.

Adopted Budget	92,688,293
Encumbrances	1,097,031
13 Budget Amendments*	<u>789,057</u>
12/31/2009 Budget	<u>\$94,574,381</u>

* Fund balance appropriations since July 1 total
\$498,263

Revenues. Through December 31, 2009, the City collected \$19,897,697 in General Fund revenue, which represents approximately 21.8% of the total General Fund revenue budget. Sales tax collections continue to under perform budget estimates and are down 9.5% compared to the same time last fiscal year. As a result, sales tax revenue is expected to come in under budget in the current year by \$1,350,000. The City received its official FY 2009-10 property tax

data from Buncombe County in January, which confirmed that property tax revenue should come in at budget. Based on current year-end estimates, staff is projecting that ***FY 2009-10 total General Fund revenue will come in under budget by \$1,039,000.***

Expenditures. General Fund expenditures through December 31, 2009 total \$40,946,086 or 43.3% of the budget. ***Due to an unusually high number of winter storms, the Public Works Department budget has absorbed approximately \$300,000 in unplanned expenses. Staff will bring a budget amendment to City Council in late March to cover these costs. Based on spending in the first half of the year and historical trends, staff is currently estimating that the overall General Fund budget will end the year with a budget savings of \$341,089. Staff, however, is estimating that expenditures in the Health Care Fund will exceed revenues by approximately \$1.0 million. It is anticipated that health care reserves, which ended FY 2008-09 at approximately \$1.13 million, will be used to cover this shortfall.***

Fund Balance. The City ended FY 2008-09 with available fund balance of \$16,696,979, which equated to 18.7% of FY 2008-09 expenditures. ***Based on current year-end revenue and expenditure estimates for FY 2009-10 staff is projecting that available fund balance will decrease to \$13,705,410, which will equate to 14.5% of estimated year-end expenditures.***

Mr. Durant responded to various questions from Council, some being, but are not limited to: what is the projection of sales tax revenue for the next 6 months; is there some reason to be optimistic that the sales tax revenue will rise over the next 6 months; with Asheville's budget and our shortfall being less than 1%, how does that compare to cities across the state; explanation that for the current year, we are projecting a \$1 Million shortfall and a \$5 Million shortfall is projected for next fiscal year.

Mr. Durant then briefed Council on (1) update on assumptions; (2) Identify emerging trends; (3) Review budget calendar; and (4) Set March 9 Budget Worksession agenda.

November 24, 2010, preliminary budget forecast is as follows:

• Revenues flat	
• No fund balance appropriation:	\$1,900,000
• Health care increase:	\$1,500,000
• Decreased federal transit funding:	\$500,000
• <u>Allocation for inflation*:</u>	<u>\$1,200,000</u>
• TOTAL BUDGET GAP:	\$5,100,000

* Includes 2% (\$500,000) employee cost of living adjustments

Current outlook cost increases are as follows: (1) State approved increase in retirement contribution (a) General employees: 4.8% to 6.35%; (b) Law Enforcement employees: 5.27% to 6.82%; (3) Citywide cost: \$800,000; and (4) General Fund cost: \$650,000; and (2) Revised health care forecast; (a) Additional \$600,000 increase taking total estimated increase from \$1.5 million to \$2.1 million.

Current outlook cost reductions include: (1) Departmental Cost Reductions (a) Departmental targets of 4% & 8% cost reduction; (b) \$2.0 million with indirect service impact; and (c) \$2.5 million with direct service impact; and (2) Health Care cost reductions: (a) \$300,000 to \$700,000 with plan alterations.

Current outlook revenue increases: (1) Cost recovery/fee recommendations - \$200,000; and (2) Financial Crossroads paper alternatives.

Emerging trends and issues include: (1) Economic Recovery; (2) City Hall Building repairs; (3) Domestic Partner Benefits; (4) Unfunded Mandates; and (5) ARRA Grants Phase II.

The budget calendar is as follows: (1) March 9 Worksession - Budget Policy direction & Cost recovery/fee increases; (2) May 11– Budget Presentation; (3) May 25 – Budget Worksession/Public Hearing; and (4) June 22 – Budget Adoption.

Council policy direction is needed at the March 9 worksession for the following: (1) General Fund Operating & Capital Budget; (2) Parking Fund; (3) Transit Fund; (4) Water Utility Fund; (5) Insurance (Health Care) Fund; (6) Parks Subsidies; and (7) Outside Agencies.

Throughout the presentation, Mr. Durant and Public Works Director responded to various questions from Council, some being, but are not limited: what is included in the allocation for inflation; how does the \$1 Million projection shortfall for the current year play into the next years budget; are there other salary increases planned for City employees other than the 2% cost of living adjustments; and financial information due to the recent storm events.

In response to Mayor Bellamy, Mr. Durant clarified that on March 9, staff will need enough direction from Council to prepare a balanced budget.

Vice-Mayor Newman asked staff provide Council with a range of different options to close the gap for a balanced budget.

Mayor Bellamy asked for additional information on the ABC distribution of 25% going to the County and the reason behind that 25/75 distribution. She felt that if that is special legislation, then we should ask our legislators to allow the entire 100% be directed to the City of Asheville.

Mayor Bellamy felt that on March 9 it might be a good time to begin discussions about rebuilding our Fund Balance. She understood that the state recommendation is 8%; however, she felt it would need to get higher in order to maintain our good bond rating. Personally, she felt 8% is too low for a city our size.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING APPROVAL FOR THE PROJECT IDENTIFIED AS SILVERMAN MIXED USE DEVELOPMENT LOCATED ON SWANNANOA RIVER ROAD

ORDINANCE NO. 3827 - ORDINANCE TO AMEND THE CONDITIONAL ZONING APPROVAL FOR THE PROJECT IDENTIFIED AS SILVERMAN MIXED USE DEVELOPMENT LOCATED ON SWANNANOA RIVER ROAD

Mayor Bellamy opened the public hearing at 6:20 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to amend the conditional zoning approval for the project identified as Silverman Mixed Use Development located on Swannanoa River Road to increase the residential units from 125 to 200 units. This public hearing was advertised on February 12 and 19, 2010.

She said the project site is located at 48 Swannanoa River Road on four parcels totaling approximately 4.5 acres. Two of the parcels are located across Swannanoa River Road Swannanoa River Road and are to be the dedicated open space for the project. This project was approved in June of 2008 as a development of 125 residential units (in two buildings east and west on the site) and approximately 26,000 square feet of commercial space including space for a grocery store (approximately 14,000 square feet) which forms the center of the development. The remaining commercial space (approximately 11,000 square feet) was proposed for the

second level of the western wing structure. The approval granted at that time by the Asheville City Council was for rezoning from River District to Urban Place Conditional Zoning with an approved concept plan. Council also approved a setback modification to allow a greater setback (up to 45 feet as opposed to the required maximum of 15 feet) along Caledonia Road due to the topography in that area. The project was never submitted for final TRC approval. The project at that time was also approved by the City's River District Design Committee for compliance with the River District Design Guidelines. The project is in the flood hazard area and is subject to the requirements governing development in the area.

The developer is returning to seek an amendment to the conditional zoning approval received for this project. The developer seeks to add an additional 75 units to the project. The addition of these units will add approximately 11,144 square feet (gross floor area) to the building at two points to the north. The proposal reduces the number of two- and three-bedroom units and adds studio and one-bedroom units to the residential mix. The proposed mix of units is for: 141 one-bedroom and studio units; 47 two-bedroom units; and 12 three bedroom units. Ten percent (10%) of the units (20) are proposed to meet the City's affordability standards. The development will actually consist of three separate structures with rated firewalls separating them. The height of the residential structures is 77 feet (five stories plus ground parking level). The grocery structure is 24 feet in height.

Parking for the project (327 spaces) is shown to be provided on the first two levels of the building. All parking areas are connected. Access to the development is proposed from both Swannanoa River Road and Caledonia Road. Truck traffic will be routed from Swannanoa River Road easterly through the site and will exit onto Caledonia Road. A revised traffic impact study was provided to the City's Traffic Engineer on February 10, 2010.

Ms. Cogburn asked that if Council approves this project that the recommendations in the Traffic Impact Study be included as a condition of approval and also that the width of Caledonia Road be increased to 20-feet wide at all points along the developer's property line.

Even though there are minor adjustments to materials in this project, it was determined that this amendment did not need to return to the River District Design Committee for additional review. This decision was made after conferring with the Chair and Co-Chair of the Committee and the City's Planning Director.

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

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

The project will meet health and safety requirements of local and state ordinances. The project will be elevated as required by the flood hazard ordinance to protect life and property.

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 site is a former service yard for an industrial supplier and has been graded for this use. The river edge however will be un-developed and remain in a natural state and may be improved at a future date as a part of greenway and buffer development. The project will be elevated as required by flood hazard ordinances to minimize damage from flooding and prevent water pollution. With these features in place, the current design will be compatible with the significant natural and topographic features of the site.

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

The investment in this mixed-use project is expected to improve the values of surrounding properties. The proposal is consistent with the adopted goals and plans for the area to create places for mixed-use commercial and residential development. The site was accepted into the NC Brownfields Study area that will assess the site for any contaminants that may need remediation.

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.

This site is located at the edge of the Swannanoa River and the Kenilworth Neighborhood sits on the bluffs and knoll above the river. The project should not create a negative impact or affect the character of Kenilworth because its focus is the Swannanoa River. The City Council adopted *Wilma Dykeman Riverway Master Plan* outlines a new vision for the river area with higher density mixed-use projects at appropriate locations as a way to bring new life, opportunity and energy to the river areas. In consideration of the Dykeman Plan goals, the proposal is in keeping with the harmony, scale, bulk, coverage and density and character of the river area.

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 comprehensive plan encourages redevelopment of infill sites to support multi-modal transportation, greenways and vertical development with greater residential densities. The Dykeman plan is a vision plan with many goals: redevelopment of infill sites with mixed-use buildings, economic development, transportation improvements, environmental protection, among many more. The Silverman proposal includes many of these goals through the specific features of the project. The proposal will provide residential units with some of the units offered at an affordable rate. In addition the project will seek Energy Star and Healthy Built for the residential portion of the project to contribute to sustainable development goals adopted by the City. The project will conform with the comprehensive plan and meets many goals and policies adopted by the City.

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

The project is located along Swannanoa River Road which is a state highway. The location in the center area of the city means that the public infrastructure is in place to service the development. The project is located close by to commercial and employment centers and recreation areas.

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

The revised traffic impact study was submitted on 2/10/10. The City's Traffic Engineer will be at Council to discuss the study and make recommendations. Commercial traffic is not permitted to use Caledonia Road into Kenilworth already.

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

Pros:

- The project is mixed-use and meets many goals of the Dykeman Plan.

- The project could become a destination place within the river area.
- The project will meet NC Healthy Built Homes standards.
- Affordable units will be provided in the project meeting City of Asheville guidelines.
- Sufficient infrastructure is in place to support the project.
- The project should act as a catalyst for further redevelopment in the area.
- The site has been accepted into the NC Brownfields Study Area to identify any environmental contaminants.

Cons:

- Construction work can temporarily create congestion in the area.
- New vehicle trips will be added to Swannanoa River Road and possibly Caledonia Road.

The Technical Review Committee reviewed and approved this amendment (with the conditions noted on their report) at a meeting on February 1, 2010. The amendment did not have to go to the Planning and Zoning Commission.

Mr. David Madera, developer, felt this is a greener and a more sustainable project than the original project. He explained how they are only increasing the space by 10% and not changing the footprint at all. He urged Council to approve his project.

Mr. Alan Ditmore spoke in support of the project, but was concerned that widening the road will increase the amount of impervious surface.

Mr. Terry Meek, representing the Kenilworth neighborhood, supported the project; however, outlined the following concerns related to traffic: (1) due to limited parking for patrons at the Antique Tobacco Barn, request for curb and gutter on the western side of Caledonia Road adjacent to the Silverman property; (2) commercial traffic be right-turn only out of the project on Caledonia Road; (3) traffic light at the intersection of Caledonia Road and Swannanoa River Road; and (4) the project go back to the Technical Review Committee for permitting to make sure it does comply with all the conditions.

Mr. John Pomeroy, owner of the Antique Tobacco Barn, supported the project and explained how they have been addressing the limited parking with signs and how they also have expanded the parking for their clients and dealers. He even offered to donate some of their property at the corner of Swannanoa River Road for the turn lane onto Caledonia Road in order to be better neighbors for the new development and Kenilworth residents.

Mr. Robert Todd, Kenilworth resident, supported the proposal.

At 6:48 p.m., Mayor Bellamy closed the public hearing.

Director of Transportation Ken Putnam addressed the concerns raised by Mr. Meek, noting that all concerns will be, or have been, addressed. He noted that since Swannanoa River Road is a State maintained road, all improvements will ultimately have to be approved by them. He also noted that the State will need to make the decision regarding a traffic signal at the intersection of Caledonia Road and Swannanoa River Road and suggested the appropriate time to request a study would be after the project is built out and traffic patterns are settled in that area.

Mr. Madera responded to questions raised by Councilman Smith regarding the Healthy Built Certification and the affordable units.

Mayor Bellamy asked that the motion include a request that our Director of Transportation contact the N.C. Dept. of Transportation and ask that they study the intersection at Caledonia Road and Swannanoa River Road for a possible traffic signal.

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

Based on the findings and analysis provided in the staff report, Councilman Russell moved for the adoption of Ordinance No. 3827, to amend the conditional zoning approval for the project identified as Silverman Mixed Use Development located on Swannanoa River Road to increase the residential units from 125 to 200 units, subject to the conditions as set forth in the staff report and the following standard 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; (3) 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; (4) This project will undergo final review by the TRC prior to issuance of any required permits; (5) the recommendations in the Traffic Impact Study be included as a condition and the width of Caledonia Road be increased to 20-feet wide, meeting city standards, at all points along the developer's property line; and (6) the Director of Transportation request the N.C. Dept. of Transportation study the intersection at Caledonia Road and Swannanoa River Road for a possible traffic signal. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 26 - PAGE

Closed Session

At 7:00 p.m., Mayor Bellamy announced a short break, at which time they would conduct a closed session. Councilman Smith then moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authorization is contained in G.S. 143-318.11(a)(4); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is 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 7:34 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Vice-Mayor Newman and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY TO SUBMIT A STATEMENT OF INTEREST FOR THE NATIONAL ENDOWMENT FOR THE ARTS MAYORS' INSTITUTE ON CITY DESIGN PROGRAM GRANT

Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this item is a selection of a competitive project that meets the grant requirements with a plan to provide the matching funds required. Various groups, including the HUB and the Downtown Master Plan Cultural Arts Implementation team, have come forward with proposals on projects.

Each year, the National Endowment for the Arts (NEA) offers numerous grants in a variety of art and design categories. This year, the Mayors' Institute on City Design (MICD) grant has been created to showcase and celebrate the goals of the MICD and that arts and culture

contribute greatly as core components in building livable and sustainable communities. Applications will be reviewed on the basis of artistic excellence and artistic merit.

The NEA anticipates awarding fewer than 15 grants. Organizations must designate a grant request in one of the following categories: \$25,000, \$50,000, \$100,000, \$200,000, or \$250,000. All grants require a nonfederal match of at least 1 to 1 dollar for dollar.

Projects may include planning, design, and arts engagement activities such as:

Planning

- The planning of arts districts.
- The mapping of cultural assets and related developmental potential.
- The promotion of the arts and artists as integral components of community life and essential to community planning.
- The exploration of innovative approaches that maximize the economic growth of a community's creative sector.

Design

- The promotion of design and the arts to enhance livability and as central components for the development and enhancement of new or existing public spaces -- such as parks, public buildings, libraries, memorials, streets -- through architecture, streetscapes, pedestrian bridges, neighborhood gateways, and sustainable parks and landscapes.
- Design competitions or charettes (design workshops) for arts or cultural vitality projects.
- The revitalization of neighborhoods that focuses on preserving the historic value and heritage of existing buildings and/or the adaptive reuse of structures to be used as cultural facilities or for mixed use purposes (i.e., for cultural facilities and other entities). This includes affordable housing for artists and others, artist studios or live/work space, and entrepreneurial new creative sector business development.

Arts Engagement

- The transformation of community sites into public spaces for cultural activities.
- Projects which contribute to cultural vitality and a sense of place such as innovative community engagement projects, including festivals, community-wide celebrations, outdoor exhibitions, and learning opportunities; and the commissioning of temporary and/or permanent site-specific public art such as murals and sculptures, sculpture gardens, and waterfront art walks.
- New media or technology projects that connect citizens to cultural activities or engage them in participating in city planning or design projects.

Deadlines:

March 15, 2010: Statement of Interest which is to include:

- Budget Outline (No pre-award costs are allowable in the project budget. Project costs that are incurred before the project start date will be removed from the project budget.)
- Major Project Activities
- Goals
- Schedule (by month or by quarter)
- Partners, key organizations, individuals, and works of art that will be involved in the project.
- Target community (impact, past experience, number served, etc.)

- Plans for promoting, publicizing, and/or disseminating the proposed project, as appropriate
- Plans for monitoring the project and assessing the degree to which you achieve your goals
- Evidence of impacts achieved

April 8, 2010: Invitation to Apply Issued

May 10, 2010: Formal Application Deadline

Project Start Date: between July, 2010 – December 2010

Project Completion Date: one year after start date

Staff have been approached by multiple groups, which includes the HUB and the Downtown Master Plan Cultural Arts Implementation task team, with potential project options for City Council to consider.

Downtown Master Plan Option

The Downtown Master Plan Cultural Arts Implementation task team has asked the City to review possible projects from the Downtown Master Plan including the creation of an arts alliance, the creation of an artist resource center, and the planning of Pack Square Cultural District, all of which would be supported by the grant. However, the matching funds have not yet been identified.

HUB Creative Cluster Option

The HUB through its Creative Cluster leadership is asking to apply for this NEA grant as the single proposal the "HUB Creative Cluster. 1.29.10." to represent the City of Asheville. They would like the city to be the "sponsor" and applicant but HUB would provide the matching funds for the project's Arts & Culture Cluster initiative.

Public Art Board Projects Option

Staff have identified other possible projects as outline in the departments master plan for a direct grant. The Public Art Board has endorsed two public art projects: the Reed Creek Greenway gateway on Broadway as part of the Public Artist of the Year and Riverbend Park (at Wal-Mart). Both of these projects have \$25,000 each in privately raised funds that would be used for the one-to-one match. The completion of these projects would support the Parks, Recreation & Cultural Arts Master Plan goal #11 (Support public expectation for public art of the highest quality with public engagement) and goal #13 (Create a coherent, comprehensive, and exciting municipal collection of public art). The public art fund did not receive an allocation for FY10 and this grant would help the projects move forward.

This action complies with the City's Council Strategic Operating Plan in that it supports Job Growth & Community Development. It also complies with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it provides opportunity to partner with community groups to implement community master plan priorities.

Pros:

- The grant provides support for a variety of projects and activities;
- The arts are an integral part of the City of Asheville;
- Provides additional funding for a project or activity.

Cons:

- The City has limited ability to match funds and will be fiscal responsible for private funds not raised.
- The City has limited resources to administer a federal grant;
- The application deadline is March 15, 2010.

The current FY 2009/2010 operating budget does not include matching funds for an NEA grant. If City Council authorizes the City to submit an application for a grant and the City is a successful applicant, matching funds ranging from \$25,000 to \$250,000 would be required, depending on the grant project submitted.

Staff's plan for identifying necessary matching funds is to require the appropriate community group seeking to partner with the City for a grant project to raise matching funds through private donations. To the extent that such private matching funds are raised, there would be no fiscal impact to the City. If private funds are not raised, however, the financial impact to the City would range from \$25,000 to \$250,000, depending on the grant project submitted. The City could further be impacted if the program or project for which grant funds are being sought is on-going in nature, requiring continued operating support from city sources.

Staff recommends that City Council provide guidance on whether to should submit a grant and for what project from the options identified.

Councilman Russell, Chairman of the Finance Committee said that due to time limitations, the Finance Committee did not have an opportunity to give Council their recommendations at their meeting earlier today and suggested the full Council hear the presentations.

Ms. Kitty Love explained the proposal from the Arts & Cultural Sub-Committee of the Downtown Master Plan Action Committee. In summary, they propose that we access the multiple data resources available and compile the evidence that supports the conclusion that arts and cultural institutions (for-profit, not-for-profit, public) help build vibrant, sustainable, and economically viable communities. From this collection of data, a feasibility study can be designed to leverage the necessity of the following action steps (1) perform the first annual state-of-the-art audit to (a) identify existing artists and organizations; (b) compile each agency's mission and programs; (c) inventory each agency's resources, e.g., staff, budget and equipment; (d) identify existing spaces, uses and needs; (e) inventory unmet needs; (f) identify all arts-related, creative, and art-based businesses; (g) project economic impacts derived from for-profit and non-profit organizations; (h) assess Asheville's per capita public support for the arts in relation to programs in other cities; (i) establish metrics, goals, and benchmarks for awareness, sustainability, and growth; (j) seek national models and case studies; and (k) develop an in-depth searchable database to be fed by the data collected from the start-of-the-arts audit as well as other master plan recommendations as the framework for continuing development of an Artists' Resource Center; and (2) once the audit is complete, stage the first annual cultural "summit" at a major downtown arts venue in cooperation with the Tourism Development Authority, Convention and Visitors Bureau, Mountain Bizworks, A-B Tech, the HUB Initiative, UNC-Asheville, Pack Square Conservancy, and other major players. The summit should (a) create cohesiveness within the arts community; (b) develop common advocacy points; (c) plan national marketing; (d) identify strategies to avoid cannibalizing funding sources; and (e) encourage partnership grant applications for state, federal and foundation funding.

Ms. Love said that having evaluated the HUB proposal and noting that the goals and expected outcomes are closely aligned with those that the DTMP Action Committee is putting forth, she hoped that they will be able to meet with the HUB representatives to discuss a possible merger. A part they feel is appropriate to blend is doing a compilation of data resource assessment of our local and regional arts resources for the purpose of compiling them into a database that can have many uses, but also for the purpose of the recommendation of having a state-of-the-arts audit.

Mr. William P. Massey briefly explained the proposal for a Creative Cluster initiative. The Creativity Cluster of Asheville HUB makes this proposal with the understanding that matching support will be secured by members of the HUB Alliance from private community sources. The City of Asheville is *not* asked to provide matching funds. The Arts & Culture Cluster of HUB will endeavor to use a 12-month period beginning July 2010 to facilitate and create evidence-based findings that demonstrate the economic development value-add of arts and cultural programs in Asheville and Buncombe County. This will be accomplished through 4 major components as follows: (1) National research to support the claim that arts and cultural institutions (for profit, not-for-profit, public) help build vibrant, sustainable communities and present specific communities, projects, partnerships and financial outcomes; (2) Undertake local research to map Asheville/Buncombe arts and cultural assets; (3) Engage a wide range of local community conversations around the questions: *“How can arts and culture bridge communities that historically have been separated by race, age, income, or health disparities? How can arts and culture contribute to creating a more civil, just and caring community?”*; and (4) Convene a two-day forum of representatives from 4 or 5 U.S. cities/metropolitan areas that are distinguished for using arts and culture as economic development tools. Regarding the budget, because NEA grants require a 1:1 match, they anticipate project cost of \$200,000, with \$100,000 from Federal NEA funds. (The project is scalable if less funding is available.) The balance will be secured locally by HUB leadership through contributions and in-kind support. A breakdown for each component described above is: Part I (national research) \$25,000; Part II (local research/analysis) \$25,000; Part III (convening local community conversations) \$25,000; Part IV (Forum & published outcomes) \$125,000.

After a brief discussion, Mayor Bellamy felt that since the Finance Committee will not have an opportunity to review this prior to the March 9 agenda to give Council their recommendation, she felt it would be appropriate for the three proposal representatives to meet and discuss if there is any agreement for collaboration. She said that this item can then be placed on the March 9, 2010, meeting for action.

B. RESOLUTION NO. 10-39 - RESOLUTION OF CONSIDERATION IDENTIFYING AREAS WITH POTENTIAL FOR FUTURE ANNEXATION

Urban Planner Julia Cogburn said that this is the consideration of a Resolution of Consideration identifying areas with potential for future annexation and reducing current map of consideration.

State law provides that a Resolution of Consideration may be adopted by cities as a preliminary step in the annexation process. The Resolution of Consideration serves the purpose of providing citizens with advance notice that certain areas in proximity to the City may, in the future, be subject to annexation. After being in effect for at least one (1) year, the Resolution of Consideration also has the benefit of reducing the time period required between adoption of any annexation ordinance and the effective date of that ordinance from a minimum of one (1) year to a minimum of seventy (70) days. Each Resolution of Consideration is effective for two (2) years. The initial City of Asheville Resolution of Consideration was adopted on April 9, 2002, and revised maps were adopted by Council on March 9, 2004, March 7, 2006, and February 26, 2008. At the time of adoption of the last resolution/map in 2008, Council directed staff to look at creating a map for future consideration that covered less area and was more representative of areas that might qualify for annexation. Staff has incorporated these thoughts into the resolution/map now presented to the Asheville City Council.

Urban Planner Blake Esselstyn said that the map staff has prepared to accompany this resolution substantially reduces the area compared to what was previously included. Areas have been taken out that were recently annexed by Asheville or other municipalities. Major changes were made to take out areas that were sparsely populated due to: steep slopes, little infrastructure (water, sewer, roads), and large parcel size. In addition, areas within one-half mile

of the annexation agreement boundary with the Town of Woodfin have been excluded. The total area of consideration is now 33.1 square miles. 32.2 square miles have been eliminated. The areas that remain are areas that are urbanized or have potential for urbanization, such as the areas along major thoroughfares, areas within the City's extraterritorial jurisdiction, areas with existing infrastructure, or areas where utility extensions are feasible. This map does not preclude incorporation of municipalities in these areas nor does it preclude annexation by another municipality.

Pros:

- Gives residents and property owners within the area advance notice of possible annexation.
- Allows the time period between passage of an annexation ordinance and the effective annexation date to be shortened to a minimum of seventy (70) days.

Con:

- The reality of annexing some parts of the area may not be realized for a number of years.

City staff recommends that the Resolution of Consideration be adopted.

Vice-Mayor Newman felt this is a good step in the right direction, but 95% of the land will not be actively be contemplated for annexation in the next 2-4 years. He wondered if it would be possible to create a map that identifies the areas that are clearly ready for annexation.

Ms. June Patterson, Arden resident whose property is in the area for consideration, explained why her property did not meet the criteria necessary for annexation.

Mr. Alan Ditmore voiced his concerns regarding annexation.

Ms. Betty Jackson urged Council not to use forced annexation to make itself a better city. She provided Council with information on how forced annexation is good for municipalities but bad for the public.

Rev. Christopher Chiaromonte urged Council to prepare a map that is more realistic on what can possibly be annexed in the next two years.

Mayor Bellamy noted that Asheville is respecting our conversations with the Town of Woodfin in that this map does not identify property in the Leicester Township. The City made a commitment not to annex into Leicester Township for at least three years contingent upon the same commitment by the Town of Woodfin.

Councilman Russell is not a proponent of annexation but understands the City's position. However, he could not support forced annexation.

Councilman Bothwell urged people to lobby the state legislature to allow Asheville to operate as every other city in North Carolina that runs their own water system, so Asheville would not have to use forced annexation.

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

Councilman Davis moved for the adoption of Resolution No. 10-39. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no".

C. ANNEXATIONS

RESOLUTION NO. 10-40 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 301 LONG SHOALS ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-41 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 380 LONG SHOALS ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-42 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 1 VOLVO DRIVE, 42 SCHENCK PARKWAY AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-43 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX DORSET DRIVE AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-44 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 67 MOUNTAINBROOK ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-45 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 73 AND 75 WATERS ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-46 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 26 ROCKING PORCH ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-47 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 40 KEASLER ROAD AND 23 SUNNYCREST DRIVE AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-48 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 617 UPPER SONDELEY DRIVE AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-49 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX 1445 TUNNEL ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-50 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX WILLOW WINDS LANE AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

RESOLUTION NO. 10-51 - RESOLUTION STATING THE INTENT OF THE CITY TO ANNEX PORTIONS OF AIRPORT ROAD AND SETTING THE PUBLIC INFORMATION MEETING ON APRIL 12, 2010, AND THE CITY COUNCIL PUBLIC HEARING ON MAY 11, 2010

Urban Planner Julia Cogburn said that this is the consideration of resolutions stating the intent of the City to annex twelve (12) areas contiguous to the current boundaries of the City of Asheville.

The City's policy is to include within its corporate boundaries areas that are urban in nature and meet State of North Carolina qualification requirements. Staff has identified twelve (12) areas that meet the state requirements. All of these areas are contiguous to the current municipal boundary and are mostly small in size. The rationale for annexing these areas is to clean up split jurisdiction issues and to improve service delivery.

Under State law, the City must follow a specific process for annexation that begins with the adoption of resolutions that describe the boundaries of the areas under consideration, and fix dates for a public informational meeting and a public hearing on the question of annexation. State law does allow simultaneous annexation of multiple non-adjacent areas.

Staff has provided the following proposed schedule for these annexations. The effective date for all would be September 30, 2010. The following steps and dates meet the process required by State law:

- Council Adoption of Resolution of Intent – 2/23/10
- Council Adoption of Services Plan – 3/9/10
- Public Information Meeting – 4/12/10
- City Council Public Hearing – 5/11/10
- Annexation Ordinance Adopted – 5/25/10
- Effective Date – 9/30/10

Pros:

- Supports City of Asheville's Smart Growth Annexation program (regular program of annexations) as set forth in the City's 2025 Plan.
- Provides for an urban level of service for developed and developing areas adjacent to the existing city limits and includes those benefiting from existing City services in participation in the costs of such services.
- Fills in service delivery gaps and split jurisdiction issues on the edge of corporate limits.

Con:

- Residents of proposed annexation areas may object to such annexation.

The fiscal impact of this round of annexations will be addressed in the Plan for Services document, which is scheduled to come before City Council on March 9, 2010.

Urban Planner Blake Esselstyn reviewed in detail the following twelve areas and the rationale for annexation:

301 Long Shoals Road (Ingles)
 Behind 380 Long Shoals Road (Schenck Parkway)
 1 Volvo Drive, 42 Schenck Parkway (Farleigh Street)
 Dorset Drive (Deerfield)
 67 Mountainbrook Road
 73 and 75 Waters Road

26 Rocking Porch Road
 40 Keasler Road and 23 Sunnycrest Drive
 617 Upper Sondley Drive
 1445 Tunnel Road
 Willow Winds Lane
 Airport Road (portions of shopping center; developed property on edge of municipal service area, including Airport Road right-of-way to Brian Boulevard and County line as well as part of Rockwood Road)

City staff recommends that City Council adopt the resolutions of intent stating the City's intent to annex these twelve (12) annexation areas.

In response to Mayor Bellamy, Mr. Esselstyn said that Deerfield does pay some property tax; however, annexing this portion would not any additional tax revenue for the City.

In response to Mayor Bellamy about expenses to bring these properties into the City, Mr. Esselstyn said that they are currently working on a plan for services which will be coming to Council on March 9.

Mayor Bellamy questioned if there will be a need for an additional fire station in the southern part of the City if those portions of Airport Road are annexed. Fire Chief Scott Burnett said that based on the current call volume, this area will probably add 50 more calls for request for services, which is not significant.

Mayor Bellamy said that she could not support these resolutions of intent until she sees the plan for services identifying the up-front costs for the City to annex these areas.

Ms. Betty Jackson felt Council should let people decide if they wish to be annexed.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-40, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 354

Vice-Mayor Newman moved for the adoption of Resolution No. 10-41, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 358

Vice-Mayor Newman moved for the adoption of Resolution No. 10-42, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 362

Vice-Mayor Newman moved for the adoption of Resolution No. 10-43, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held

on May 11, 2010. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 366

Vice-Mayor Newman moved for the adoption of Resolution No. 10-44, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 370

Vice-Mayor Newman moved for the adoption of Resolution No. 10-45, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 374

Vice-Mayor Newman moved for the adoption of Resolution No. 10-46, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 378

Vice-Mayor Newman moved for the adoption of Resolution No. 10-47, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 382

Vice-Mayor Newman moved for the adoption of Resolution No. 10-48, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 386

Vice-Mayor Newman moved for the adoption of Resolution No. 10-49, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 390

Vice-Mayor Newman moved for the adoption of Resolution No. 10-50, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 394

Vice-Mayor Newman moved for the adoption of Resolution No. 10-51, with the public information meeting being held on April 12, 2010, and the City Council public hearing being held

on May 11, 2010. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no".

RESOLUTION BOOK NO. 32 – PAGE 398

D. RESOLUTION NO. 10-52 - RESOLUTION APPOINTING A CHAIR TO THE CIVIL SERVICE BOARD

Vice-Mayor Newman said that John Miall currently serves as Chairman of the Civil Service Board. The Civil Service Law for the City of Asheville, Section 2, Chapter 303 of the 1999 Session Laws of the North Carolina General Assembly provides that the Chair of the Civil Service Board shall be appointed annually by the City Council.

Mr. Miall was appointed Chairman to the Civil Service Board on March 9, 2009.

Current members of the Civil Service Board include: Chairman John Miall; Virginia Robinson, Larry C. Harris Jr., Marvin Rosen and Charlotte Tell.

Upon inquiry of Councilwoman Manheimer, City Attorney Oast said that Councilwoman Manheimer did not have a disqualifying conflict of interest just because Mr. Harris works at the same law firm.

Councilman Davis moved to appoint Larry C. Harris Jr. as Chair of the Civil Service Board effective February 23, 2010, for a one-year term or until his successor is duly and annually appointed by the City Council, as provided by law. This motion was seconded by Mayor Bellamy and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 403

E. RESOLUTION NO. 10-53 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Community Relations Council.

The term of William Moore, as a member on the Community Relations Council, expires on December 31, 2011.

Also at the February 9 City Council meeting, it was the consensus of Council to interview Mike Hahn and Curry First. Mr. First was interested in the appointment; however, was unable to attend the interview.

Councilman Bothwell felt Mr. First's credentials would be an asset to the Community Relations Council and would support his appointment.

Councilman Russell moved to appoint Mike Hahn as a member of the Asheville-Buncombe Community Relations Council to serve the unexpired term of Mr. Moore, term to expire December 31, 2011, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 404

F. RESOLUTION NO. 10-54 - RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Downtown Commission.

The terms of Jesse Plaster, John Rogers and Peter Alberice, as members of the Downtown Commission, expired on December 31, 2009.

On February 9 it was the consensus of Council to interview Bruce Hazzard, Matt Sprouse, Tony Fraga, Rachael Bliss and Bill Allison. Mr. Fraga was interested in the appointment; however, was unable to attend the interview. Mr. Allison withdrew from consideration.

Councilman Davis, member of the Downtown Commission, said that Mr. Brad Galbraith has resigned from the Commission, thus leaving an unexpired term until December 21, 2011. Since this resignation came after City Council met and made the interview appointments with the three specific vacancies in mind, they felt Council should re-open the application process, specifically looking for a person representing the development and property owner community along with vested interest in the downtown.

Councilman Davis moved to (1) appoint Matt Sprouse and Bruce Hazzard as members of the Downtown Commission to each serve a three-year term respectively, terms to begin on March 1, 2010, and expire December 31, 2012, or until their successors have been appointed; and (2) re-open the application process for the remaining expired term as well as Mr. Galbraith's term. This motion was seconded by Councilman Russell and carried unanimously.

Mayor Bellamy reminded Council to look for diversity with this Commission.

RESOLUTION BOOK NO. 32 – PAGE 405

G. RESOLUTION NO. 10-55 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Newman, 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.

The term of Sylvia Farrington, as a member on the Sustainable Advisory Committee on Energy & the Environment, expired on December 31, 2009.

At the February 9 Council meeting, it was the consensus of Council to interview Susan Garrett, Sherry Ingram and Dane Barrager. Ms. Garrett withdrew from consideration.

After Council spoke highly of the candidates, Councilman Bothwell moved to appoint Dane Barrager as a member of the Sustainability Advisory Committee on Energy & the Environment to serve a three-year term, term to expire December 31, 2012, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 406

H. ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

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

Mr. Todd Williams and Mr. Brad Brock have both resigned as members of the Historic Resources Commission, thus leaving two unexpired terms of July 1, 2010, and July 1, 2012, respectively.

At the February 9 Council meeting, it was the consensus of Council to interview Susan West, Amanda Warren and Ashley Black. Ms. West was unable to attend the interview.

At the request of Vice-Mayor Newman, it was the consensus of Council that these appointments be delayed since Council has requested the Boards & Commissions Committee review the report from City Attorney Oast on the membership size of the Committee.

Councilwoman Manheimer, liaison to the Asheville-Buncombe Historic Resources Commission, said that she would be happy to contact the Chair of the Commission and Buncombe County to let them know about the possible downsizing of the Commission and to seek their input. In addition, she suggested City staff look at historic resource commissions throughout North Carolina to see if there is a better working model than the existing 14 members.

I. RESOLUTION NO. 10-56 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Planning & Zoning Commission.

The terms of Steve Sizemore and Tom Byers expired on August 14, 2009.

On September 8, 2009, it was the consensus of Council to extend the terms of Steve Sizemore and Tom Byers for an additional six months, term to expire February 14, 2010, or until the stormwater and erosion control ordinance has been adopted by City Council, whichever occurs earlier.

At the Council meeting on February 9, it was the consensus of Council to interview Joe Minicozzi, Mark Brooks, Holly Shriner and Russ Towers.

After Council spoke highly of the candidates, Joe Minicozzi received 3 votes, Mark Brooks received 5 votes, Holly Shriner received 4 votes and Russ Towers received 2 votes. Therefore, Mark Brooks and Holly Shriner were appointed as members to the Planning & Zoning Commission to each serve a three-year term respectively, terms to begin on April 1, 2010, and expire on August 14, 2012, or until their successors have been appointed.

RESOLUTION BOOK NO. 32 – PAGE 407

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Alan Ditmore spoke to Council about the First Amendment and the panhandling ordinance.

Rev. Christopher Chiaronmonte spoke about revising the panhandling ordinance.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:21 p.m.

CITY CLERK

MAYOR