

**Tuesday – March 23, 2010 - 2:00 p.m.
Worksession**

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman William A. Russell Jr. (participating via speaker phone); Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Bureson

Absent: Councilwoman Esther E. Manheimer (in trial)

Mayor Bellamy announced the resignation of Chief Financial Officer Ben Durant. On behalf of City Council, she wished Mr. Durant the best of luck in his future career.

BUDGET POLICY DIRECTION

Mayor Bellamy noted that this worksession is a continuation of the budget direction to staff which began on March 9, 2010.

City Manager Jackson focused on the following three items: (1) coping with financial stress; (2) balancing General Fund revenues and expenditures; and (3) setting water system rates.

Two positive actions in hard times recommended strategy include (1) well-managed organizations are capable of dealing with events before, during and after crises; (2) they are able to adapt in the short-term within a cycle and over the long term of several business cycles.

Coping well with financial stress recommended strategies include (1) short-term tactics – reign in expenses and adjust revenue mix; and (2) long-term adaption – educate leaders and stakeholders and pursue structural solutions.

Positive actions in hard times short-term tactics include (1) reign in controllable expenses; (2) improve productivity and financial management practices; (3) shed activities, invest or eliminate; (4) adjust the revenue mix and tax rates; (5) introduce or increase charges for services; (6) bolster residents' willingness to share risks; and (7) improve political acceptability of cutbacks.

The City of Asheville's short-term tactics for Fiscal Year 2008 included (1) reduced capital; (2) cut training, travel, services and equipment; and (3) targeted hiring freeze. In Fiscal Year 2009 those tactics included (1) deferred capital; (2) salary freeze; (3) reengineering – One Stop Shop; (4) early retirement program; (5) managed vacancies; (6) fee increases/cost recovery; and (7) aggressive pursuit of ARRA grants.

Positive actions in hard times long-term adaption include (1) avoiding excessive commitments to fixed expenses; (2) diversifying revenue sources; (3) engaging in long-term financial planning; (4) maintaining adequate reserve; (5) using charges for services and taxes for capital improvements; and (6) educating stakeholders.

The City of Asheville's long-term adaption include (1) avoiding fixed expenses – postponed bond program (2008 & 2009); (2) long-term financial planning/diversifying revenues – structural issues identified in 2008 and financial white paper released in 2009; (3) maintaining reserves – retained 15% General Fund balance; and (4) recommended community meetings to educate stakeholders – February 9, 2010.

For Fiscal Year 2010 budget planning, balancing revenues and expenditures include (1) General Fund initial forecast - \$5.1 Million gap (a) flat revenues; (b) loss of transit funding; (c)

inflation in operating and health care costs; (d) cost of living adjustment for employees of 2%; and (e) no Fund Balance use; and (2) Increase for State pension - \$5.75 Million gap.

Tier 1 expense reductions/managed (\$2.3 Million) include (1) freeze vacancies in development services; (2) reduce overtime and temp services; (3) reduce contracts and services; (4) reduce other training, tuition reimbursement, printing, other line items; (5) reduce transit subsidy; and (6) savings from expired annexation agreements.

Tier 2 expense reductions/services (\$1.5 Million 8-10 full-time and 12-14 part-time positions) include (1) delay Master Plan implementation; (2) reduce police and fire overtime; (3) re-engineer brush collection; (4) reduce programming at centers; (5) other re-engineering efforts; (f) reduce outside agency; and (6) cost-sharing for co-sponsored events.

Tier 1 revenue enhancements total \$975,000 and include (1) fees and charges - \$200,000; (2) street cut enterprise - \$150,000 net; (3) Parking Fund recurring transfer - \$125,000; and (4) Parking Fund one-time transfer - \$500,000. The adjusted budget gap is \$1 Million.

Tier 2 revenue enhancements include (1) increase business licenses - \$100,000; (2) reduce General Fund reserves to 14% - \$1 Million; and (3) 1-cent property tax increase - \$1 Million.

Tier 3 expense reductions/services include (1) transit service reductions - \$600,000; (2) 4/10's for non-emergency facilities (energy) - \$75,000; (3) second year salary freeze - \$500,000; (4) further health insurance cost shifting - \$200,000; and (5) eliminate additional positions 10-12 - \$600,000.

The recommended strategy, including Tier 1 and Tier 2 expense/service reductions, and Tier 1 revenue enhancements, leave a planning gap of approximately \$1 Million. He asked Council if (1) there any elements of the strategy that Council would alter; (2) they had any substitutes an alternate revenue increase or expense reduction; (3) for any guidance they may provide on preferences for closing the remaining gap; and (4) what is preferable or untouchable?

Council raised several questions throughout the course of the presentation with expectations for responses from staff regarding some Tier 1 (\$2.3 Million) and Tier 2 (\$1.5 Million) expense reductions.

In summary, the following was the consensus of Council: (1) Council did not rule out the increase in business licenses (except for small businesses and manufacturing businesses); (2) Council rejected reducing the General Fund reserves; (3) Council rejected the 1-cent property tax increase; (4) Council was cautiously receptive to limiting transit service reductions; (5) Council expressed interest in seeing additional details on the 4/10's for non-emergency facilities but was concerned about closing City Hall on Fridays; (6) Council was open to City management recommendations on (a) second year salary freeze; (b) further health insurance cost shifting; and (c) eliminate additional 10-12 positions; and (7) Council agreed to reduce the Housing Trust Fund by an additional \$50,000.

Water Resources Director Steve Shoaf explained different alternates for the water rate increase. Discussion surrounded the type of projects we could use with the Sullivan Act transfer of 5%, along with a request for information on the projects, including cost estimates, identified as candidates for use of the water utility fund 5% transfer.

It was the consensus of Council to instruct the City Manager to provide Council with a memo on the planning for the General Fund capital budget.

At 4:30 p.m. Councilman Davis moved to continue this worksession, if needed, until Tuesday, April 27, 2010, from 3:30 – 4:30 p.m. in the First Floor North Conference Room. This motion was seconded by Councilman Smith and carried unanimously.

**Tuesday – March 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 (arrived at 5:53 and excused at 10:25 p.m.); Councilman William A. Russell Jr. (arrived at 5:53 and excused at 10:25 p.m.); 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

The Evergreen Community Charter School Kindergarten Classes led City Council in the Pledge of Allegiance and the Earth Pledge. Mayor Bellamy recognized Mr. Stuart Miles who was chosen Charter School Teacher of the Year in North Carolina. She wished him luck in competition for the N.C. Teacher of the Year.

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 1, 2010, AS “CENSUS DAY” AND APRIL 10, 2010, AS “MARCH TO THE MAILBOX DAY”

Mayor Bellamy read the proclamation proclaiming April 1, 2010, as “Census Day” and April 10, 2010, as “March to the Mailbox Day” in the City of Asheville. She presented the proclamation to Mr. Ken Richards who briefed City Council on some activities taking place during the Census.

B. PROCLAMATION PROCLAIMING APRIL, 2010, AS ‘CHILD ABUSE AWARENESS MONTH’

Councilman Davis read the proclamation proclaiming April, 2010, as "Child Abuse Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Bill McGuire, with Child Abuse Prevention Services, and a representative of the Community Child Protection Team, who thanked City Council for their support in this effort and briefed Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING APRIL 2010 AS “JAZZ APPRECIATION MONTH”

Vice-Mayor Newman read the proclamation proclaiming April 2010, as "Jazz Appreciation Month" in the City of Asheville. He presented the proclamation to Mr. Dwight Williams, Music Director at the YMI Cultural Center, who briefed Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Councilman Smith, Consent Agenda Item "G" was removed from the Consent Agenda for discussion and/or an individual vote.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 9, 2010**
- B. RESOLUTION NO. 10-80 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY OFF SHORT STREET TO BK BROADWAY PARTNERS**

Summary: The consideration of a resolution authorizing the sale of property off Short Street to BK Broadway Partners.

The City of Asheville is the owner of a 0.12+/- acre lot located off of Short Street (PIN # 9649-11-8703-00000) at Cumberland Place in the Montford Neighborhood. On January 7, 2010, the City received a bid for this property from BK Broadway Partners in the amount of \$71,000. This bid was generated with input from two separate appraisals: one appraisal, dated August 5, 2009, procured by the potential buyer, at \$60,000; and the other appraisal, dated October 30, 2009, procured by the City of Asheville, at a price point of \$86,000. The bid put forth by BK Broadway Partners at \$71,000 is slightly below the average of the two appraisals.

This bid was advertised in the Asheville Citizen-Times on Friday, March 12, 2010. No upset bids have been received for this property. Approval of the resolution will accept the bid from BK Broadway Partners as the winning bid and authorize the conveyance of the property.

This action complies with the strategic operating plan in that income from the sale of this property will directly benefit the Community Development Block Grant (CDBG) Program, thus providing funding towards affordable housing.

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 \$71,000 in proceeds generated from the sale of this parcel will be accounted for as CDBG program Income in the amount of \$71,000." This additional income is currently unbudgeted, but it will be available to the Housing & Community Development Committee to allocate and include in the FY 2010-2011 Consolidated Action Plan.

Economic Development staff recommends adoption of the resolution which will authorize the conveyance and sale of property off Short Street.

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- C. MOTION SETTING A PUBLIC HEARING ON APRIL 27, 2010, FOR ADOPTION OF THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2010 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS**

Summary: The consideration of a motion setting a public hearing for April 27, 2010, to obtain citizen input on the Consolidated Action Plan for Fiscal Year (FY) 2010-2011, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds.

The Community Development Division is responsible for the receipt and management of federal Community Development Block (CDBG) and HOME Investment Partnership Act funds. Applications from public, private and non-profit entities are solicited annually for these funds. Staff receives and evaluates applications for eligibility and prepares summary evaluations for the Housing and Community Development Committee (for CDBG funding) and the Asheville Regional Housing Consortium board (for HOME funds). These committees review the applications and make recommendations for funding. After a public review period of the proposed funding allocations, City Council approves an annual Consolidated Action Plan, which is submitted to the US Department of Housing and Urban Development (HUD). Upon HUD's approval of this plan, contracts are signed with the funded agencies. In order to meet HUD's submittal deadline, City Council must approve the annual Action Plan on or before May 15 of each year.

HUD requires two public hearing during this process. The first public hearing is held in November or December, to receive citizen comment about the application process. The second hearing is held prior to the submittal to HUD of the annual Action Plan. According to the City of Asheville "Public Participation Plan," public hearings for this process must be warned 30 days in advance of the hearing date. Key dates for this year's process are:

Public Hearing warning published	March 28, 2010
Public Hearing	April 27, 2010
City Council resolution to Approve Action Plan	May 11, 2010
Action Plan Submitted to HUD	May 15, 2010

The Action Plan directly relates to the Council's Strategic Goal of "Affordable." This plan directly supports the City's affordable housing plan, and will increase the supply of workforce housing. It supports initiatives to end homelessness in Asheville.

Pro:

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

Con:

- There are no cons to this public hearing process.

Through timely following of the public process, Asheville continues to be eligible for these CDBG and HOME entitlement funds, projected to be approximately \$3 million for 2010-2011. Once the City receives approval for the plan, the entitlement funds will be included and authorized for expenditure as part of the annual budget ordinance adopted by City Council. No City cash match is required to receive the entitlement funds.

Staff recommends that Council set the public hearing for the 2010-2011 Consolidated Action Plan for April 27, 2010.

D. MOTION SETTING A PUBLIC HEARING ON APRIL 27, 2010, FOR THE ADOPTION OF THE CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2010-2015

Summary: The consideration of a motion setting a public hearing for April 27, 2010, to obtain citizen input on the Consolidated Strategic Housing and Community Development Plan for 2010-2015, which establishes the priorities, strategies and targets for the use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds.

The Community Development Division is responsible for the receipt and management of federal Community Development Block (CDBG) and HOME Investment Partnership Act funds. Every five years, we must prepare and submit to HUD a Consolidated Plan (accompanied by

research, including the Housing Needs Assessment and Market Analysis) that details our priorities, strategies and performance targets for the next five years.

The development of this plan began last summer. The Asheville Regional Housing Consortium board reviewed the Plan development process, and agreed to act as the steering committee for that process. The Housing and Community Development Committee also agreed to act in an advisory capacity during the process. We procured and contracted out the writing of the Housing Needs Assessment and Market Analysis, which was completed in early December. Staff conducted a public participation process in November and December, including the first of two required formal public hearings. The Plan is now in draft form, with a publication draft due to be completed by the end of this month. The draft Plan will be presented in public meetings in each of the four counties participating in the Consortium in mid-April. It will be recommended for approval to City Council by the Consortium Board and the Housing and Community Development Committee.

In order to meet HUD's submittal deadline, City Council must approve the Consolidated Plan on or before May 15.

The second hearing is held prior to the submittal to HUD of the Consolidated Plan. According to the City of Asheville "Public Participation Plan," public hearings for this process must be warned 30 days in advance of the hearing date. Key dates for this year's process are:

Public Hearing warning published	March 28, 2010
Public Hearing	April 27, 2010
City Council resolution to Approve Consolidated Plan	April 27, 2010
Consolidated Plan Submitted to HUD	May 15, 2010

The Consolidated Plan relates to the Council's Strategic Goal of "Affordable." This plan directly supports the City's affordable housing plan, and will increase the supply of workforce housing. It supports initiatives to end homelessness in Asheville.

Pro:

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

Con:

- There are no cons to this public hearing process.

Through timely following of the public process, Asheville continues to be eligible for these CDBG and HOME entitlement funds, projected to be approximately \$15 million for 2010-2015. Once the City receives approval for the plan, the entitlement funds will be included and authorized for expenditure as part of the annual budget ordinance adopted by City Council. No City cash match is required to receive the entitlement funds.

Staff recommends that Council set the public hearing for the 2010-2015 Consolidated Strategic Housing and Community Development Plan for April 27, 2010.

E. RESOLUTION NO. 10-81 - RESOLUTION SETTING A PUBLIC HEARING ON APRIL 13, 2010, TO CONSIDER THE VOLUNTARY ANNEXATION OF 97 AND 99 UNDERWOOD DRIVE

Summary: The consideration of a resolution fixing the date of a public hearing on April 13, 2010, for voluntary annexation of property located at 97 and 99 Underwood Road.

Larry Holbert and Ronnie Gray (L & R Rentals) have petitioned the City of Asheville for the annexation of one (1) lot located at 97 and 99 Underwood Road in South Buncombe County containing a total of approximately 8.95 acres. The area is not contiguous to the primary corporate limits but is contiguous to the satellite corporate area at the Asheville Regional Airport. The area is subject to the standards for annexation of noncontiguous areas contained in NCGS 160A-58.1.

Pursuant to NCGS 160A-58.2, such petitions must be investigated by the City Clerk for sufficiency in accordance with state law. This investigation has been completed.

The next step in this process is for City Council to fix the date for the public hearing on this matter. Should City Council decide to proceed with this request, the effective date for the annexation would be May 31, 2010.

Pros:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

Con:

- Marginal costs for rural fire department debt service and calls for service/patrol.

At the City's current tax rate, the property, valued at \$1,354,300, would generate approximately \$5,688 in ad valorem tax revenue annually. The required debt service payment to the Skyland Fire Department is estimated to be \$1,300 which must be paid within forty-five (45) days of the annexation effective date. This is a one time payment. Other marginal costs would come from calls for service or patrol.

City staff recommends that City Council accept the petition and adopt the resolution setting the date for a public hearing on the annexation petition for April 13, 2010.

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F. RESOLUTION NO. 10-82 - RESOLUTION SETTING A PUBLIC HEARING ON APRIL 13, 2010, TO CONSIDER THE VOLUNTARY ANNEXATION OF 411 DEAVERVIEW ROAD

Summary: The consideration of a resolution fixing the date of a public hearing for annexation of City-owned property at 411 Deaverview Road for April 12, 2010.

In 2009, the City of Asheville obtained two parcels at foreclosure auction. One of the parcels had been previously annexed into the City as a requirement for obtaining Housing Trust Fund loans for the Villas at Cedar Hill development. As part of the financing, the senior lender, Blue Ridge Savings Bank, secured the other parcel (PIN 9628274164) at 411 Deaverview Road as collateral. When the developer defaulted on the senior lien, the bank put the parcels up for sale at foreclosure auction. The City bid on the parcels to protect its investment in the property and was able to purchase the land at below market value. It is the intent of City staff to sell the properties and use the proceeds to repay the Housing Trust Funds advanced on the property. The collateral parcel is not yet a part of the City. The City proposes to annex this parcel to allow any future development on the site to contribute to the City tax base.

The parcel is 6.38 acres in size and has a tax value of \$162,000. It contains a vacant residence.

The first step in the process for annexing a City-owned parcel is to approve a resolution of intent to annex the property and to set a public hearing on the matter. It is proposed that this hearing be held on April 13, 2010.

Pros:

- Provides for an urban level of service for areas adjacent to the existing city limits.
- Brings in a parcel currently in City of Asheville ownership avoiding later involuntary annexation.

Con:

- Marginal costs for rural fire department debt service.

Because the property is owned by the City, there would be no immediate ad valorem tax revenue generated. Once sold, the property would contribute to the tax base at an amount determined by the development of the property. The required debt service payment to the West Buncombe Fire Department is estimated to be \$150.00, which must be paid within forty-five (45) days of the annexation effective date. This is a one-time payment.

City staff recommends that City Council adopt the resolution stating its intent to annex property at 411 Deaverview Road and setting the public hearing on this annexation for April 13, 2010.

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G. RESOLUTION OF SUPPORT TO BECOME A TARGET CITY FOR THE GOOGLE FIBER FOR COMMUNITIES FIBER-TO-THE-HOME PROJECT

This item was removed from the Consent Agenda for an individual vote.

H. RESOLUTION NO. 10-84 - RESOLUTION SUPPORTING THE GREEN OPPORTUNITIES' PROPOSAL TO THE U.S. CONFERENCE OF MAYORS/WAL-MART FOUNDATION GREEN JOBS TRAINING INITIATIVE PILOT AWARDS

Summary: The City of Asheville has enjoyed a successful partnership with Green Opportunities, Inc. through two grant-supported activities: Asheville GO, and the GO Energy Team.

The Asheville GO program prepares unemployed, low-income youth and young adults for living wage, green collar jobs through technical skills training, life-skills training, academic training and support, case management, and hands-on service projects. Members who successfully complete a four-month preparatory training program are placed in a five-month paid apprenticeship with local employers.

In July of 2009, the City of Asheville awarded a Community Development Block Grant to Green Opportunities, passed through Mountain Housing Opportunities. The pass-through relationship was necessary because the activities that Green Opportunities proposed to deliver could only be done through an organization with a certification as a Community-Based Development Organization (CBDO). Regardless, the responsibility for performance, reporting and accountability has been Green Opportunities'. In that time, they have demonstrated that they possess the capacity to manage the contract effectively and to perform the intended job training and placement outcomes. They are in compliance with all the provisions set forth in our contract. Because of their performance and capability, we have encouraged them to seek certification as a CBDO in their own right. They have almost completed this process, and I expect to certify them in this regard before the new program year that begins in July.

The City has also supported the GO Energy team, which has been a key component of the CDBG-funded "Weed and Seed Weatherization Program," managed by the Western North Carolina Green Building Council. In a unique partnership, The Green Building Council contracts with Green Opportunities to provide the labor to weatherize the homes of low-income homeowners in the West Riverside Weed and Seed area. Community Action Opportunities, funded through the US Department of Energy, provides the materials and also contracts with other businesses to perform code-related work such as furnace replacements. Green Opportunities GO Energy Team is one of the apprenticeship opportunities provided to GO members, one making a direct, measurable improvement to the lives of low-income families in our City.

Green Opportunities' staff is competent and professional and, to my knowledge, their Board of Directors maintains adequate oversight of the organization's operations and finances.

The City and Mountain Housing Opportunities took a risk last year entering into a contract with such a relatively new organization. Before doing so, we made certain that Green Opportunities had the infrastructure in place to be successful and both Mountain Housing Opportunities and the Community Development Division have invested our time and resources into helping the organization become established. Nearly a year later, I feel confident that Green Opportunities has a solid foundation from which to begin having a real and lasting impact on our community.

RESOLUTION BOOK NO. 32 – PAGE 443

I. RESOLUTION NO. 10-85 - RESOLUTION AFFIRMING CONTINUED SUPPORT OF THE WNC PASSENGER RAIL INITIATIVE

Summary: The consideration of a resolution affirming the City of Asheville's continued support of the Western North Carolina (WNC) Passenger Rail Initiative.

The WNC Passenger Rail Initiative is a long term partnership between several municipalities in the region and the North Carolina Department of Transportation, Rail Division. The proposed service will connect Asheville to the Amtrak station in Salisbury, NC. The purpose of this initiative is to enhance regional and local economic development, and to improve the state's transportation infrastructure.

The City of Asheville's past involvement in the initiative was driven by several (former) City Council resolutions and adopted strategic plans. Past staff involvement was coordinated by Mac Williams, former Economic Development Director and culminated with the site selection and purchase of the future Asheville passenger rail depot at 81 Thompson Street in Biltmore Village.

The WNC Rail Corridor Committee, a representational body made up of elected officials, municipal staff, and citizen advocates from the proposed corridor (including staff from the City of Asheville), continues to meet and work towards the establishment of passenger rail service from Salisbury to Asheville. On April 7th, 2010, members of the Corridor Committee will briefly meet with State Representative Ray Rapp, Chairman of the House Select Committee on Comprehensive Rail Service Plan for North Carolina. The Committee, led by Judith Ray, is supportive of Council adoption of this resolution, and appreciates the timeliness of Council's consideration of this matter.

The Office of Economic Development, via the Urban Planner/Riverfront Redevelopment Coordinator, will coordinate the interdepartmental resources to support this initiative. In the coming weeks, the Riverfront Redevelopment Coordinator will work closely with legal staff to provide Council with relevant Rail Service information as part of Council's upcoming review of state legislative priorities.

Pros:

- The City of Asheville's renewed support for the initiative will facilitate the timely implementation of the Passenger Rail Initiative when implementation funding becomes available at the State and/or Federal level.
- Will precede a Corridor Committee meeting with state representatives.
- Will provide a timely signal regarding the City's continued support for state priorities.

Cons:

- None known.

This action aligns with the following goals from Council's strategic operating plan: (1) Job Growth and Community Development (a) Partner in regional economic development strategies; (b) Expand partnerships with institutions to achieve common goals; and (c) Support the riverfront redevelopment partnership; and (2) Green and Sustainable (a) Integrate and implement a multi-modal transportation plan.

There is no fiscal impact associated with this action. Subsequent actions, including City collaboration with NCDOT rail on the preplanning for a multimodal station at 81 Thompson Street, will eventually require a financial contribution from the City. The amount of this contribution is unknown at this time. In order to best prepare for any future capital needs Economic Development staff recommends that Council receive regular updates on the WNC Passenger Rail initiative, especially in regards to funding alternatives for the development of the multimodal station facility at 81 Thompson Street.

If Council approves of the resolution, adoption of it is recommended.

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J. RESOLUTION NO. 10-86 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO JOIN THE MUNICIPAL ENVIRONMENTAL ASSESSMENT COALITION AND PARTICIPATE IN OBTAINING A STUDY OF PROPOSED WATER QUALITY STANDARDS

Summary: The consideration of a resolution authorizing the City of Asheville to enter into an agreement to participate in the Municipal Environmental Assessment Coalition (MEAC), and assist in obtaining an engineering analysis for proposed water quality standards.

In response to a mandate from the United States Environmental Protection Agency, the Division of Water Quality of the North Carolina Department of Environment and Natural Resources has initiated a review and modification of State surface water standards. This review could result in revised standards, which in turn could cause cities to undertake expensive upgrades to their wastewater and stormwater treatment facilities in order to comply.

The Municipal Environmental Assessment Coalition (MEAC) of the North Carolina League of Municipalities has proposed that cities work together to engage a consultant to produce an engineering analysis that may be used to assist the League in working with members of the General Assembly to ensure that municipal interests are appropriately considered in connection with these proposed revisions, and that there is scientific data to support the League's arguments.

The City of Asheville has been asked to support the League in this effort, and in the analysis, to join the MEAC. The cost of joining MEAC and participating in the engineering analysis is \$2,500 for a city of Asheville's size. This cost may be paid half in this fiscal year, and half in the next fiscal year.

Pros:

- The engineering analysis will be helpful to the League in representing municipal positions on proposed water quality standards.
- The proposed cost sharing arrangement lowers the potential cost to the City for obtaining and participating in such a study.

Cons:

- Analysis may not address issues relating to particular cities.

There is a cost of \$2,500 to join the MEAC and participate in the study. Funds are included in the FY 2009-10 Public Works Department Stormwater Services budget to cover this cost. In view of the substantial costs that may potentially be associated with revised water quality standards, as well as other community impacts, such as riparian buffers, this cost seems reasonable.

Staff recommends that the City Council approve the resolution authorizing the Mayor to sign an agreement to join MEAC and to participate in the engineering analysis.

RESOLUTION BOOK NO. 32 – PAGE 445

K. ORDINANCE NO. 3832 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF THE INTERIOR FISH AND WILDLIFE SERVICE GRANT FOR RED WOLF HABITAT IMPROVEMENTS

Summary: The consideration of a budget amendment, in the amount of \$179,000, for a grant from the U.S. Department of the Interior Fish and Wildlife Service Grant.

In November 1973, the U.S. Department of Interior established a red wolf captive-breeding program as part of the overall red wolf recovery program in the United States. The Nature Center is approved as an off-site holding facility for the red wolf and has had red wolves in its collection since 1991, and a new red wolf educational exhibit opened in 2009.

As part of the 2008 federal legislative process, Representative Heath Shuler introduced a bill to provide funding for the national Red Wolf Recovery Program located at the Point Defiance Zoo in Tacoma, Washington, and at the Nature Center. The bill was approved which allocated \$179,000 to the City for the red wolf recovery program at the Nature Center.

The funds will be used to enhance the red wolf exhibit educational and display areas as well as to enhance the veterinary and isolation facility to assure quality health care for the red wolves.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of exploring alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative funding sources ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pros:

- Provide funds to support the overall operating cost of the Nature Center
- Provide funds to enhance special projects and services to Nature Center visitors

- Provide funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums

Con:

- None

Planned expenditures in the amount of \$179,000 to enhance the Red Wolf exhibit at the Nature Center reflect one-time project costs and are fully funded with a grant in the amount of \$179,000 from the US Department of Interior Fish and Wildlife Service Grant. Thus, there is no net fiscal impact to the City's budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget of \$179,000 for the WNC Nature Center with a grant from the United States Department of the Interior Fish and Wildlife Service Grant.

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L. ORDINANCE NO. 3833 - BUDGET AMENDMENT FROM THE STATE OF N.C. DEPT. OF ENVIRONMENT & NATURAL RESOURCES THROUGH THE GRASSROOTS SCIENCE MUSEUMS COLLABORATIVE, FOR GENERAL NATURE CENTER IMPROVEMENTS

Summary: The consideration of a budget amendment, in the amount of \$77,434.70, for the remainder of a grant from the State of North Carolina Department of Environment and Natural Resources through the Grassroots Science Museums Collaborative.

Each year the State of North Carolina allocates funds to the 25 to 30 member museums, science centers and nature centers in North Carolina for the Grassroots Science Museums Collaborative as supported by North Carolina Senate Bill 1741. WNC Nature Center is a member of the collaborative.

In FY 2009-2010, the City received \$113,055.70 for the WNC Nature Center. City Council approved a budget amendment of \$35,621 in November 2009 for a portion of the FY 2009-2010 grant to enhance Nature Center operations and to make improvements to the facility and animal exhibits at the Nature Center. This budget amendment will appropriate the remaining \$77,434.70 to be used for the same purpose.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of exploring alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative funding sources ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pros:

- Provide additional funds to support the overall operating cost of the Nature Center
- Provide funds to enhance special projects and services to Nature Center visitors
- Provide funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums

Con:

- None

The existing project budget for one-time operational and facility improvements at the Nature Center will increase by \$77,434.70. This increase is funded by a grant from the State of

North Carolina Department of Environment and Natural Resources through the Grassroots Science Museums Collaborative. Thus, there is no net fiscal impact to the City's budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to increase the project budget for Nature Center operational and facility improvements by appropriating \$77,434.70 in remaining grant funds from the State of North Carolina Department of Environment and Natural Resources through the Grassroots Science Museums Collaborative.

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M. ORDINANCE NO. 3834 - BUDGET AMENDMENT TO COMBINE TWO PROJECT BUDGETS FOR THE CLINGMAN AVENUE STREETScape PROJECT

Summary: The consideration by Council of a technical budget amendment, in the amount of \$407,251, to combine two project budgets for the Clingman Avenue streetscape project into one single project to allow for more effective accounting and reporting of revenues and expenses.

In January 2004, Council approved a budget amendment to the City's Grant Fund in the amount of \$172,131 to recognize a grant from the N.C. Dept. of Transportation (NCDOT) for West End/Clingman Avenue pedestrian improvements. In July 2005, City Council approved an additional budget amendment to the Grant Fund in the amount of \$235,120 to recognize a second grant from NCDOT for the West End/Clingman Avenue project. This amendment brought the total budget in the Grant Fund for this project to \$407,251.

With adoption of the FY 2007-08 capital improvement budget, Council approved an additional \$500,000 from the City's General Fund for the West End/Clingman Avenue project. This \$500,000 is budgeted in the City's General Capital Projects Fund. To allow for more effective accounting and reporting of revenues and expenses, staff is requesting that Council approve a technical budget amendment to move the \$407,251 currently budgeted in the Grant Fund over to the General Capital Project Fund.

This action complies with the City Council Strategic Operating Plan to operate the City of Asheville's organization to the highest fiscal responsibility.

Pro:

- Will allow for more effective accounting and reporting of revenues and expenses

Con:

- None

The budgets for the Clingman Avenue Streetscape project were previously approved by Council so there is no fiscal impact with this action. Combining the two project budgets into one will allow for more effective accounting and reporting of revenues and expenses.

City staff recommends City Council approve the technical budget amendment.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

G. RESOLUTION NO. 10-83 - RESOLUTION OF SUPPORT TO BECOME A TARGET CITY FOR THE GOOGLE FIBER FOR COMMUNITIES FIBER-TO-THE-HOME PROJECT

Summary: The consideration of a resolution of support to become a target city for the Google Fiber for Communities fiber-to-the-home project.

The Economic Development Coalition has been working on responding to Google's RFI (Request For Information) for approximately a month.

The Google fiber project represents an opportunity for residents of Asheville to connect to the Internet at 100 times faster than incumbent telecommunications providers allow for. The RFI itself is available on the Internet: <http://www.google.com/appserve/fiberrfi/>.

This action ties in with City Council's strategic operating plan, specifically the "Job Growth" and "Economic/Community Development" areas.

Pros:

- Being a target city will add significant possibilities to Asheville's residents and businesses, such as enhanced telemedicine
- May provide significant economic development impact to the area
- Significant citizen interest

Con:

None noted at this time.

Fiscal Impact:

- No "in kind" match or other city funds are being sought by Google.
- Economic development / tax base improvements are thought to be fairly significant.
- Construction of the fiber network will likely bring jobs to the area
- The continued presence of the fiber network will also likely bring jobs and opportunities to residents and businesses

City staff recommends City Council adopt a resolution of support to become a target city for the Google Fiber for Communities fiber-to-the-home project.

Councilman Smith moved adopt Resolution No. 10-83 with the following language: "And to proclaim 1:30 p.m. on Thursday, March 25 a 'Google Moment.' At this time on the 25th the Asheville City Council invites all citizens, including our school children, employees, and business leaders to pause and fill out a community application in an effort to make Asheville the home of the Google Fiber Initiative." This motion was seconded by Councilman Bothwell and carried unanimously.

Mr. Ben Teague briefed Council on the efforts made to date on this effort. He urged the community to fill out an application at www.googleavl.com by March 26 to make Asheville the next home of the Google Fiber Network.

III. PRESENTATIONS & REPORTS:

A. CITIZENS-POLICE ADVISORY COMMITTEE UPDATE

Citizens-Police Advisory Committee Chairman Charlie Hume said that their mission is to (1) Serve as a liaison between the police department and community; (2) Mediate problems or conflicts; (3) Advocate for programs, ideas, and methods to improve the relationship between the police and community; and (4) Disseminate information to the community and government officials of Asheville.

He introduced the members from the Committee being Angelica Reza – North; Bob Smith – Central; Caesar Romero – West; Charlie Hume – South / Chairman; and Ron Maynard – East / Secretary. Asheville Police Department (APD) support includes Melissa Williams – Comm. Relations Mgr.; Chief Bill Hogan; and Lt. Sean Pound – Professional Standards. City Council's liaison is Councilman Jan Davis.

Some 2009 accomplishments include (1) Press Release (AC-T, La Voz); (2) Local Telephone (333-4801); (3) Email (ashevillecpac@gmail.com); (4) Community Outreach Meetings (a) Residents Council (Housing Authority); (b) Kenilworth Neighborhood Association; (c) Montford Neighborhood Watch; and (d) Gene Bell (Housing Authority - Dir.); (5) Bi-Monthly Meetings; (6) Increased Diversity; and (7) Youth Representation (Asheville High School).

Some 2010 goals include (1) Enhance Knowledge Base (a) Each member has committed to participating in Citizens Police Academy; (2) Quarterly Meetings (a) Feb, May, Aug, Nov; and (3) Taking It To The Streets Initiative (a) Minimum of (8) Community Meetings and (8) Each CPAC member is responsible for selecting target group and coordinating logistics.

Program focus will be (1) Disseminate Information (a) Tax dollars at work; and (b) Services provided; (2) Enhance Knowledge Base (a) Committee Members; and (b) Citizenry; (3) Facilitate Feedback (a) Concerns, ideas, methods; and (4) Build Relationships (a) Raise awareness; (b) Trust and (c) Continuity.

Target groups include homeowner associations, neighborhood watch groups, civic organizations, service clubs and special events.

Using the S.W.O.T Analysis, internal positive strengths include APD/Council support, Citizens Police Academy, Diversified Committee, City Neighborhood Coordinator and Community Resource Officers. Weaknesses include member participation, member attendance and knowledge of the APD.

Using that same analysis, external positive strengths include align with community policing, offer varied perspective of citizen needs, build relationships/trust; and continuity of communication. Weaknesses include mission duplication, unrealistic expectations and poor community awareness.

On behalf of City Council, Mayor Bellamy thanked Mr. Hume and the entire committee for their service.

At the request of Vice-Mayor Newman, Mr. Hume said that he would be happy to contact Councilman Russell, Chair of the Public Safety Committee, to have time set aside in the Public Safety Committee meetings to hear more about what the Committee is hearing from the community.

B. RIVER DISTRICT DESIGN REVIEW COMMITTEE UPDATE

Former Chair Pattiy Torno of the River District Design Review Committee said that their committee consists of seven volunteer community members and was created to promote redevelopment of Asheville's riverfront as an economic hub for the City and WNC. In addition, they review all major works projects within the City's River District, in accordance with the River District Design Review (RDDR) Guidelines utilizing a "mandatory review/voluntary compliance" structure.

Using a short film, she reviewed the items on their agenda in 2009, including (1) staff updated them on their project to digitize the RDDR Guidelines; (2) they met with the N.C. Dept. of Transportation regarding the new Biltmore Avenue bridge; (3) they worked with the Land-of-Sky Regional Council Brownfields Advisory Group and its site selection committee for both the RBI and City of Asheville Brownfields grant funds; (4) Mark Allison and Pattiy Torno toured the Swannanoa Watershed with the Flood Damage Reduction Task Force and RECNI; (5) staff updated them on the adoption of the new Digital Flood Insurance Rate Map (DFIRM) and the need for a new flood ordinance; (6) staff and WPC member Pattiy Torno updated them on the WPC Stormwater Ordinance recommendations to City Council; (7) Dan Baechtold reported on the N.C. Dept. of Transportation \$600,000 grant for preliminary engineering on the City's roadways within the scope of the Wilma Dykeman Riverway Plan; (8) they encouraged and helped facilitate the development of the Asheville Riverfront Redevelopment Commission; and (9) they re-visited the Silverman project.

In response to Councilman Bothwell, City Attorney Oast explained the "mandatory review/voluntary compliance" structure.

On behalf of City Council, Mayor Bellamy thanked Ms. Torno and the entire Committee for their service.

C. GIFT FROM THE FRIENDS OF THE WNC NATURE CENTER

ORDINANCE NO. 3835 - BUDGET AMENDMENT FROM THE FRIENDS OF THE WNC NATURE CENTER TO RENOVATE THE OTTER EXHIBIT

Mr. Bob Pierce, Board member of the Friends of the WNC Nature Center, was pleased to present the City of Asheville with a check in the amount of \$59,400 to be used for renovation of the existing otter exhibit and to create the new Brandon's Otter Falls Exhibit which will be completed in 2011. This gift was given by a former Friends member, Rennie Habel, whose beloved son Brandon died prematurely in November 2009. She and he loved nature together and they spent much of his growing up visiting the WNC Nature Center and neighboring facilities using the Friends' Reciprocal Zoo and Science Center Membership Benefit. She remembers this time fondly and wanted to memorialize Brandon's passion for nature by giving this wonderful donation to our community.

Ms. Sarah Oram, Executive Director, said that the Friends is happy to facilitate such gifts as well as use the money raised by selling memberships to provide further needed enhancements or improvements in 2010. This past year they have provided funds for a designer to upgrade all the major exhibit signs, purchased a new Reptile Habitat to replace the former Nocturnal Hall, bought materials for weatherization by AmeriCorps members of the two main indoor buildings at the Center, renovated the Education classroom from floor to ceiling, secured the donation of a \$250,000 Laser Map exhibit from the now closed Grove Arcade Heritage Gallery and we have contributed funds to its installation at the Nature Center. They have applied for and received a grant from REI to start a hands-on "Science Backpack" program for both visitors and our local schools and contributed funds for a Visitor Survey for use by the Tourism and Development Authority to quantify the financial impact of the Center on our local economy. They have pursued non-funded grants from the Cannon Foundation, Vulcan quarry and others throughout this year.

Mr. Pierce said that additionally, the Friends have purchased advertising, printed newsletters and rack cards, developed and managed the website, wildwnc.org, and worked hard to raise the profile of this gem in our community, the Western North Carolina Nature Center. Since July 1, 2005 (when the City took over the Nature Center), the Friends have contributed \$837,656 in items and services to support the Center and this does not count the work of their staff and their AmeriCorps intern in helping run an efficient operation for the Center's 2,500 member households, an estimated 11,000 individuals.

They appreciated being in partnership with the City of Asheville in improving the Nature Center and look forward to a non-competitive and efficient partnership in future efforts together.

At this time (5:53 p.m.), Councilwoman Manheimer and Councilman Russell arrived in the meeting.

Staff summary: The consideration of a budget amendment, in the amount of \$60,375, for a contribution from the Friends of the Nature Center for the Nature Center.

The Friends of the Nature Center is a 501 (c) 3 non-profit organization whose purpose is to develop resources and raise funds to support the programs and enhancements at the Nature Center. The City has received a contribution of \$60,375 from the Friends to include 1) \$975 for the installation of the new lazar map exhibit, and 2) \$59,400 for improvements to the otter habitat.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of exploring alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative funding sources ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pros:

- Provides funds to support capital improvements at the Nature Center
- Provides funds to enhance special projects and services to Nature Center visitors
- Provides funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums

Cons:

- None

A project budget authorizing one-time improvements to the Otter Habitat and a new lazar map exhibit will be established with approval of this staff report. The project budget will authorize expenditures up to \$60,375. These expenditures will be fully funded with a donation from the Friends of the Nature Center in the amount of \$60,375 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to adopt a budget amendment authorizing the City Manager to establish a budget for funds received from the Friends of the Nature Center in the amount of \$60,375 to support installation of the lazar map exhibit, and to support improvements to the otter pond habitat.

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

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

Councilman Bothwell moved for the adoption of Ordinance No. 3835. This motion was seconded by Councilman Smith and carried unanimously.

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IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND A PREVIOUSLY APPROVED SIGN PACKAGE FOR THE ASHEVILLE REGIONAL AIRPORT

ORDINANCE NO. 3836 - ORDINANCE AMENDING A PREVIOUSLY APPROVED SIGN PACKAGE FOR THE ASHEVILLE REGIONAL AIRPORT

Mayor Bellamy opened the public hearing at 5:54 p.m.

Urban Planner Shannon Tuch said that this is the consideration of an ordinance amending the previously approved sign package for the Asheville Regional Airport. This public hearing was advertised on March 12 and 19, 2010.

On November 10, 2009, the Asheville City Council reviewed and approved an application from the Asheville Regional Airport for a variety of signage designed to accommodate the unique operational needs of the airport.

The overall request included:

- Parking lot & traffic control signs
- Wayfinding monument signs
- Monument entrance signs
- Vehicular directional signs

The follow-up applications for the approved signs included two free-standing monument signs that were larger than what had been previously approved through the sign package.

The following summarizes the request:

Approved North (S-A)

96 square feet total, including base & frame
8 feet-8 inches tall

Proposed:

111 square feet total, including base & frame (16% increase)
8 feet, 10 inches tall (nominal increase)

Approved South (S-P)

30 square feet total, including base & frame
5 feet tall

Proposed:

61.5 square feet total, including base & frame (105% increase)
6 feet, 8 inches tall (33% increase)

The requested increase came about as a result of testing and mock-ups where concern over the size and readability of the text for motorists resulted in a desired increase in the size of the sign overall. Staff will typically administratively flex final plans that deviate 10% or less from the originally approved plan. Sign S-A is not dramatically outside this parameter; however, sign S-P is more than twice as large and would require re-consideration by Council.

As discussed in the original report, the airport would normally be limited to one free-standing sign at 125 square feet and one attached sign of the same size. Given that the main sign falls within what would normally be permitted, staff supports this request and finds it reasonable. Additionally, given the size of the airport property and the unique nature of its operations, the additional sign square footage requested for the south (S-P) sign also appears reasonable.

In order for the airport to adequately and safely direct travelers in and out of the airport, staff finds this request to be reasonable.

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

Pro:

- Provides a sign with text that will be more readable from a vehicle.

Con:

- None identified.

No direct fiscal impact to the City has been identified.

Staff recommends approval of the amendments to the sign package as proposed.

Mr. Alan Ditmore felt people should take train or buses, which will not use massive petroleum consumption.

Mayor Bellamy closed the public hearing at 5:59 p.m.

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

Vice-Mayor Newman moved for the adoption of Ordinance No. 3836. This motion was seconded by Councilman Russell and carried unanimously.

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- B. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING REQUEST FOR THE PROJECT IDENTIFIED AS THE LARCHMONT, LOCATED AT 785 MERRIMON AVENUE, FROM INDUSTRIAL DISTRICT TO URBAN RESIDENTIAL/CONDITIONAL ZONING DISTRICT FOR THE DEVELOPMENT OF A 60-UNIT APARTMENT COMPLEX, WITH A REQUEST FOR MODIFICATIONS OF THE DESIGN STANDARDS FOR ENTRANCE LOCATION, FRONT SETBACK AND BUFFER WIDTH RESTRICTIONS**

ORDINANCE NO. 3837 - ORDINANCE APPROVING THE CONDITIONAL ZONING REQUEST FOR THE PROJECT IDENTIFIED AS THE LARCHMONT, LOCATED AT 785 MERRIMON AVENUE, FROM INDUSTRIAL DISTRICT TO URBAN RESIDENTIAL/CONDITIONAL ZONING DISTRICT FOR THE DEVELOPMENT OF A 60-UNIT APARTMENT COMPLEX

Mayor Bellamy opened the public hearing at 6:04 p.m.

Urban Planner Julia Cogburn said that this is the consideration of a conditional zoning request for the project identified as the Larchmont, located at 785 Merrimon Avenue, from

Institutional District to Urban Residential/Conditional Zoning District for the development of a 60-unit apartment complex, with a request for modifications of the design standards for entrance location, front setback and buffer width restrictions. This public hearing was advertised on March 12 and 19, 2010.

She said the subject property, 2.29 acres, is located within the city limits off of East Larchmont, east of Merrimon Avenue behind the Grace Station Post Office. It has a current address of 785 Merrimon Avenue. The property is currently vacant, is zoned Institutional, and is owned by Buncombe County. The site was formerly occupied by the Naval Reserve Center.

Property to the north contains the Grace Covenant Presbyterian Church and is zoned RS8 (Residential Single-Family, High Density District). To the south are properties zoned CBI (Community Business I) and RM8 (Residential Multi-Family Medium Density District) containing a financial institution, small commercial center, and a City of Asheville fire station and community center. The property to the west is zoned INST (Institutional) and contains the branch post office. To the east are single-family homes facing Melrose Avenue, zoned RS8.

The applicant, Mountain Housing Opportunities, Inc., is requesting the conditional zoning of the property. The request is for conditional zoning to URD (Urban Residential District - Conditional Zoning) CZ to allow for the development of a 60-unit residential rental community.

The sixty units in the proposed development are to be housed in two buildings, each with a footprint of 9,644 square feet. Each building has a total gross floor area of 28,725 square feet and is 29'6" in height (per the City of Asheville Unified Development Ordinance). At the highest point the structural height (as measured from the lowest point where the structure meets the ground to the top of the roof pitch) is 61 feet (Merrimon Avenue elevation). This structural height varies throughout the development.

The developer is proposing a mix of one- (32), two- (23), and three- (5) bedroom units for a total residential density of 28.4 units per acre, lower than the thirty-two (32) units per acre (up to 67 units) that could be permitted in the URD. Thirty-seven (37) units would be permitted under the current zoning of Institutional. A 1,120 square foot community building is also proposed for the development along with a play area and open space/courtyard. All of the units are proposed to meet the City's requirements for affordable housing.

The location of the boundary for the property has led to some confusion. Buncombe County mapping information shows the property line running alongside East Larchmont Road and indicates that there are 2.29 acres on the site. A recent survey (in plan documents) of the property shows the property contains 2.725 acres that includes the land containing East Larchmont and its right-of-way. For the purposes of computing density on the site and designing the project to meet City standards, the applicant did not include the .435 acres containing the road or road right-of-way. Should the project be approved the applicant is committed to working with the City of Asheville to resolve the lot size discrepancy so the development parcel will be as shown in Buncombe County mapping information.

In addition to deleting the .435 acres containing the road and right-of-way for purposes of calculating density, the developer also deleted from acreage figures a small portion of the site (.18 acres) located within a regulated steep slope area.

Access to the site is off of East Larchmont Road. Seventy-one (71) parking spaces are to be provided on site, although the URD zone would allow a minimum of thirty-three (33) parking spaces because the zoning district standards allow for a 50% reduction in required parking. In addition, the developer is proposing a sidewalk along its frontage which is intended to connect to Merrimon Avenue pending discussions with the postal service about obtaining an easement across their property to complete that connection. The developer has begun to initiate these discussions. The developer is also in discussion with Sun Trust Bank for overflow parking if it

becomes necessary. The developer has held several meetings with the neighborhood and adjoining property owners.

The developer is seeking three (3) development standard modifications for this project.

- The first request is for a reduction in the buffer width and plantings along the northern property boundary. The request is to reduce the buffer from the required thirty (30) feet to twenty (20) feet and to reduce some of the required plant material (for plant health) in this reduced buffer. This plant material will be placed elsewhere on the site. This modification is requested due to site constraints and the desire of the developer to limit grading and work with the existing site layout. The parking in this area will be in line with the existing/former asphalt for the previous use of the site. This modification must be granted by the Asheville City Council.
- The second request is for a modification to the setback requirement for URD. The URD district standards provide for a maximum setback of fifteen (15) feet from the right-of-way. Due to topographic constraints, Building A and the Community Building would be placed from twenty-two (22) to six (6) feet further back from this maximum. The URD standards provide that the Planning and Development Director may increase the setback line based on an assessment of site constraints. Given the topographic constraints on the site this modification request has been granted.
- The final request is to the requirement for entrance locations in the URD. The requirement states that all buildings shall include a well-defined operable entrance at regular intervals not exceeding forty-five (45) feet. The proposed site plan shows two entrances along the front façade (one in Building A and one in the Community Building). There is also an access point along a covered walkway between these two buildings. Again, topographic constraints prevent additional entrances along the front building elevation. This modification must be addressed by the Asheville Planning and Zoning Commission. On March 3, 2010, the Planning and Zoning Commission granted this request.

Staff supports all of these modifications.

At their February 15, 2010, meeting, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Asheville Planning and Zoning Commission. The developer has subsequently submitted additional information which addresses the bulk of the conditions.

At their March 3, 2010, meeting the City of Asheville's Planning and Zoning Commission (Commission) reviewed the conditional zoning request and made a positive recommendation (5-1) that the project be approved generally as submitted with the conditions as listed in the TRC staff report, the standard conditions listed on the staff report, and the following additional conditions:

- That the units be maintained as affordable units.
- That MHO escrow up to \$9,000 to be used for traffic calming devices, including speed humps, along Edgewood Road between Merrimon Avenue and Kimberly Avenue. Conditions and procedures outlined in the existing City's Traffic Calming Policy still need to be followed as well as good traffic engineering principles related to the actual design and placement of traffic calming devices.

Thirty (30) people spoke at the hearing before the Commission. Sixteen (16) individuals spoke in favor of the development, and fourteen (14) people spoke against the development (with

four (4) of those representing groups). Most of the comments opposing the proposed apartments expressed concerns about traffic congestion and density.

This proposal has raised substantial community interest, both in support and opposition. Many attended both the TRC and Planning and Zoning Commission public hearing to express their views. The range of comments in support generally reflects the elements that support the 2025 Plan goals and the Council goals noted above. The range of comments in opposition to the proposal generally reflects concerns about traffic congestion and density.

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, if approved, must meet all the technical standards set forth in the City's Unified Development Ordinance and Standards and Specifications manual. The developer has been working closely with City staff to ensure compliance. The City of Asheville Fire and Rescue Department has been involved in the review of the project, particularly as it concerns the ability for rescue vehicles to gain ingress and egress from East Larchmont and are satisfied that life safety issues have been addressed. There is a traffic signal at the intersection of Merrimon Avenue and Larchmont Road that is equipped with emergency preemption. This allows Asheville Fire and Rescue to change the traffic signal to allow quicker egress onto Merrimon Avenue.

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 site is primarily flat, which appears to have been the result of grading when the Naval Reserve Center was built, resulting in significant topographic changes around the perimeter of the site. Given the already significantly altered terrain, the developer has been able to design the project to minimize further grading and maintain the existing land profile as much as possible.

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

The property as currently zoned (Institutional), allows a wide range of commercial, institutional or office uses, whereas, this proposal is to develop a multi-family residential community which is often viewed as an appropriate "buffer" between commercial corridor development and single-family housing. The property is surrounded by an equally wide range of use types and zones. The building design shown on the development plan depicts a project that should not injure the value of adjoining properties. The developer has worked with adjoining property owners to attempt to satisfy their wishes for landscaping of the development.

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 area surrounding the project site is varied in scale, bulk, and coverage of building firmly establishing a mixed use character in this general area (including a range of other

multi-family developments). The building footprints for the proposed development are comparable to many buildings along the Merrimon Corridor. Many non-Merrimon fronting developments contain larger footprints than the proposed development (Red Cross, SteinMart Center, Asheville Catholic School, Asheville Pizza and Grace Covenant Presbyterian Church). The proposal forms a moderate density residential transitional use between the mixed commercial/residential uses along and adjoining Merrimon, and the single-family residential neighborhoods beyond. Thus the proposed development contributes to the area's existing mixed use character, while providing a buffering use.

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 proposed use supports the 2025 goals and Council vision as follows:

- a. The goal of pursuing compatible infill development in places where infrastructure capacity exists or where it can be provided to accommodate a development.
- b. The goal of permitting and encouraging transit supportive density along and adjacent to major corridors and at logical transit nodes.
- c. The goal of promoting the use of green building techniques.
- d. The goal of providing affordable housing.

Additionally, while not an officially adopted plan (City Council "accepted" the plan in June 2008) the *Affordable Housing Plan for the City of Asheville* identifies a number of strategic goals that the Larchmont project directly supports. Of important note is the very first recommendation outlined in the plan which reads:

The City of Asheville, in partnership and collaboration with the entire Asheville community and area developers should set a goal to increase the supply of affordable housing units by 500 units a year over the next 20 years. Approximately 75% of these units should be rental units and many should be efficiency or 1-bedroom units.

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 proposed use is located off of a major thoroughfare in the City. Regular transit service is available along this corridor. Needed infrastructure is in place or can be provided to meet City standards.

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

The City Traffic Engineer has evaluated the project. Using accepted trip generation standards, it is projected that the project will generate a daily peak hour volume of 51 trips between 4-6 PM, and a morning peak hour volume between 7-9 AM of 33 vehicles. By comparison, recent turning movement counts and tube count data (taken along Larchmont and Long) show that currently, the daily peak hour in the area is between the hours of 12:00 noon and 2:00 PM. Since the projected peak hours for the project are at different times, the additional traffic should not cause an undue burden on Larchmont Road.

Pros:

- This project supports the City of Asheville's goal of pursuing higher density infill development along major traffic corridors with transit availability.

- The project provides for sixty (60) new affordable units.
- The project will be designed to meet a range of greenbuilding standards.
- The project will provide a new bus shelter and a sidewalk along its property frontage which is likely to be extended all the way to Merrimon Avenue.

Cons:

- The project will add traffic trips to Merrimon Avenue and increase traffic on Larchmont Avenue.
- The project may generate additional parking on Long and Larchmont.

Staff recommends approval of this conditional zoning request and the requested modifications. The TRC met to discuss this project on February 15, 2010, and recommended it to you with conditions, generally noted below, and as outlined in the TRC Report. The Planning and Zoning Commission held a public hearing on this matter and voted 5-1 to recommend this development to the Asheville City Council.

Additionally, based on the finding and analysis provided in the report, staff finds this request to be reasonable.

Ms. Cogburn said that there is a valid protest petition. In addition, Grace Covenant Presbyterian Church adopted a resolution of support for this development.

Mr. John Legerton, with Legerton Architecture, gave an overview of the design of the buildings from different views using a computer model. He also reviewed the elevation drawings.

Mr. Wyatt Stevens, attorney with Robert & Stevens, P.A., representing MHO, explained that MHO's proposal to change zoning from Institutional to Urban Residential District meets the criteria for conditional zoning. The proposed development is clearly compatible with all neighboring uses. He outlined some of the permitted uses in the current Industrial District noting that there is no height restriction, much higher potential impact and the only difference in density is units per acre – 16 (Institutional) vs. 32 (Urban Residential)/units per acre. Currently allowable 36 units might mean even greater density (1) 36 3-bedroom units equate to 108 bedrooms, more cars, more traffic, bigger parking problem and the same height issue vs. (2) MHO Larchmont equals 32 1-bedroom units, 23 2-bedroom units and 5 3-bedroom units = only 93 bedrooms, fewer cars, less traffic and no parking problem. He noted one concern raised was the project density was too much for north Asheville. The following is a list of properties north of I-240 placed in residential areas, noting that the density of the Larchmont is 27,022 sf/acre (1) 301 E. Chestnut - Princess Ann Hotel - 40,780 sf/acre; (2) 215 E. Chestnut, The Commodore – 48,473 sf/acre; (3) 116 E. Chestnut - 44,211 sf/acre; (4) 198 Kimberly - 26,205 sf/ft; (5) 30 Edgemont - Grove Park Apts - 63,984 sf/acre ; (6) 185 Macon - Longchamps - 28,135 sf/acre; and (7) 288 Macon - Fitzgerald - 28,978 sf/acre. He said this is not public housing and showed a picture of Aston Towers, which is public housing. Regarding affordability, he felt affordable housing will not be built under the existing zoning (1) development costs would be too high for only 36 units; (2) \$1.8 Million purchase price for the land; (3) high quality, attractive construction costs money; (4) development would be ineligible for tax credits; (5) cost per unit could not be supported by affordable rents; and (6) would have to charge high rents to make the project cash flow. 2009 affordable housing developments approved for tax credits by NCHFA (1) average size for family development in cities > 50,000 population was 95.6 units; and (2) median size for family developments in cities < 50,000 population as 92 units. Using a chart, he explained that MHO doesn't buy land for less than 50 units for tax credit developments. He pointed out that the Urban Residential Zoning was "established to complement existing residential neighborhoods ... and is intended to be located on significant transit corridors and/or in high growth areas." He explained that the City Development Plan of 2025 specifically states that Merrimon Avenue should be Urban/Neighborhood Corridor from Hillside Street to Colonia Place. The definition of Urban/Neighborhood Corridor states in part "mixed-use structures, typically 2 to 4 stories in

height, contain retail, office, and residential uses that serve and are complemented by adjacent neighborhoods.” From the 2025 plan it states that we need “increased accommodation of population growth within the City, particularly along commercial corridors.” “It will require ... strong leadership and political courage, and an open and inclusive attitude on the part of its citizens to address this problem in an effective way.” He then explained the low traffic input. According to the Institute of Transportation Engineers Trip Generation study, the 60 unit MHO Larchmont development would generate the following traffic impact: (1) average two way trip volume – 511 trips/day; (2) peak volumes for AM peak hour is 33 vehicles per hour (cars in and out) and peak volumes for PM peak hours is 51 vehicles per hour (cars in and out); and (3) maximum volume is less than one additional car/minute. He showed a comparison of the actual traffic flow in Northpoint Commons apartment complex, which has 9 more units and 48 more bedrooms than the Larchmont development, and it shows a lower vehicles per hour in both the AM and PM peak hours. He also provided information about comparable traffic for possible Institutional zoning projects (retail, medical offices and general office building) which showed higher traffic volumes during the peak hours. If City Council deems it necessary as a condition of the rezoning MHO is willing to escrow up to \$10,000 to cover the cost of traffic calming on Edgewood, provided the City and the neighborhood can agree on the need for such devices. He said that MHO will escrow that amount, even if City Council does not make it condition. Regarding parking, he said it will not be a problem (1) under the City’s guidelines for Urban Residential, only 33 parking spaces are required; (2) MHO Larchmont will have 71 spaces for 93 bedrooms in the complex; (3) according to the City’s census statistics, 19% of people who rent apartments do not own cars; and (4) possible additional night-time parking at Sun Trust. He then explained the MHO parking study performed during March 5-9 for (1) Crowell Park which has 119 bedrooms and the average per night was 63 cars; and (2) Northpoint Commons which has 141 bedrooms with an average per night of 91 cars. The Larchmont will have 93 bedrooms with a predicted average per night of 57 cars and a predicted maximum number of 62 cars. He said the development will not materially endanger public health or safety in that (1) it meets all technical standards; (2) the Asheville Fire & Rescue Department approves the project and Fire Chief Burnette has no concerns; and (3) there is no crime or safety issue associated with MHO developments and Police Chief Hogan has no concerns. He explained that Partnership Property Management (who manages MHO’s properties developed by MHO) utilizes a very thorough and complete screening process for prospective tenants. They obtain (1) criminal background check; (2) credit history check; (3) third party verifications of employment and income; (4) maximum number of occupants per unit; and (5) on-site property management and strict enforcement of lease requirements. He provided actual crime statistics for February 2009-February 2010 of crimes within 25 feet of MHO properties: (1) no crimes reported at Northpoint Commons; and (2) total of 16 crimes reported at 18 different MHO properties, including 394 living units. Typical crimes were larceny and vandalism. As a comparison, the Grace neighborhood had 88 crimes reported, including 33 crimes reported with 1,000 feet of the proposed development. The MHO Larchmont development is likely to improve the crime statistics in that neighborhood. He urged Council to support the project.

Mr. Larry Holt, property owner on Lockley Avenue, explained that he is a planner by education and has worked with housing, redevelopment, community and economic development programs for over 38 years. He has spent those years improving and developing affordable housing. He said the proposed conditional use rezoning and the increased density is a concern to the neighborhood. The developer’s occupancy standards in the 60 1, 2 and 3 bedroom units would result in a maximum of 246 residents. The usable area of this property based on the Buncombe County survey is 1.65 acres. We feel the 60 units with the potential occupancy of 246 residents is excessive. The Plan indicates 71 parking spaces which is 1.1 car per apartment. This includes visitors, guests, management staff and maintenance staff. They indicated the requirement under this zoning would be 33 spaces and that is not realistic. Regarding the statistics noted by Mr. Stevens, he felt that 19% of apartment dwellers lease (not own) cars so they don’t show up on the tax records. There are very few people who don’t have cars. To achieve the proposed plan and provide minimal parking requires the construction of massive retaining walls which add significant visual mass to the development. Planning staff states that

the highest point of the structural height (as measured from the lowest point where the structure meets the ground to the top of the roof pitch) is 61 feet (Merrimon Avenue elevation). The actual height, based on the topographic information on the survey prepared by the developer indicates a height of 81 feet from above Merrimon Avenue. Regarding the property having a Merrimon Avenue address, the survey of the property indicates an appendage on the south side of the property that runs from the drive entrance of the fire station all the way down to Merrimon Avenue, between the Post Office and the bank. Mr. Stevens indicated that the developer did not intend to purchase this 40-foot appendage. When he checked with the County, there were not aware of that. Also the 20-foot easement for Larchmont is on the south side of this appendage. Less than half of Larchmont is within the 20-foot easement. We feel this matter should be resolved and the public property and legally dedicated right-of-way should be resolved before action taken rather than after the fact. Regarding traffic, City staff estimated the proposed development would generate an additional 500 trips per day. The traffic counts made were taken the last weekend in January and due to weather conditions, he questioned the accuracy of the counts. He felt the numbers are somewhat questionable but anyone traveling Merrimon Avenue is the morning, noon or early evening is aware of the congestion and adding this additional traffic will not solve that problem. He submitted that Council needs to resolve all TRC issues and determine how the corrections will be funded before you proceed with the rezoning. The only real control we have over the quality over the life of these residents is the density and what is proposed of 60 units on 1.65 acres is not acceptable and not in keeping with the 2025 plan. The older properties given as examples by Mr. Stevens were built 60-80 years ago and you would not be able to build them today. They have been accepted in the neighborhoods because they have been there for a long time. He also noted that until recently when making inquires about this proposed development has he been called several names. In summary, the development of affordable, workforce housing is not an issue. Their concern is the increased density, scale and mass of the proposal is not in keeping with the neighborhood. The increased traffic volume will exacerbate the existing traffic congestion and will create more vehicle and pedestrian conflicts and hazards.

Mr. James Gardner, resident of Lynmar Avenue, was speaking on behalf of those who signed the petition against the rezoning. "Over the past few months we learned about the developer's proposal, about the need for affordable housing, about the Larchmont site and the surrounding area. But there is much that we still don't know (1) whether or not the County seriously considered another public purpose for the land (perhaps at little or no cost to tax payers); (2) if the land was posted for sale for a fair amount of time or just for the sliver of time required for compliance; (3) if the estimated need for 744 units in North Asheville should be revised to reflect the current 2010 economy and housing situation rather than the 2008 projection; (4) the cost to taxpayers for infrastructure repairs and upgrades to accommodate such a large-scale project, in light of the growing deficit in the City's budget; and (5) why building 60 units is affordable but the developer, whose responsibility it is to maximize efficiency, cannot make less than 60 units work financially. They don't know because the process has not been entirely open to citizens. We do know that (1) there is no proposal for a strip mall, or a skyscraper, or a race track, or a gymnasium, or a space needle, or any other onerous red herring that some proponents want to throw in our path - and if there were such a proposal, City Council could exercise its authority to further restrict zoning for the site; (2) that the physical and social fabric of the neighborhood will be drastically and unnecessarily altered; and (3) that 60 apartments—two three-story buildings, one of which will tower over 60 feet in height—will be too big for the 1.65-acre site. Yet we are being asked to believe that the current zoning is incorrect, that a maximum of 32 units is somehow not dense enough for the site or for the goals of those crusaders for "urban density." That crusade should not come at the expense of the backbone of the city—residents of the old neighborhoods. Also, we should recognize that the drive toward urban density can have the unintended consequence of creating more sprawl because single-family housing is displaced or deemed less attractive to buyers who spread out to leave the density behind. The net carbon footprint is an increase, not a reduction. It is an awkward situation for the city. People of good will and good intentions on both sides of the debate are eager to do what's best. Many civic servants have devoted themselves to helping a worthy cause and a popular non-profit

organization. But the best solution, the best plan—a proposal that fits the current zoning—is not the one that is before the Council. It is an awkward situation, because the only germane issue is the scale of the project and whether or not it fits the site and the current zoning. What is before City Council is not a referendum on the greatness of the developer or on the socio-economic character and ideals of residents, or on the need for affordable housing. We have heard many (and we will hear more) glowing testimonials about the developer. While perhaps true, those are irrelevant smokescreens. The only relevant issue is the scale of the project. The City's technical review is riddled with troubling loose ends in every technical category, and at the end of the report suggested motions are offered for Council. How about a motion to insist that the developer submit an alternate plan that fits the scale of the site and the neighborhood? One thing the developer's proposal does get right: the addition of a bus shelter. Those of us who have ridden bus #2 know that there can be quite a wait for the next bus if you miss the hourly connection or if a bus is full. So it will be good to have shelter for that long wait (even though there is already a shelter a block away at the next stop). One member of City Council, in her campaign platform, bemoaned the lack of "strict development standards" in our zoning ordinances. Yet to conditionally rezone Larchmont would be a step away from that goal, not toward that goal. A developer's budget should not be the basis for zoning decisions. We must ask: What would be the risk of designing a 32-unit alternate plan, other than a bit of wounded pride in acknowledging that we initially were too ambitious? The site would then be used at its maximum density and for the worthy goal of providing affordable housing to more than 100 people. Neighbors who object to 60 units would support the smaller plan and join forces with the current proponents. New residents would not live in overcrowded conditions, and current residents would not have overly massive structures imposing over their backyards. Traffic—already congested—would not be maxed out beyond the limits of safety, and the concerned fire fighters at the Larchmont station would rest a little easier. The current zoning allows multi-family housing at a maximum of 16 units per acre. That zoning is meant to protect the character of old neighborhoods while allowing for reasonably moderate additions. That's the zoning that should be followed, the zoning that fits the "moderate density" designation of the current neighborhood. But, unfortunately, there is no alternate plan from the developer on the table. You don't have to read Henry David Thoreau to realize that a correct balancing of the moral equation tells us that the greater good does not always equal the greater mass. You know these planned buildings are too big for the site. Requesting conditional zoning is a clear, if implicit, admission that the plan is too big for the site. We all know the buildings are too big for the site. We should not act as if Asheville is twice as big as Asheville really is. Sixty units would be completely inconsistent with the residential neighborhood in that area. 'There is no similar use of the property anywhere in the vicinity. There is no good reason that this particular property should be conditionally zoned and placed into a category that would be unique for the area and is inconsistent with the surrounding and historical uses.' As two residents have written in the *Citizen-Times*, 'It is true that, with 37 units instead of the proposed 60, fewer tenants would be housed. One site, however, should not carry a disproportionate burden [to meet] the need for affordable housing in Asheville.' Please don't let the popularity and momentum of a successful non-profit enterprise rush the City into a bad decision. Let's heed the ancient proverb that says, *Before you buy shoes, measure your feet*. Despite all the mischaracterizations of those of us who question the scale of the project, and despite some hateful character attacks, the residents who live next to the site are working class people who have long contributed to the betterment of this city. They include: a special education teacher who is also a single mother; a high school teacher and his wife and children; an elderly Greek immigrant couple who are active gardeners and members of their church and who have lived there for 55 years. All those longtime residents and others have helped make the city the attraction it is to so many people who relocate here and need affordable housing. Do not ignore the neighborhood's root systems as you plant new residents. You have a dream opposition here—citizens who share your ideals and goals, citizens who voted for you, citizens who will be foot soldiers for you if you show willingness to compromise. What more could you want from an opposition? Think of us as a strange breed of friendly gadflies who don't sting but buzz just enough to make you choose a better course of action. Ignore us, however, and you risk losing the best allies you could have had. Do the right thing. Don't write your name in Asheville history as the City Council that refused to compromise on the Larchmont plan, which is too big for the site and too big for the neighborhood. Reject this

current plan, which reflects eagerness and good intent but ultimately lacks wisdom. Insist on a plan that puts us all on the same side of the issue and pushes us to work toward a more affordable, sustainable, neighborly city for all.”

During the following public comment period, after the one hour limit (per Council’s rules), it was the consensus of Council to continue with the public comment period; however, to limit speakers to 2 minutes.

The following individuals spoke in opposition to the conditional zoning request, basically noting that they are not opposed to affordable, workforce housing, but the increased density which will exacerbate the existing traffic congestion on Merrimon Avenue along with safety issues on Long Street and Edgewood Road:

Mr. Bill Van Cleve, resident on Melrose Avenue
 Mr. Lawrence Hall, resident on Westall Avenue
 Ms. Laura Bowers, north Asheville resident
 Mr. Stan Taylor, resident on Colonial Place
 Mr. John Combs, resident on Melrose Avenue
 Ms. Tina Schwartz, resident on Edgewood Road
 Mr. Gary Schwartz, resident on Edgewood Road
 Ms. Sharon Moulds, resident on Melrose Avenue
 Mr. Andrew Tashie, resident on Westall Avenue
 Mr. Paul Willard, resident on Melrose Avenue
 Mr. Dean Hittleman
 Mr. Jack Krolak, resident on Woodward Avenue
 Mr. Steve Rasmussen

The following individuals spoke in support of the conditional zoning request:

Mr. Mike Lewis, resident on Gracelyn Road
 Mr. Robbie Sweetser, resident on Fenner Avenue
 Mr. Danise Hauser, resident on Melrose Avenue
 Mr. Paul Szurek
 Mr. Steve Cochran, resident on Page Avenue
 Ms. Robin Merrell, Sr. Housing Attorney at Pisgah Legal Services
 Ms. Deborah Miles, resident on Westall Avenue
 Mr. Christopher Dickson, resident on Reynolds Place
 Mr. Dan March, resident on Woodvale Avenue
 Mr. Robert Todd, resident on Lexington Avenue
 Mr. George Peery, resident on Club Knoll
 Ms. Beverly Nivens, resident on Melrose Avenue
 Mr. Jonathan Stansell, resident on Piercy Street
 Ms. Barber Melton, member of the Affordable Housing Task Force
 Ms. Patty Beaver, representing the Council of Independent Business Owners
 Mr. David Nash, member of the Affordable Housing Task Force
 Ms. Beth Maczka, resident on Greenleaf Circle
 Mr. Alan Ditmore, resident in Leicester
 Mr. Mike Romero, resident on Sugerland Ridge

Mayor Bellamy closed the public hearing at 8:51 p.m.

City Attorney Oast said that a valid protest petition has been received and that 6 out of 7 Council members must vote in favor of the rezoning for it to occur. He said that remarks made about the County’s sale of the property is not an issue before Council as it has nothing to do with land use. He reminded Council that if the property is rezoned the rezoning follows the land and MHO may not always be the property owner.

In response to Councilman Davis, Ms. Cogburn said that the property is still owned by Buncombe County.

In response to Councilwoman Manheimer, Director of Transportation Ken Putnam explained the City's effort to make the intersection of Long Street and Edgewood Road safer. He noted that mirrors are a fix for limited site distance and they have worked quite well. He explained the downside of making the intersection an all way stop (rubble strips are noisy) and another option of making Long Street one-way from Edgewood Road.

When Councilwoman Manheimer asked about MHO escrowing money for traffic calming on Edgewood, Mr. Putnam cautioned Council in setting a precedence of placing conditions to make traffic improvements on low impact projects (those that are anticipated to generate less than 100 vehicles per hour). If we do proceed with traffic mitigation, the City has a traffic calming policy (which may take several months) that will need to be followed. If this is a condition, then the devices should be put in before the Certificate of Occupancy is issued for the finished project.

Councilwoman Manheimer said that there are sidewalks only on a portion of Long Street and wondered if it is on the list of streets identified for future sidewalks. City Manager Jackson said that it is not on a list at this time.

Councilwoman Manheimer said that Public Works Director Cathy Ball has provided her with a figure of \$25,000 for the sidewalks on Long Street. Ms. Ball also advised her that Long Street has varying widths and we may need to acquire some right-of-way to complete a sidewalk project.

Councilwoman Manheimer understood that MHO will try to put in a sidewalk on Larchmont from their site to Merrimon Avenue working with the Post Office. Mr. Putnam confirmed that if the Post Office gave MHO permission for the sidewalk, MHO could install the sidewalk to Merrimon Avenue.

In response to Councilwoman Manheimer about a sidewalk on Long Street, Mr. Putnam said that MHO's contractor could work with the City to put the sidewalk in, assuming the right-of-way was there. As a City, we can make the choice of building the sidewalk ourselves or allow a contractor to come in and do it.

In response to Councilman Bothwell, City Attorney Oast said that the City can work with the Post Office to ask if they can voluntarily address some of the back-up concerns regarding parking and the drop-boxes.

In response to Councilwoman Manheimer, Ms. Cogburn said that when City staff evaluates an application for a conditional zoning, they look at several things, including the number of bedrooms. Under the existing zoning, 37 units are allowed, which could be 37 3-bedroom units.

In response to Councilwoman Manheimer, Ms. Cogburn said there is a Housing Trust Fund loan proposal submitted by MHO, but that has not been reviewed by City Council. It will not come forward to Council unless this project is approved.

In response to Councilwoman Manheimer regarding notification, Ms. Cogburn said that we do more than required by State law. We have (1) sent notices to property owners within 200 feet of the project; (2) posted a "Z" sign to capture those that drive by; and (3) advertise in the newspaper. In this project, staff has spent an enormous amount of time communicating with people about this project. She feels that this has been a very open process with large turn-outs.

In response to Councilman Bothwell, Ms. Cogburn said Planning staff has reviewed the sketch-up images from the architect and felt confident in what was presented was accurate.

In response to Councilwoman Manheimer, Ms. Cogburn said that all infrastructure costs will have to be paid by the developer. When the developer goes back for final TRC approval, the waterline will have to be fully engineered to the satisfaction of the Water Resources Department.

In response to Councilman Russell, Mr. Stevens said that actual statistics on their occupancy show that their average residents per bedroom is 1.1 persons. In this development there will be approximately 103 people, not the 246 mentioned by Mr. Holt.

Councilman Bothwell felt this project might help to eliminate traffic congestion on Merrimon Avenue. He explained that when we get the higher density, we will be able to afford to run the buses every half-hour. Once we get half-hour buses, more people will use them. This is a piece of how we can build the City out to make transit work for everyone.

Councilman Smith felt the traffic concerns are important whether or not this project is constructed. He believed in increasing corridor density in order to incentivize affordable housing and sustainable growth in our community, especially on our transit lines. He felt this density will provide a buffer between the urban corridor and the established neighborhood. He felt these proposed buildings will come to be an integral part of this neighborhood as those older buildings are to those neighborhoods. He felt this will provide a lot of people long-term affordability. To increase density on our urban corridors will decrease our energy use, decrease sprawl thereby preserving open spaces, decrease Asheville's carbon footprint, increase transit usage, increase our socio-economic diversity in downtown and fulfill some of the recommendations from the Affordable Housing Plan and the 2025 Plan. It will allow people who work in Asheville to be able to live in Asheville.

In response to Mayor Bellamy, Mr. Stevens reiterated the vetting process for applications.

When Mayor Bellamy asked if we could condition the project always have a reputable management company associated with the property, City Attorney Oast said that Council can specify that a property manager be there during the day along with a point of contact for all hours in order to respond to concerns.

Mayor Bellamy asked for a commitment that sidewalks would be constructed from the site all the way to Merrimon Avenue on Larchmont. Mr. Stevens said that they have spoken with the Post Office and they are open to the idea. Assuming the Post Office agrees, MHO will pay to install the sidewalk on Larchmont down to Merrimon Avenue.

In response to Mayor Bellamy, Mr. Tony Hauser, Civil Engineer for the project, explained the measures that would be installed to bring the site up to the City's stormwater standards.

In response to Mayor Bellamy, Mr. Stevens said that there was no way MHO could get tax credit financing for 36 units.

Councilman Davis felt that it was important to have overflow parking. Mr. Stevens presented a letter from Sun Trust Bank that they would look favorably upon leasing overflow parking spaces, however, they lease their property and their lease expires in October of 2012. They have been leasing that property since 1987 and they do have a lease extension available. He felt they can agree to the condition that we will negotiate in good faith with Sun Trust Bank to achieve extra parking, if needed. They will work in good faith with whoever owns the property.

In response to Councilman Russell, Ms. Cogburn explained as best she could of why the property is currently zoned Institutional. She recalled that when the UDO was being adopted in

the late 1990's staff was instructed to make as few non-conformities as possible. Because the Naval Reserve Center was on the property it was zoned Institutional.

Based on the findings and staff analysis provided in the report, Vice-Mayor Newman moved for the adoption of Ordinance No. 3837, approving the conditional zoning for the project identified as the Larchmont, located at 785 Merrimon Avenue to rezone from Institutional District to Urban Residential/Conditional Zoning District for the development of a 60-unit apartment complex, including approval for a request for modifications of the design standards for entrance location, front setback and buffer width restrictions, 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 90-degree cut-off fixtures and directed away from adjoining properties and streets; (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 the site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; (6) That the units be maintained as affordable units; (7) That MHO escrow up to \$10,000 to be used for traffic calming devices, including speed humps, along Edgewood Road between Merrimon Avenue and Kimberly Avenue. Conditions and procedures outlined in the existing City's Traffic Calming Policy still need to be followed as well as good traffic engineering principles related to the actual design and placement of traffic calming devices; (8) That sidewalk on Larchmont will be extended all the way to Merrimon Avenue contingent upon approval by the Post Office; (9) That MHO will continue negotiating in good faith to secure an option for overflow parking; and (10) That MHO provide a professional screening process for clients who apply to reserve a place at the development consistent with information presented at this meeting. This motion was seconded by Councilman Bothwell.

In response to Councilman Davis about resurfacing Larchmont, Mr. Putnam said that even though there are several pavements ahead of Larchmont, the developer will be making two utility crossings across Larchmont and when those repairs are made there will be some opportunity for road repair.

Councilwoman Manheimer asked City staff to make Long Street a priority for improvements, including a sidewalk.

Vice-Mayor Newman noted that in our pedestrian plan a street like Long Street would be a relatively low priority compared to some other areas. But, assuming this significant infill development is approved, he felt that Long Street would probably go up the prioritization list based on the demand compared to what was there in the past.

Mayor Bellamy was disappointed that throughout this process Mr. Holt and others were called names. When people have questions or don't always agree with something, people get upset. What makes Asheville great is to have people come to the table who have different opinions and be able to say what they believe. If people had not sent e-mails or voiced their concerns many of these questions would not have been asked about this project. She didn't want our community to become "one thought – one mind." It's not wrong to ask questions about who will be your neighbor. She apologized for the name-calling for those who stood up for a different opinion. She felt this project has been made better because of the dialogue. She felt this process was very transparent. She hoped that MHO will continue to communicate with their neighbors, perhaps with a newsletter, to let them know what is happening throughout the project.

The motion made by Vice-Mayor Newman and seconded by Councilman Bothwell carried unanimously.

At 9:50 p.m., Mayor Bellamy announced a short recess.

ORDINANCE BOOK NO. 26 – PAGE

It was the consensus of Council to move the new business items up to be considered before the unfinished business.

V. NEW BUSINESS:**A. RESOLUTION NO. 10-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE USE OF DOWNTOWN STREETS FOR THE BELE CHERE FESTIVAL**

Superintendent of Cultural Arts Diane Ruggiero said that this is the consideration of a resolution authorizing the City Manager to approve the use of downtown Asheville streets for the Bele Chere Festival.

The City of Asheville produces the annual Bele Chere Festival in downtown Asheville. The Festival requires that many downtown streets are closed prior to and during the three-day event and as downtown Asheville continues to develop adjustments to the festival layout are necessary.

The map shows the streets that will have festival activities as well as street closings and includes the use of the Asheville Civic Center.

The Festival layout is designed by the Parks, Recreation and Cultural Arts Department with approval by the Asheville Fire and Police Departments. This is the same footprint that was used at the 2009 Bele Chere Festival.

The Bele Chere Board considered the Bele Chere layout on October 7, 2009, and recommends its approval. The Recreation Board considered it January 1, 2010, and recommends to City Council to approve the Bele Chere layout.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of operating the city to the highest level of responsibility by identifying resources for strategic initiatives and creates meaningful performance measure for programs and services.

Pros:

- Allows the City the ability to communicate information about Bele Chere to the community in advance.

Con:

- It closes streets in downtown Asheville.

There is no fiscal impact to approving the festival layout.

Staff recommends City Council to approve a resolution authorizing City Manager to approve the Bele Chere festival layout as indicated by the festival map.

At the request of Mayor Bellamy, Ms. Ruggiero said that she would look at relocating the music stage from right in front of the Vanderbilt Apartments on Haywood Street.

At the request of Councilman Davis, Ms. Ruggiero said that they would work with the event organizer of the local sports car club, noting that the N.C. Dept. of Transportation would need to be included in the discussion as well.

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

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

Councilman Russell moved for the adoption of Resolution No. 10-88. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 447

B. RESOLUTION NO. 10-89 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART BOARD

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Public Art Board.

Ms. Jenny Bowen has resigned from the Public Art Board, thus leaving an unexpired term until December 31, 2011.

On March 9, 2010, City Council instructed the City Clerk to arrange interviews for Kathleen Lyons, Honor Moor, and Jaan Ferree.

After Council spoke highly of the candidates, Kathleen Lyons received 1 vote, Honor Moor received 5 votes and Jaan Ferree received 1 vote. Therefore, Ms. Moor was appointed as a member of the Public Art Board to serve the unexpired term of Ms. Bowen, term to begin immediately and expire on December 31, 2011, or until her successor has been appointed.

RESOLUTION BOOK NO. 32 – PAGE 449

Councilman Bothwell moved to rescind the appointment of Ms. Holly Shriner to the Planning & Zoning Commission because of the lack of transparency in the appointment process and the strong outcry from the community about that lack of transparency. This motion was seconded by Councilman Smith.

Vice-Mayor Newman raised the point of order that this item has not been noticed nor is it a part of the agenda. He would object to the motion as he felt we are violating the rules we have established as a Council on having items placed on the agenda. People who might have an interest in participating in this discussion have not been given the opportunity to come and participate.

Councilman Russell agreed with Vice-Mayor Newman. He understands the request; however, he felt Council should adhere to their rules for placing items on the agenda.

Councilman Bothwell said that under Roberts Rules of Order that you don't have to every potential motion on the agenda for a meeting. He deferred to City Attorney Oast as to whether or not he could make a motion.

City Attorney Oast said that the Mayor is the presiding officer and can rule motions in or out of order. Council's rules do provide for a motion to rescind as one of the motions a Council member can make. A motion to rescind is a main motion. Under Roberts Rules, if a motion to rescind is made without notice, as has occurred here, under some circumstances a supermajority would be required to adopt it. However, since all of Council is present, this will require a simple majority vote from Council. Ms. Shriner's appointment is not effective until April 1 and if Council wants to undue the appointment, they can rescind the action.

Mayor Bellamy said she would carry the motion through since there was a motion and a second. However, when we talk about transparency, this is contrary to the process.

Councilman Davis stated that Ms. Shriner received four votes and felt it wasn't proper to say she is not qualified because they were not transparent. Quite frankly, other candidates weren't any more transparent than she was. Council just didn't ask the right questions. He will not vote for removing Ms. Shriner.

Councilman Smith felt that points made are valid and in the future he will not be seconding motions that are brought to this body outside of the rules that we agreed upon at our retreat.

Mr. Steve Rasmussen felt that the Planning & Zoning Commission is an important body and one that the community needs to trust. He suggested Council rescind the appointment and allow Ms. Shriner to reapply.

Mr. Alan Ditmore felt that if applicants cannot serve on a board due to direct financial gain, the Council will never get anyone to serve on their boards.

Rev. Christopher Chiaromonte felt there is an appearance of impropriety. He suggested Council rescind the appointment and let her reapply, after an evaluation of Council's appointment process.

Mr. Barry Summers said that since passion is created in land use issues, the bar for appointments needs to be set higher. He felt Council's appointment process was flawed and urged Council to rescind the appointment and start over again.

Mr. James Judd felt that Council should have diverse expertise on the board and noted that after reviewing all the potential candidates credentials, Ms. Shriner did not have any planning or zoning experience. He questioned Council's reasoning on why they voted in support of her appointment.

City Attorney Oast explained conflict of interest provisions.

Councilman Russell noted that all interviews were open to the public. Ms. Shriner stated that she was a property owner on Merrimon Avenue and was involved with local process during the Merrimon Avenue rezoning. If there is a project that falls under the conflict of interest provision she can recuse herself. He felt that she will be able to look at both sides without a predetermined position.

Vice-Mayor Newman objected to the assertion that the appointment process was not open. It is a process that is used all the time. Every single member of Council has the opportunity to interview any candidate who puts in an application. All candidate applications were before Council when interviews were decided on. The interviews held in an open, publicly announced meeting. Some members of the public do attend the interviews. The appointments are discussed in an open meeting and any member of Council has the opportunity to request the appointment be delayed and request more interviews. Ms. Shriner was not one of his votes; however, he rejected the insinuation that the appointment was not done in an open manner.

Councilman Bothwell wanted to make it clear that he made the motion not to remove Ms. Shriner per se. It's not that he's opposed to her serving on the Commission. What he found to be an affront was in the course of the interview she said that she was a property owner along Merrimon Avenue, but she didn't indicate that she had been attending meetings about the Deal Buick property at which the Unified Development Ordinance (UDO) was discussed. She seemed to present to him an innocence of any knowledge about the UDO, which he didn't think represented the facts. To the extent that that wasn't made clear, we were not participating in the kind of openness disclosure that the Governor and the legislature called for last year. As far as the potential for discussing it at the Council meeting, that was partly because he is a novice here

and didn't understand we were allowed to discuss it. Vice-Mayor Newman polled the members of Council without any nominations. That was his misunderstanding and had he known, he would have argued the case. He felt all that should have been done in a more public way. The interviews are a public meeting but no one attends them. The formal meeting is televised and this is where the information gets out to the people in the community. The interviews are not meaningful public, even though they are legally public. He has been getting a lot of feedback from the community who are real distrustful of the process. And it's because of that apparent lack of transparency that he made the motion. He then withdrew his motion and simply asked Ms. Shriner to withdraw her application and submit to reapplication. To him, this was not a transparent process.

VI. UNFINISHED BUSINESS:

A. RESOLUTION NO. 10-87 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A ONE-YEAR AGREEMENT WITH WNC COMMUNITY MEDIA CENTER (FORMERLY KNOWN AS URTV INC.) FOR THE MANAGEMENT OF PUBLIC ACCESS

At 10:25 p.m., Vice-Mayor Newman moved to excuse Councilwoman Manheimer and Councilman Russell from the remainder of the meeting. This motion was seconded by Councilman Davis and carried unanimously.

Director of Administrative Services Lauren Bradley said that this is the consideration of a resolution authorizing the Mayor to sign a one-year agreement with the WNC Community Media Center (formerly known as URTV, Inc.) for the management of public access.

At its meeting on January 26, 2010, the City Council directed staff to negotiate an agreement with URTV, now known as the WNC Community Media Center, for the management of public access. Council instructed staff to ensure the agreement clearly addressed (1) compliance with open meetings and public records law and (2) compensation and payment terms for the duration of the agreement. Council also requested staff provide information about the pros and cons of continuing to appoint members to the WNC Community Media Center board.

Staff has negotiated a one-year agreement with the WNC Community Media Center covering the period April 26, 2010, to April 26, 2011. Under the terms of the agreement, the City of Asheville will pay the WNC Community Media Center \$60,000 for management of the public access channel. The City will disburse \$60,000 in two equal payments of \$30,000 on or before May 1, 2010, and September 1, 2010. In addition, the agreement includes clauses that require the WNC Community Media Center's compliance with standards set forth in North Carolina public records and open meetings laws. In exchange, the WNC Community Media Center will operate the public access cable channel and manage a media production facility available for public use.

Compensation

During the course of negotiating this agreement, the WNC Community Media Center originally requested \$100,000 in compensation for managing the public access channel. The additional revenue was requested to hire a new full-time staff member and expand multi-media training and related services provided by the media center. This funding request, however, would exceed the total amount of PEG fees collected by the City during the contract period, and would require a General Fund allocation to make up the difference. Given current economic and budgetary conditions, staff recommends against increasing compensation beyond what PEG fees can support. They said that without the entire \$100,000 they may not be able to sustain operations long-term into the future and that they will be seeking additional increase funding from Buncombe County.

Board Appointments

At the January 26, 2010, City Council meeting, staff recommended that City Council discontinue appointing members to the WNC Community Media Center board. Based on staff's recommendation, City Council asked for additional information about the pros and cons of appointing board members.

Programming on public access channels is constitutionally-protected by the First Amendment, and as such, governments cannot make editorial or content-based programming decisions. For this reason, public access channels are typically managed by third-party organizations like the WNC Community Media Center.

The WNC Community Media Center is a non-profit corporation with its own Articles of Incorporation and bylaws. The City of Asheville contracts with the WNC Community Media Center as a vendor to provide a service, management of the public access cable channel and media center. The contract serves as the city's mechanism to set forth performance requirements and standards for the WNC Community Media Center. Although the City has made appointments to the WNC Community Media Center board, those appointments do not make the WNC Community Media Center a public agency nor the board a public body.

The Council's appointments to the WNC Community Media Center board may give the City influence over decisions made by the board, including programming standards. Although this may be perceived as a benefit to the City, it also subjects the City to criticism and possible legal challenges arising from the Board's activities.

It is staff's recommendation that these decisions be made by a board that is entirely independent of city government. This recommendation is consistent with best practices in North Carolina. Staff has been unable to find another city in the state that makes appointments to the community's public access board.

A benefit of making appointments to the WNC Community Media Center board may be receiving regular updates on media center activities from appointees. Staff would recommend Council continue to name a Council liaison to the WNC Community Media Center for this purpose.

Pros:

- The agreement provides for the continued operation of a public access cable channel and public media center in Asheville.
- The agreement addresses concerns expressed by City Council regarding open meetings and public records, and clarifies the City's payment terms for management services.

Cons:

- The loss of the use of PEG funds for government television expenses currently covered by the City's General Fund.
- According to the WNC Community Media Center's director, the long-term financial sustainability of the facility will require increased revenue from the City and Buncombe County.

Under the proposed agreement, the City will pay the WNC Community Media Center \$60,000 to manage the Public Access Channel. This payment will be offset by 60,000 in PEG fee revenue, which represents 60% of the total PEG fees collected by the City between FY 2009-2010 and FY 2010-11. Thus, there is no additional impact on the City's General Fund budget. PEG fees are collected from cable subscribers and must be spent on public, government, or education access activities.

City Attorney Oast said that under the federal law, the City is not permitted to exercise any control over content, with the exception of ensuring that content is not obscene. When there have been attempts made to do that, sometimes lawsuits are filed and the attempts to do that have been stricken down under First Amendment grounds. To the extent that the City would have appointments to a board like this, it might be seen as an attempt by the City to exercise some sort of editorial control over the content of the station and in his view would expose the City to being named as a defendant in one of the lawsuits, should something like that happen. We do have the ability, through the management agreement, if we think the station is being operated improperly, to exercise some degree of control over the contract, but he would not want us to be in a position of exercising editorial control.

Staff recommends that City Council approve the resolution authorizing the Mayor to sign the agreement with the WNC Community Media Center for management of public access. Staff further recommends removing the clause allowing City Council to make appointments to the WNC Community Media Center board from the agreement.

It was the consensus of Council to include in the management agreement the financial compensation of \$60,000 with the inclusion of the language in the extension agreement related to open meetings and public records.

After a brief discussion, it was the consensus of Council to continue making appointments to the WNC Media Center Board and to include that as part of the agreement.

Mr. Alan Ditmore felt the membership fees were too expensive and the public records language should be retroactive.

Mr. Alan Rosenthal explained that he has a lifetime ban from entering the WNC Media Center offices. There is an appearance of impropriety and no transparency with this board. He urged Council not to extend this management agreement and asked for a letter of apology along with the trespass notice being rescinded.

Mr. John Blackwell noted that he too is banned from the WNC Media Center offices. He spoke in opposition to the current management of public access and hoped they would get a new manager.

Rev. Christopher Chiaromonte spoke in support of the management agreement and felt staff is doing an excellent job. He said they are very busy and suggested Council appropriate the \$100,000 they requested.

Mr. Steve Rasmussen urged Council to retain its membership on the board as the public does have the expectation of oversight.

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

Councilman Smith moved for the adoption of Resolution No. 10-87, including (1) the \$60,000 compensation; (2) language in the extension agreement related to open meetings and public records; and (3) Council to continue making appointments to the WNC Community Media Center Board. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Alan Ditmore urged Council not to cut family benefits, in order to provide same sex domestic partner benefits, because those benefits include health insurance, which include contraception.

The following claims were received by the City of Asheville during the period of February 26-March 18, 2010: Elaine Seymour (Water), David Hyatt (Water), Ryan Hanson (Streets), Robert Shroat (Sanitation), Mike Lintz (Water), Martha Calloway (Sanitation), Progress Energy (Streets), Bob Gelder (Streets), John Fry (Transit), Pat Huffernan (Fire) and Earl Lee Gray (Parks & Recreation).

These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:53 p.m.

CITY CLERK

MAYOR