

**Tuesday – April 27, 2010 – 3:30 p.m.
Worksession**

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

Director of Administrative Services Lauren Bradley explained that this is a follow-up worksession from March 23 worksession. She then summarized all the major building blocks that staff is planning on building into the proposed budget. After today staff will spend the next days putting together the budget document which will be presented to Council on May 11. If there is any feedback from Council, today would be the time to advise staff. This is not the last time for Council to provide feedback as there is another budget worksession on May 25. The budget is proposed to be adopted by City Council on June 22.

Ms. Bradley gave a quick recap of the March 23 worksession and advised Council of the following mix of strategies to balance the budget: (1) **Expense Reductions/Managed Savings - \$2.3M** (a) Reduce overtime, temp services, contracts and other line items; and (b) Savings from expired annexation agreements; (2) **Expense Reductions/Service Impacts - \$1.5M** (a) Re-engineer Brush Collection; (b) Reduce hours at community centers; (c) Reduce Outside Agency funding; and (d) Cost-sharing for Co-sponsored Events; (3) **Revenue Enhancements - \$825,000** (a) Fees and Charges - \$200,000; (b) Parking Fund recurring transfer - \$125,000; and (c) Parking Fund one-time transfer - \$500,000. The **Adjusted Budget Gap as of March 23 - \$1M**

She then summarized the budget balancing strategies. Regarding revenues: (1) Fees and Charges - \$200,000; (2) Parking Fund Transfer – \$625,000 (a) \$125,000 in revenue to offset increases in cost of transit service; and (b) \$500,000 from parking fund reserves to offset the loss of federal funding; (3) No fund balance appropriation; and (4) No tax rate increase. **Total Revenue Increase = \$825,000.** New information is that Asheville is eligible for \$480,000 from the Federal Transit Administration that can be used toward operational transit expenses in Fiscal Year 2010-11.

Regarding expenditures for the selective hiring freeze (1) Actively manage vacancies to fill only essential positions; (a) Includes equivalent of 15 management and development review positions (i) Examples: Assistant Transportation Director, Superintendent of Recreation, Budget Research Analyst, CEO Supervisor, etc.; and (2) Does not include public safety positions or Public Works field positions. **Total Savings from Selective Hiring Freeze = \$878,000**

Regarding expenditures for managed savings (1) Includes savings from line items and re-engineering (a) Reduce overtime, temp services, and contracts; (b) Reduce training, printing, other line items; (c) Savings from expired annexation agreements; (d) Fire Department Vacation Deferral Program resulting in overtime savings; and (e) Re-engineering of street patching through Street Cut Enterprise Fund. **Total Managed Savings = \$2,293,000**

Regarding expenditures for employee compensation (1) Original budget projections included a \$500,000 compensation pool for cost of living adjustment; (2) Across-the-board cost of living adjustment was sacrificed to avoid layoffs; and (3) FY 2010-2011 budget proposal includes funding for a \$300 pay supplement for approximately 629 full-time employees who earn \$41,722 (area median income) or less (a) Total cost of the pay supplement is \$190,000; (b) **Net savings from proposed compensation package = \$340,000.**

Current year health care (1) Expenditures are expected to exceed original budget estimates by \$2.5 million; (a) 25% increase in claims costs in 2009; (2) Revenues are projected to exceed budget by \$800,000; (3) Staff is recommending a budget amendment to adjust health care budget (a) \$1.7 million from insurance fund reserves; and (b) \$800,000 in additional revenue; and (4) Strategies to reduce health care costs in FY 2010-2011 (a) Creation of a Blue Ribbon Task Force on Health Care.

Regarding health benefit expenditures (1) Healthcare Benefit Changes (a) 5% increase to premiums; and (b) Increases in co-payments for primary care, specialists, ER and urgent care visits; and (2) Plan Changes – “High” Option (a) Implementation of a \$300 deductible and (b) Introduction of 90/10 co-insurance, where employees are responsible for 10% of the cost of services (i) Maximum annual out-of-pocket for co-insurance set at \$500 for individuals, \$1000 for families. **Total Savings from Healthcare Changes = \$300,000**

Also regarding health benefit expenditures (1) Staff is seeking Council consensus approval on FY 2010-11 Healthcare Program changes today; (2) Council approval of creation of Blue Ribbon Task Force on Health Care and current year budget amendment at formal meeting; (3) Open enrollment for employees to take place in mid-May; and (4) Opportunity to inform and educate employees about program changes.

Regarding expenditures, service reductions include (1) Reduction in Community Center hours (\$385,000) (a) Programs will be rescheduled and managed by full-time staff or discontinued; and (b) Reduction in part-time and temporary staff; (2) Evening transit service optimization (\$174,000) (a) The gap between daytime and evening transit service will be closed and evening service will stop at 10:30 p.m. (b) Discontinue evening service on the least utilized route (affects a daily ridership of about 45 people); and (c) consider the availability of federal funds and parking reserves to continue this route; (3) Brush Collection once per month (\$250,000) (a) Brush will be collected once per month and (b) Later in the year, the City will launch on demand collection via telephone or Website; (4) Reduction in Outside Agency funding (\$40,000) (a) 20% reduction in total Outside Agency allocation; (5) Reduction in co-sponsored event support (\$50,000) (a) Events would pay 50% of the costs for permits and labor; and (6) Reduction in APD overtime (\$215,000). **Total Savings from service reductions = \$1,114,000.**

She then explained the Capital Improvement Program and the use of the \$925,000 discretionary funding for projects.

After the presentation, Council members discussed the different mix of strategies used to balance the budget.

Due to the one-time \$480,000 from the Federal Transit Administration, Mayor Bellamy initiated discussion of whether Council wanted to keep the \$500,000 in the Parking Fund and use the \$480,000 to offset the loss of federal funding or continue on the path of using the \$500,000 from the Parking Fund to offset the loss of federal funding and use the \$480,000 for something else.

Possibilities for using the \$480,000 included (1) half-hour bus service on Merrimon; (2) seed money to get the Transit Master Plan furthered in the next budget year; (3) use some of this money to suspend some of the Park fees across the board for this budget year as we help the for-profit and non-profit sectors adjust to the new fee schedule; (4) get through this budget year and then decide on the use of the \$480,000; (5) possible capital needs; and (6) keep the Parking Fund monies in the Parking Fund for future parking downtown.

After discussion, it was the consensus of Council to not transfer the \$500,000 from the Parking Fund reserves to offset the loss of federal funding. The \$480,000 would be used for transit services.

Councilman Smith was concerned that Council just adopted a fee policy and now we are talking about fee waivers.

It was the consensus of Council to proceed with the strategies outlined in the selected hiring freeze (total savings of \$878,000).

Regarding managed savings, Mayor Bellamy was concerned with the reduction of overtime, temp services and contracts, in particular the 50% cut in the Parks, Recreation & Cultural Arts Department part-time labor, and how the additional burden of responsibilities will affect existing employees and programming, in particular afterschool and summertime programs. She suggested reducing the General Fund contribution to the Parks capital budget as other budgets have taken cuts, e.g., Housing Trust Fund and Civic Center. Parks, Recreation & Cultural Arts Director Roderick Simmons said that the \$534,000 in the Parks capital budget is for deferred maintenance. Budget Director Tony McDowell explained that the \$300,000 for the golf course irrigation project was on a list, along with a couple of other projects, that the City was going to borrow money for; however, that financing did not move forward. Since that financing did not happen, he said that over a 20 year period, the minimal debt service savings would be approximately 10% (\$30,000 a year).

It was the consensus of Council to proceed with the strategies outlined in managed savings (total savings of \$2,293,000); however, Mayor Bellamy could not support this due to concerns expressed above (additional burden on staff).

It was the consensus of Council to proceed with the strategies outlined in the employee compensation (total savings of \$340,000).

Regarding health care, Councilman Russell, Chair of the Finance Committee, said that the Committee reviewed this information and was comfortable with the health care benefits as outlined by Ms. Bradley. It was the consensus of Council to proceed with the health care strategies as outlined by Ms. Bradley (total savings of \$300,000).

Vice-Mayor Newman, Chair of the Housing & Community Development Committee (HCD), briefly reviewed the following 2010 outside agency program recommendations, noting that the Committee was challenged this year to make significant cuts to this program. The maximum amount the HCD recommends to be made available is \$163,400, which is 80% of last year's funding. They have adopted four funding principles for this year's program: (1) No new organizations will be accepted into the program this year; (2) Only organizations providing a direct service to the City of Asheville or providing direct youth and family services will be eligible for funding this year; (3) No organization will be eligible for more than last year's funding level (he explained the three exceptions); for most organizations, the maximum funding level is set at 80% of last year's award; and (4) Applications will be required from eligible organizations (ones that perform various afterschool functions – Children First, One Youth at a Time, YWCA and Housing Authority Youthful HAND). Those four applications are being considered for funding, but they are not recommended for funding at this time. After they submit their applications, then there will be a secondary round of specific recommendations made on those four agencies.

The list of eligible organizations and maximum funding eligibility is provided below, as are the names of organizations funded last year but not recommended for funding this year. The HCD proposes to reconsider the nature and extent of the Outside Agency Program next spring.

Outside Agency Analysis
Funding Eligibility Roster and maximum Available Amount
Eligible for 2010 Funding

Outside Agency	Summary Statement	2009 Funding	2010 Maximum Funding
Child Abuse Prevention Services, Inc.	General operating support targeted to parenting education and outreach (\$6,000)	\$ 6,000	\$ 5,000
Children First /Communities in Schools	Project MARCH: after-school safe-haven program at three housing complexes in the City	\$ 22,500	\$ 17,800
Design Center	Coordinating community and design professional work on public infrastructure projects	\$ 5,000	\$ 5,000
Homeward Bound of Asheville-AHOPE	A HOPE Day Center outreach, intake and support for homeless persons. Operates mornings seven days a week, and afternoons Monday through Friday	\$ 20,000	\$ 20,000
One Youth at a Time	Provides mentoring, job training and placement assistance to at-risk students	\$ 7,000	\$ 5,600
YWCA of Asheville and WNC	Support Our Students (SOS) is an afterschool and day-long summer camp for at-risk students; with screening and intervention services for students involved with gangs	\$ 10,000	\$ 8,000
Housing Authority-Youthful HAND	After-school program for children residing at Lee Walker Heights housing development will purchase lap-top computers for the students' use	\$ 5,000	\$ 4,000
ABCRC	Fair Housing	\$ 50,000	\$ 50,000
Economic Development Coalition	Economic development services	\$ 50,000	\$ 40,000
Asheville Greenworks	Graffiti removal; tree planting	\$ 10,000	\$ 8,000
Not Eligible for 2010 Funding			
Asheville Art Museum		\$ 5,000	0
Center for Diversity Education		\$ 1,200	0
Hall Fletcher PTO		\$ 5,000	0
Kids Voting Buncombe County		\$ 1,000	0
Meet the Geeks		\$ 3,000	0
United Way 2-1-1 and Hands On		\$ 5,000	0
Total		\$ 205,700	\$ 163,400

Regarding outside agency funding, Mayor Bellamy felt the Design Center should be reduced to be consistent with the other agencies that are not directly linked to City services.

Councilman Davis felt the City should contract with the Design Center as needed rather than providing them outside agency funding.

It was the consensus of Council to proceed with the outside agency funding as recommended by the HCD Committee, except to reduce the Design Center 2010 funding from \$5,000 to \$4,000 (total savings of \$40,000)..

Councilman Bothwell said that since brush collection will be once a month it should be coordinated with street sweeping.

It was the consensus of Council to proceed with the service reduction of brush collection (total savings of \$250,000).

It was the consensus of Council to proceed with the reduction in co-sponsored event support; however, Mayor Bellamy did not support this action (total savings of 50,000).

It was the consensus of Council to proceed with the reduction of the Asheville Police Department overtime; however, Mayor Bellamy did not support this action (total savings \$215,000).

It was the consensus of Council to proceed with the Capital Improvement Program and use of discretionary funding as outlined by Ms. Bradley.

In response to Mayor Bellamy, City Manager Jackson said that when the budget rolls around this time next year, Council will see significant improvements in the way the capital budget is laid out.

Councilman Russell wanted staff to make it very clear what are one-time expenditures vs. payments over the years.

There was a brief discussion, initiated by Mayor Bellamy, about asking our state legislators to allow the City to use 2.5% out of the 5% transfer from the Sullivan Act monies for streets and sidewalks. Although all Council supported this request, it was the consensus of Council that now is not the right time to make the request.

Additional information Council requested included: (1) how much would it cost to provide half-hour bus service on Merrimon Avenue; and (2) what is the least utilized route and details on what we would be losing; (3) what the programming would look like with the Parks, Recreation and Cultural Arts 50% part-time labor cuts, especially related to after school care and summertime programs; (4) where can Parking Fund monies be applied; (5) information in the budget that clearly explains how we invest in sidewalks and a breakdown of those costs; (6) description of what on-going work the City does on an annual basis with state and federal grants for sidewalk construction; and (7) clearly identify in the budget book, without having to go to another section, what projects are pay as you go vs. financing.

At 4:38 p.m., Mayor Bellamy adjourned the worksession.

**Tuesday – April 27, 2010 - 5:00 p.m.
Regular Meeting**

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Newman gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY AS “MOTORCYCLE AWARENESS MONTH”

Mayor Bellamy read the proclamation proclaiming May, 2010, as "Motorcycle Awareness Month" in the City of Asheville. She presented the proclamation to Mr. Roger Williams who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING MAY AS “FOSTER CARE MONTH MONTH”

Vice-Mayor Newman read the proclamation proclaiming May, 2010, as "Foster Care Month" in the City of Asheville. He presented the proclamation to Ms. Becky Kessel who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING MAY AS “HISTORIC PRESERVATION MONTH”

Councilman Davis read the proclamation proclaiming May, 2010, as "Historic Preservation Month" in the City of Asheville. He presented the proclamation to Mr. Paul Reeves, President of the Preservation Society of Asheville and Buncombe County, and others, who briefed City Council on some activities taking place during the month and explained the importance of historic preservation.

Mr. Reeves presented the City of Asheville the 2009 Griffin Award for their renovation of 364 Charlotte Street, E.W. Grove's Office.

D. PROCLAMATION PROCLAIMING MAY 16-23, 2010, AS “NATIONAL PUBLIC WORKS WEEK”

Mayor Bellamy read the proclamation proclaiming May 16-23, 2010, as "National Public Works Week" in the City of Asheville. She presented the proclamation to Parks, Recreation & Cultural Arts Department representatives: Kathy Connor and James Ball; Public Works Department representatives Jennifer Mazza and Bryant Williams; Transportation Department

representatives Yuri Koslen and Barb Mee; and Water Resources Department representatives Michelle Massey and Amy Eckel.

II. CONSENT AGENDA:

At the request of Council, Consent Agenda Items "B", "D", "E", "H", "I" and "J" were removed from the Consent Agenda for discussion and/or individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 13, 2010**
- B. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE 2011 TRANSPORTATION DEMAND MANAGEMENT GRANT PROGRAM AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ADMINISTRATION COSTS OF THE PROGRAM**

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

- C. RESOLUTION NO. 10-100 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER INCREASING BROWN & CALDWELL'S AGREEMENT FOR ENGINEERING SERVICES FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT BACKWASH LAGOON PROJECT**

ORDINANCE NO. 3844 - BUDGET AMENDMENT FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT BACKWASH LAGOON PROJECT

Summary: The consideration of a (1) resolution authorizing the City Manager to sign a change order increasing Brown and Caldwell's agreement for engineering services to \$123,335.24 for the William DeBruhl WTP Backwash Lagoon project; and the associated budget amendment, in the amount of \$15,570.

Brown and Caldwell was originally hired by the City through a competitive process to provide the Design, Permitting, Bidding, and Construction Services for the William DeBruhl Water Treatment Plant Backwash Lagoon project in the amount of \$49,088.00. The initial contract dated June 5, 2009, provided for the Design, Permitting, and Bidding services only. Change Order # 1 in the amount of \$58,678.00 allowed Brown and Caldwell to perform Construction Services, which included a preconstruction meeting, inspections, record drawings, and other construction-related tasks. Due to the complexity of the construction, additional site inspections are required for the duration of the contract. Change Order # 2 in the amount of \$15,569.24 will allow Brown and Caldwell to perform additional site visits. The original contract amount, Change Order # 1, and Change Order # 2 add up to \$123,335.24.

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

Pro:

- Approval of the engineering change order will allow the City to move forward with the project in the current fiscal year in order to ensure compliance with applicable state/federal laws.

Con:

- Failure to award the engineering change order may delay the project beyond the current fiscal year, which may result in fines from NCDENR for being out of compliance with applicable state/federal laws.

The funds needed for this change order (\$15,569.24) will be reallocated from another capital project that will receive replacement funding in a future fiscal year.

City staff recommends City Council (1) approve the City Manager to sign a change order increasing Brown and Caldwell's agreement for engineering services to \$123,335.24 for the William DeBruhl WTP Backwash Lagoon project; and (2) approve of the budget amendment in the amount of \$15,570.

RESOLUTION BOOK NO. 33 – PAGE 18

ORDINANCE BOOK NO. 26 - PAGE

D. RESOLUTION AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BETWEEN RBC BANK AND THE CITY OF ASHEVILLE TO FINANCE THE PURCHASE OF TWO FIRE TRUCKS

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

E. RESOLUTION AUTHORIZING NEGOTIATION OF AN INSTALLMENT PURCHASE CONTRACT FOR THE CONSTRUCTION OF A COMMUNITY CENTER ON LIVINGSTON STREET AND SETTING A PUBLIC HEARING ON MAY 25, 2010

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

F. RESOLUTION NO. 10-103 - RESOLUTION APPROVING SETTLEMENT WITH SWANNANOA CLEANERS FOR PROPERTY DAMAGE AT 165 COXE AVENUE

Summary: The consideration of a resolution approving settlement of a claim for property damage.

In the Spring of 2009, Swannanoa Cleaners discovered that the foundation of the southwest corner of its building on Coxe Avenue had settled as the apparent result of underground soil erosion. Because the claim involved property damage, it was referred to the Asheville Claims Corporation (herein "ACC"). The building is located on Coxe Avenue, but backs up to Federal Alley, a publicly maintained alley that has city storm water facilities buried within it. One of the storm drainage pipes runs very close to the rear wall of the Swannanoa Cleaners building, and the building is actually constructed over part of the pipe and encroaches into the alley by about three feet. An investigation revealed a downstream blockage in the pipe that caused water to back-up and leak out of the pipe, causing the erosion.

A crucial issue in determining whether the City has liability for damage of this nature is whether the City had notice of the condition causing the problem, in this case, the blocked pipe. The evidence of such notice in this case is conflicting, but would be enough to survive a motion to dismiss and a motion for summary judgment, in the opinion of the City's and ACC's legal counsel, necessitating a trial at which the outcome would be uncertain.

The cost to Swannanoa Cleaners for repairs to its building was approximately \$100,000. After review and investigation of this matter by Risk Management and ACC, a settlement was negotiated with Swannanoa Cleaners for \$75,000. Since this amount exceeds the City Manager's settlement authority of \$25,000, City policy requires Council's approval of the settlement.

In addition, in order to address the encroachment issue, the City will initiate proceedings to close the part of Federal Alley immediately adjacent to the Swannanoa Cleaners building. This closure will not affect the public's ability to use the alley.

Pros:

- Resolves a disputed issue of property damage.
- Avoids the cost of a trial with an uncertain result.
- Maintains relations with downtown business community.

Con:

- Cost to the City (Asheville Claims Corporation).

This \$75,000 settlement will be paid from funds already budgeted in the Insurance Fund.

Adoption of the resolution, approving the proposed settlement, is recommended.

RESOLUTION BOOK NO. 33 – PAGE 24

G. RESOLUTION NO. 10-104 - RESOLUTION CONFIRMING CITY COUNCIL SUPPORT OF PARTICIPATION IN THE YWCA'S "STAND AGAINST RACISM" EVENT ON APRIL 30, 2010

Summary: The consideration of a resolution for City Council support for the City's participation in the YWCA's "Stand against Racism" effort

The YWCA of Asheville is participating in a nationwide "Stand against Racism" event to be held April 30, 2010, and has requested community organizations plan events in support of the overall effort to acknowledge racism still exists in our community.

An organized relay walk for City of Asheville employees and other interested participants is being proposed. City employees would use their lunch hour to sign up for time slots throughout the day in which they would walk a predetermined route, in groups, through the Eagle/Market Street area of downtown.

Each group would use a pedometer to log how far they walked. At the end of the day a measurement of the number of miles the City of Asheville walked in a "Stand against Racism" would be released.

Short video interviews in which participants share what standing against racism means to them would be taped as groups complete their leg of the relay walk. The interviews would then be posted of City of Asheville websites.

Pros:

- Participation in the event will allow individuals the opportunity to express their desire to stand against racism during their lunch hour.
- The relay walk and associated videos will make a visual statement about the City's support of YWCA of Asheville's mission of ending racism.

Con:

- Eradicating racism involves much more than making a visual statement.

As participation in the event would take place during employee lunch hours, there is no significant fiscal impact involved in organizing the relay walk.

City staff recommends City Council adopt a resolution of support for a City of Asheville relay walk in support of the YWCA's "Stand against Racism" effort.

RESOLUTION BOOK NO. 33 – PAGE 25

H. RESOLUTION APPROVING THE LIST OF EVENTS FOR SUPPORT FOR OUTDOOR SPECIAL EVENTS IN ASHEVILLE FROM JULY 1, 2010 TO JUNE 30, 2011

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

I. BUDGET AMENDMENT TO AMEND THE HEALTH CARE BUDGET

CONSIDERATION OF A MOTION CREATING A BLUE RIBBON TASK FORCE ON HEALTH CARE TO REVIEW BENCHMARKS AND POLICY DECISIONS RELATED TO THE CITY'S HEALTH INSURANCE PROGRAM

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

J. BUDGET AMENDMENT TO INCREASE THE BUDGETED AMOUNT FOR OUTSIDE LEGAL SERVICES

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

Mayor Bellamy asked for and received public comments on all items on the Consent Agenda, prior to any of them being removed by City Council.

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE 2011 TRANSPORTATION DEMAND MANAGEMENT GRANT PROGRAM AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ADMINISTRATION COSTS OF THE PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to apply for the FY 2010-11 Transportation Demand Management (TDM) grant program and enter into an agreement with the N.C. Dept. of Transportation (NCDOT) for administration costs of the program.

TDM programs are programs which promote an alternative transportation option to the single occupant vehicle. Included among these alternatives are carpooling, vanpooling, telecommuting, transit, bicycle, flexible work hours, compressed work weeks, and parking policies and price structures.

NCDOT's Public Transportation Division is funding TDM programs across the state to support the provisions of the Ambient Air Quality Improvement Act of 1999, Senate Bill 953, to address growing concerns over ground level ozone pollution from motor vehicles and the need to

deal with increasing vehicle miles traveled (VMT) and NOx emissions. This bill established the goals of reducing emissions of nitrous oxides (NOx) from motor vehicles by 25% by 2009 and reducing the growth of VMT in the State by 25% by 2009.

This program funds up to 50% of the total administrative costs including salaries, fringe benefits, marketing, etc.

There are six TDM strategies that the City of Asheville's TDM program is required to employ in order to accomplish the TDM Program Goals set by NCDOT. They are:

1. Conduct marketing efforts/activities identified in a marketing plan.
2. Coordinate with local transportation and land use planning efforts.
3. Facilitate ridematching services through the ShareTheRideNC website.
4. Promote the Best Workplaces for CommutersSM Program.
5. Collect and calculate data on VMT and NOx reductions through TDM activities.
6. Operate in a manner consistent with the NCDOT goals regarding making our transportation network safer, move people and goods more efficiently, and making our infrastructure last longer.

The City's TDM program began in August 2005 and was administered under the French Broad River Metropolitan Planning Organization (MPO) and the City of Asheville's Transportation and Engineering Department. When the functions of the MPO were relocated to the Land of Sky Regional Planning Council, the TDM program remained as part of the City's Transportation Planning Division. The North Carolina Department of Transportation (NCDOT) is currently evaluating the future of the TDM program in Western North Carolina and during FY 2010-11, a visioning study will be prepared. This study will be funded by Federal and State Funds at an 80/20 ratio.

Programs currently being administered are, but not limited to:

- The PASSport (employer bus pass) Program
- The Emergency Ride Home Program
- Strive Not to Drive – annual promotional event
- Share the Ride NC – Statewide ridematching program

During April 2010, the City of Asheville will apply for the FY2011 TDM Grant. In June 2010, the Board of Transportation will vote on whether or not to approve the funds in the maximum amount of \$99,979 for the City of Asheville's TDM Grant. The 2010/11 budget for this program is currently in the City of Asheville's budget process.

This TDM program supports the City of Asheville's 2010/11 Strategic Plan by helping to promote emission-reducing options, as well as supporting multi-modal transportation promoting the use of transit through programs such as the PASSport program.

Pros:

- The current 50% match is reimbursed by NCDOT.
- To date, these statewide programs have reduced the growth of VMT by 24.6% - the goal for Senate Bill 953 was 25%.
- This program funds 50% of the TDM Coordinator position.

Con:

- The City is required to provide a 50% match which equals \$49,989.

The total project cost is \$99,979; 50% of this total will be paid by NCDOT and 50% by the City. Funds to cover the required 50% City match are included in the Transportation Department's budget request for the FY 2010-11 Annual Operating Budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to apply for the 2011 TDM grant program and enter into an agreement with the NCDOT for administration costs of said program.

Transportation Director Ken Putnam responded to various questions from Council, some being, but are not limited to: confirmation that this funds a staff position; responsibilities of the staff position; information on the results seen and results that could be produced as a result of this position; statistics to show the reduction of vehicle mile travelled are a result of these programs; and is the City's 50% match coming out of the General Fund.

Vice-Mayor Newman moved to approve the City Manager to apply for the 2011 Transportation Demand Management grant program and enter into an agreement with the N.C. Dept. of Transportation for administration costs of the program. In addition, he requested staff produce an analysis for Council going forward on what results we are seeing from the various Transportation Demand Management initiatives that fall under this program so Council can continue to evaluate whether the program is meeting with success or it might be logically placed elsewhere. This motion was seconded by Councilman Bothwell.

Councilman Davis felt that due to our economy, we should have that analysis prior to approving this action.

Vice-Mayor Newman and Councilman Bothwell withdrew their motion.

Councilman Smith moved to continue this action until May 25, 2010, in order to give staff enough time to produce the analysis requested by Vice-Mayor Newman above. This motion was seconded by Vice-Mayor Newman and carried unanimously.

D. RESOLUTION NO. 10-101 - RESOLUTION AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BETWEEN RBC BANK AND THE CITY OF ASHEVILLE TO FINANCE THE PURCHASE OF TWO FIRE TRUCKS

Summary: The consideration of a resolution authorizing execution of a \$1.29 million installment purchase financing contract for fire trucks.

The City of Asheville Capital Improvement program (CIP) includes \$1.29 million previously appropriated by City Council to finance the acquisition of two fire trucks.

The Finance Department sought proposals from 5 local and regional banks. Three proposals were received, the best of which was submitted by RBC Bank at an initial taxable interest rate of 3.58% per annum for a term of 5 years. RBC's proposal makes use of the Build America Bonds Program, which provides a rebate from the Federal Government in an amount equal to 35% of the interest paid on the loan. Taking into consideration the federal rebate of 35% from the Build America Bonds program, the effective interest for the City is **2.327%**

The proposed resolution authorizes an installment purchase contract between the City of Asheville and RBC Bank for the purchase of the fire truck and authorizes the City Manager, City Attorney and Finance Director and City Clerk to execute and deliver any and all necessary documents. Pursuant to a previously adopted reimbursement resolution, proceeds from this financing contract will allow the City to reimburse itself for the cost of the two fire trucks, which have already been procured.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over several years of the useful life of the asset.
- Reimbursing this capital purchase with the proceeds of the financing, as opposed to paying for the purchase by using the City's available cash balances, increases the currently available funds by allowing the restoration of fund balance.

Con:

- Financing the purchase slightly increases the lifetime cost of the acquisition due to the payment of interest on the amount financed.

The annual debt service payment for this financing is approximately \$289,000 per year. Funds are already included in the City's proposed debt service budget to cover this cost.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with RBC Bank for the acquisition of the fire trucks.

Councilman Russell noted that fire trucks are very expensive and hoped that we look carefully at these big purchases going forward.

In response to Mayor Bellamy's confirmation that we are purchasing three fire trucks in two years and the needs in upcoming years, City Manager Jackson said that on May 11 during the budget presentation Council will have the opportunity to review that information in detail. He will provide Council with the prioritized replacement schedule for police cars, fire trucks, brush trucks, and other major pieces of equipment. He said that he will also provide Council with a memorandum on what meets the criteria from the School of Government for financing.

Councilman Russell moved to adopt Resolution No. 10-101. This motion was seconded by Councilman Smith and carried unanimously.

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E. RESOLUTION NO. 10-102 - RESOLUTION AUTHORIZING NEGOTIATION OF AN INSTALLMENT PURCHASE CONTRACT FOR THE CONSTRUCTION OF A COMMUNITY CENTER ON LIVINGSTON STREET AND SETTING A PUBLIC HEARING ON MAY 25, 2010

Summary: The consideration of an initial resolution authorizing negotiation of an installment purchase contract and calling for a public hearing on May 25, 2010.

The current capital improvement plan includes funds previously appropriated by City Council to finance the construction of a community center on Livingston Street in Central Asheville.

The proposed initial resolution asks Council to confirm that it is in the City's best interest to enter into an installment purchase contract with a financial institution to fund the Livingston Street Community Center and to provide for a public hearing on these matters. This resolution is a legal formality required by North Carolina General Statutes before the process of securing financing can officially begin.

Pros:

- Allows the City to comply with the legal requirements of the Local Government Commission (LGC) regarding installment purchase financing

Cons:

- There are no cons associated with ensuring that legal requirements have been met before securing financing for the Livingston Street Community Center.

The City will secure approximately \$1.07 million to finance approximately half of the construction costs associated with the Livingston Street Community Center. The remaining construction costs will be financed primarily with grants and donations. The projected annual debt service costs associated with the \$1.07 million in debt proceeds ranges from \$120,000 to \$95,000. Funds are already included in the City's proposed debt service budget to cover this cost.

City staff recommends City Council adopt an initial resolution authorizing negotiation of an installment purchase contract and calling for a public hearing on May 25, 2010.

In response to Councilman Russell, Treasury Services Manager Pat Liguori said that this will be a 15-year note.

Councilman Russell requested that future staff reports outline the terms of the notes in the fiscal impact statement.

Councilman Davis moved to adopt Resolution No. 10-102. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

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H. RESOLUTION APPROVING THE LIST OF EVENTS FOR SUPPORT FOR OUTDOOR SPECIAL EVENTS IN ASHEVILLE FROM JULY 1, 2010 TO JUNE 30, 2011

Summary: The consideration of a resolution approving the attached list of events for support for outdoor special events in Asheville valued at **\$114,295.40** for support of outdoor special events from July 1, 2010 – June 30, 2011.

During the recent Request for Proposals (RFP) process, 33 organizations met the eligibility requirements for outdoor special event support for events from July 1, 2010 – June 30, 2011.

Given current economic limitation, staff recommends support for six events based upon the historical tradition, economic impact, and uniqueness of the event. These events are Asheville Drum Circle, Asheville Greek Festival, Asheville Holiday Parade, Downtown After 5, Goombay Festival, and Shindig on the Green. Support for events includes permit waivers (i.e. park usage permits, building/fire safety permits, etc.) and labor costs (i.e. police support, sanitation, public works).

Staff is further recommending that the city recover \$57,148 (50% of the total requested support costs) from these event organizers for each event. Moving to this tiered program would create a business model where the City of Asheville is not providing a 100% level of subsidy for outdoor special events but where the City would share in the costs with event organizers, thereby saving the City of Asheville a total of \$57,148 for FY10/11.

This does not support a specific goal, objective, or action item of the City Council Strategic Operating Plan. This does support the current Parks, Recreation, Cultural Arts and Greenways Master Plan by making organizations aware of the value of their support from the City and by providing clear criteria for support.

Pros:

- Events stimulate the local economy.

- Helps local organizations raise money.
- Provides additional quality cultural programming and diversity.
- Expands and enhances special events and festivals in Asheville.
- General Fund will recover 50% of event support cost.

Cons:

- Events have labor costs to the City in the amount of \$85,617.
- Events put a strain on City resources such as Police, Fire, Sanitation, Park Maintenance, etc.
- Lost revenue from permit fee waivers in the amount of \$28,678.
- Events contribute to decline on infrastructure such as parks.
- Some events close streets.

The fiscal impact to the City for the six events after recovering 50% of the cost from event organizers is \$42,808.50 in labor costs and \$14,339.50 in forgone permit fee waiver revenue for a total of **\$57,148** of city support between July 1, 2010 – June 30, 2011. Funds are included in the projected FY10/11 budget to cover this impact.

Staff recommends that City Council approve the list of outdoor special events below support based on the available budget for FY10/11 and recover 50% of cost from event organizers.

	total requested permit fee waivers FY11	total requested labor cost FY11	total requested support FY11	Permit & Labor Cost for Event Organizers	City Subsidy
Asheville Drum Circle	\$3,875	\$0	\$3,875	\$1,938	\$1,938
Asheville Greek Festival	\$10,742	\$1,342	\$12,084	\$6,042	\$6,042
Asheville Holiday Parade	\$1,562	\$39,462	\$41,024	\$20,512	\$20,512
Downtown After 5	\$2,143	\$14,780	\$16,923	\$8,462	\$8,462
Goombay Festival	\$2,942	\$26,869	\$29,811	\$14,906	\$14,906
Shindig on the Green	\$7,414	\$3,164	\$10,578	\$5,289	\$5,289
Anchor Event Total	\$28,678	\$85,617	\$114,295	\$57,148	\$57,148

Ms. Mary Shirley urged Council to co-sponsor the 2010 Mountain Area Memory Walk.

Ms. Oralene Simmons, representing the Martin Luther King Association of Asheville and Buncombe County Inc., urged Council to waive fees for the annual Martin Luther King celebration.

Mr. Bryon Greiner, President of the Downtown Association, urged Council to waiver fees for the Downtown After 5 events and the holiday parade.

Ms. Kitty Love, Executive Director of Arts2People, encouraged Council to support their interest in maintaining quality cultural programming content.

Councilman Bothwell moved to adopt a resolution approving the list of outdoor special events from July 1, 2010, through June 30, 2011. This motion died for a lack of a second.

Mayor Bellamy noted that some members of the community didn't have the opportunity for feedback prior to City Council and wondered if there was an opportunity to get that feedback and talk about some transitional programs opposed to straight cuts. She also felt that the City needs to do a better job of communicating and giving ample notice of changes so they can plan their activities accordingly.

Director of Parks, Recreation and Cultural Arts Roderick Simmons said that the Finance Committee reviewed this action, as well as the Recreation Board. Both bodies are open to the public. Direction is needed so departments know how much to allocate for these services. The effective date of this action would be July 1, 2010.

Council member each voiced their thoughts on co-sponsorship of the different organizations, noting the difficult budget year. Council has looked at this issue for the past two years and have looked for a fair way to support organizations while managing costs.

Vice-Mayor Newman agreed with Mayor Bellamy and suggested a transition process where this year there be a 25% cut and then next year a 50% cut so it will give the organizations more time to plan for that.

Councilwoman Manheimer suggested staff explore the concept of a partnership with some of the organizations so they can advertise the City's endorsement.

Mayor Bellamy also felt we need to revisit our policy on costs, e.g., using volunteers in some public safety roles, the number of City public safety people are needed, or having to pay permit fees for bagging meters during a City holiday. We need to try to help the organizations be successful if we can't give them the tools.

Vice-Mayor Newman moved to continue this matter until May 25, 2010, in order to give staff time to come back with alternatives based on Council feedback. This motion was seconded by Councilman Russell and carried unanimously.

I. ORDINANCE NO. 3845 - BUDGET AMENDMENT TO AMEND THE HEALTHCARE BUDGET

MOTION CREATING A BLUE RIBBON TASK FORCE ON HEALTHCARE TO REVIEW BENCHMARKS AND POLICY DECISIONS RELATED TO THE CITY'S HEALTH INSURANCE PROGRAM

Summary: The consideration of two items related to the City of Asheville's Health Insurance Program including (1) an amendment to increase the budget for the Health Care Program by \$2,500,000 to cover costs in the current fiscal year that have exceeded original budget estimates and (2) a recommendation to form a Blue Ribbon Task Force on Health Care to review benchmarks and policy decisions related to the city's health insurance program.

(1) FY 2009-2010 Healthcare Budget Amendment

As discussed with City Council during the Quarterly Financial Updates and recent Budget Worksessions, the City has experienced a significant increase in healthcare costs over the last five years due to several factors, including overall general inflation in health care costs, the occurrence of a number of high dollar claims, and the impacts of an aging workforce. In calendar year 2009 alone, the City experienced a 25% increase in the cost of medical, vision and drug claims.

With costs rising so dramatically in the past year, the adopted fiscal year budget for the health care program (\$11.2 million) has proven to be inadequate. Based on expenditure trends through the first nine months of the fiscal year, staff estimates health care expenses will end the

year at \$13.7 million, or \$2.5 million above the original budget. There are also several health care related revenues, such as employee contributions and insurance recoveries, that will exceed the original budget estimates by \$800,000.

To cover health care costs in the current fiscal year that are projected to exceed budget, staff recommends that City Council appropriate:

- \$800,000 in additional revenue, and
- \$1.7 million from the Insurance Fund's fund balance.

(2) Blue Ribbon Task Force on Healthcare

Staff is recommending a number of program changes, including increases to employee premiums and adjustments to plan benefits, to address the trend of rising health care costs. Additionally, city staff also recommends that City Council consider forming a Blue Ribbon Task Force on Healthcare. The task force's work may include an evaluation of best practices to determine the optimal range of health insurance-related benefits afforded to employees, cost-for-service comparisons, employer-employee cost-share analysis, review of the Asheville Project, as well as other areas of interest.

The task force would convene and meet July-December, and the group's work and final recommendations would coincide with the onset of the FY 11-12 budget process (January-February, 2011). City staff, including the Human Resources director, as well as employee benefits staff, would support the task force's work.

Staff would recommend that membership on the task force be comprised on three to five citizens with a background in Human Resources and health insurance management in a medium to large organization. City Council could call for applications to be made through the City Clerk's office, and staff would review and recommend appointments to City Council by June 22, 2010.

Information about the health care budget amendment and associated changes to the health care plan have been reviewed by the City Council Finance Committee and will be discussed at the City Council budget worksession on April 27, 2010.

Pros:

- Provides an adequate budget for the projected FY 2009-10 expenditures in the Health Care program.
- Support staff efforts to make structural changes to the city's health care program to curtail the impact of rising costs.
- Creates a citizen-led task force by which best practices and innovation can be recommended to ensure the city's health care program is efficiently and effectively managed.

Con:

- Reduces the available fund balance in the Insurance Fund.

The Healthcare Program is a part of the City's Insurance Fund, which also includes the Workers Compensation and Liability insurance programs. As of June 30, 2009, the available fund balance in the Insurance Fund totaled \$10.4 million. The \$1.7 million appropriation requested tonight will lower the estimated June 30, 2010 Insurance Fund fund balance to \$8.7 million. Based on standard benchmarks, fund balance should generally equal 6 to 9 months of a fund's operating expenses. At the current rate of expenditure in the Insurance Fund, 6 to 9 months worth of expenses equates to \$7.74 to \$11.62 million. Thus, the Insurance Fund's estimated fund balance of \$8.7 million on June 30, 2010 will remain within the range of an acceptable level.

City staff recommends City Council: (1) approve the budget amendment to appropriate \$2,500,000 to fund expenses in the Health Care Program, and (2) approve the creation of a Blue Ribbon Task Force on Health Care and call for applications to the Task Force through the City Clerk's office by May 31 so that staff can make recommendations for appointments to Council no later than June 22, 2010.

Councilman Russell, Chair of the Finance Committee, said that they felt it was a good idea to create a Task Force to look at our health care package.

In response to Mayor Bellamy, Director of Administrative Services Lauren said that this budget adjustment does not include General Fund dollars.

Due to past experience with the Blue Ribbon Civil Service Board Task Force, Mayor Bellamy felt it was important to have a staff component in the Blue Ribbon Healthcare. During the discussion on domestic partner benefits, she asked for, and it was supported by Council, to develop a task force of staff members to talk about health insurance, policies and plans. She hoped that was in place and that a representative from that committee be on the Blue Ribbon Healthcare Task Force.

City Manager Jackson said he is in the process of forming an employee benefits committee and at their first meeting he will ask them to nominate someone to serve on this Blue Ribbon Healthcare Task Force. He felt the committee will be formed next week.

Councilman Russell felt we definitely need to have a Human Resources representative on the Task Force.

Mayor Bellamy agreed that a Human Resources representative should be on the Healthcare Task Force, but also an employee representative (as was an oversight by Council when the Civil Service Board Task Force was established). She could not support the motion creating the Task Force if it does not include an employee representative.

Councilman Russell said that the Blue Ribbon Task Force needs to be an absolutely non-biased group of people that have no personal interest in this discussion. He suggested the Human Resources representative communicate to the City employees. At the end of the process, the Task Force will present a report to Council.

City Manager Jackson suggested five people in the business that manage health benefit plans in the community. We would also have someone there from the Manager's office and someone from the Human Resources Department to aid, assist and offer input. He felt the Mayor had a good suggestion to have someone participate and observe from an employee standpoint. The voting members should come from the five people in the business.

Councilman Smith suggested Councilman Russell serve as the City Council liaison to the Blue Ribbon Healthcare Task Force as he is one of those professionals we would be seeking input from.

Councilman Bothwell moved to adopt Ordinance No. 3845. This motion was seconded by Councilman Smith and carried unanimously.

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Councilwoman Manheimer moved to create a 5 voting member Blue Ribbon Task Force on Healthcare (consisting of people in the business that manage health benefit plans in the community) with Councilman Russell being the City Council liaison and someone from the City Manager's Office and the Human Resources Department to aid, assist and offer input. This

motion was seconded by Councilman Russell and carried on a 6-1 vote, with Mayor Bellamy voting "no."

J. ORDINANCE NO. 3846 - BUDGET AMENDMENT TO INCREASE THE BUDGETED AMOUNT FOR OUTSIDE LEGAL SERVICES

Summary: The consideration of a budget amendment, in the amount of \$15,000, to increase the budgeted amount for outside legal services.

The City Attorney's Office budget includes an item for legal services provided by retained attorneys (outside counsel). This includes assistance for such matters as complex litigation, complex real estate, and patent/trademark matters, where the City Attorney's Office does not possess the appropriate expertise on staff, or where professional/ethical conflicts arise. Outside attorneys are usually from local law firms.

Since December of 2009, the City Attorney's Office has experienced some unanticipated staff shortages that have resulted in an increased use of outside counsel. Also the trial of the Biltmore Lake annexation case, which involved outside counsel assistance, took substantially longer than expected.

It is anticipated that \$15,000 additional will cover outstanding invoices, and provide enough funding to get through the last quarter of the fiscal year.

Regarding the City Council Strategic Operating Plan, this action ensures operational effectiveness, and uses local services.

Pros:

- Facilitates provision of legal services not available on staff.
- Enables legal staff to address professional conflict issue.

Con:

- Further reduces an already tight annual budget.

This action will reduce Fund Balance by \$15,000.

Adoption of the ordinance is recommended.

Councilman Bothwell moved to adopt Ordinance No. 3846. This motion was seconded by Councilman Smith and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. CIVIL SERVICE BOARD UPDATE

Mr. Larry Harris, Chairman of the Civil Service Board, outlined their mission as defined by the N.C. General Statutes and updated Council on their three basic functions. Goals and objectives for 2010 are (1) to fulfill their statutory responsibilities by conducting grievance hearings when filed and conducting investigations when warranted; and (2) to review the substantive rules regarding employment as outlined in Section 5 of the Civil Service Act and recommend any changes to City Council.

On behalf of City Council, Mayor Bellamy thanked Mr. Harris and the entire Board for their efforts on this Board.

B. ECONOMIC STIMULUS PACKAGE UPDATE

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of City staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council, staff is providing an update to City Council on the Energy Efficiency and Conservation Block Grant (EECBG) program performance.

As part of the EECBG program staff is implementing an environmental education program for the community. The focus areas of this program include: recycling, stormwater, energy and climate. The first phase of this educational program focuses on recycling by partnering with the 21st Century Program to work with youth at the Burton Street Community Center. Students developed the community center's recycling station and designed the recycling posters to educate center visitors about the do's and don't of recycling. In addition the students wrote, choreographed and starred in an educational music video about recycling.

Ms. Rachael Doebber showed the music video about recycling and introduced the students who participated in the video.

C. SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT UPDATE

Mr. Matt Raker, Chair of the Sustainable Advisory Committee on Energy & the Environment Committee (SACEE) said that the conclusion of 2009 marks the three year anniversary of the Sustainability Advisory Committee on Energy and the Environment (SACEE). Since then, SACEE has helped the city chart a course towards sustainability through LEED standards, energy reduction goals and advising on policy issues. Our mission explains how we strive to continue on this path:

SACEE's mission is to support the Mayor and Asheville City Council in their charge to integrate sustainable principles related to energy and the environment into City operations and the broader community consciousness, while promoting economic viability, environmental stewardship, and social responsibility - with the intent to improve quality of life for this and future generations, through the following:

- *Policy Guidance:* Provide technical assistance to the Mayor and Council on institutionalizing environmentally sustainable practices by evaluating and developing current and future policies in support of City sustainability commitments.
- *Education:* Increase awareness of matters related to energy and environmental sustainability by developing and implementing outreach and education activities aimed at changing behaviors across a diverse cross-section of the community.
- *Partnership:* Provide leadership and support in creating synergy among public and private partners in the region to maximize efforts towards a more environmentally sustainable future.

The committee reflected upon the mission frequently this past year while the city's sustainability office and program experienced tremendous growth and transition. SACEE, along with the Office of Sustainability, moved from the Department of Public Works to the Administration Services Department. The transition was a smooth one, and resulted in an increased presence of the sustainability office within the city structure and day to day function of city operations. Around the same time SACEE provided policy guidance to Council regarding the

use of the \$804,700 of entitlement Energy Efficiency and Conservation Block Grant (EECBG) funds. The EECBG dollars are currently being spent on energy retrofits and renewable energy projects and have created 2 jobs to date.

Early summer 2009 marked a pivotal point in the city's commitment to sustainability when Council, with SACEE's support, adopted the Sustainability Management Plan (SMP). The SMP is the document to guide city operations as they work towards the City Council goal of reducing the municipality's carbon footprint 80% by 2050 at a rate of 2% each year. SACEE is proud to share that The City of Asheville has more than doubled that goal with an annual decrease of 5% from FY 2007-2008 to FY 2008-2009. The most recent carbon footprint is expected from the Office of Sustainability in fall 2010.

Lastly, SACEE worked closely with the Affordable Housing Working Group (AHWG) on green development incentives that the City of Asheville was authorized to develop in 2007 by the State of North Carolina. The SACEE and AHWG partnership efforts in 2009 were focused on a density bonus for developers. The bonus would be offered to developers who design projects with sustainability and affordable housing as a priority. SACEE looks forward to Council reviewing and considering the density bonus.

A full list of SACEE 2009 accomplishments are below as well as the concise goals and objectives of the committee for 2010.

- Worked on Green Density Bonus proposal, including research, determining point values, structure, accountability and rationale. The Committee made a motion in which SACEE supports a joint initiative with the Affordable Housing Working Group that incorporates density bonuses in areas where infrastructure exists to support increased density and services for the greatest number of citizens.
- As an activity of the climate change partnership with Warren Wilson, SACEE co-sponsored the College's conference, "Headwaters Gathering: Southern Appalachia at the Cross Roads." In addition, SACEE sponsored a discussion of local leaders with Majora Carter which focused on developing a green labor force. Attendees included city and county officials, local legislators, Representative Heath Shuler and other local leaders.
- Reviewed and gave input on the Sustainability Management Plan for City operations, endorsed the plan before it was presented to City Council.
- Supported and worked with Council members Cape and Newman on the proposal, now known as the Asheville Energy Independence Initiative. SACEE heard presentations on the initiative as it was being developed and before it was presented to City Council. SACEE sent a resolution to City Council endorsing a phase one pilot program for 2010 for the Asheville Energy Independence Initiative as well as a resolution supporting the use of bonds for fixed asset investment for public facilities for substantial increase in energy efficiency.
- SACEE has made efforts in educating the public and itself about sustainability issues. This included having an internal presentation and discussion about Environmental Justice, and presenting at the Earth Day event at the Public Works building, April 22.
- Regularly heard updates about the Sustainability office, and the progress on grants, community partnerships and internal planning & implementation. Also, SACEE heard regular reports on the data collection of city energy usage and efforts to increase efficiency. Staff kept SACEE up to date on Stimulus funding as it relates to Energy Issues.

- Presenting visitors at regular SACEE meetings included Shannon Tuch (City of Asheville), Margo Flood (Warren Wilson College), Michael Leahy (Asheville HUB), Adam Laucher and Beth Porter (UNCA Interns to City Sustainability Office) and Sherry Ingram of Water Werks.
- The City of Asheville has reduced energy consumption compared to the 2006-2007 baseline. These results will be detailed in the annual report produced by the Sustainability Office.

2010 Goals and Objectives

- Evaluate land use management components of the UDO to provide recommendations for better alignment with City goals and sustainability principles
- Support the City providing leadership and partnering with community partners to develop a plan for community-wide greenhouse gas emissions reduction
 - Need community action plan similar to Berkley, Pittsburg, and many others
 - Model the City of Asheville's internal plan to whole community
 - Ex: 80% in XX years.

As a conclusion SACEE would like to thank City Council for their continued leadership and prioritization of sustainability and climate change concerns.

In response to Councilman Bothwell, liaison to SASEE, Mr. Raker said that the City has an opportunity to send 2-4 voting representatives from our Building Safety Department to the International Building Code revision meeting to help shape the Code.

Vice-Mayor Newman noted that our sustainability results are getting noticed elsewhere and others are hoping to replicate our success.

On behalf of City Council, Mayor Bellamy thanked Mr. Raker, the entire Committee and Maggie Ullman for their efforts and leadership.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF PROPERTY LOCATED AT 18-20 MEADOW ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT

ORDINANCE NO. 3847 - ORDINANCE REZONING A PORTION OF PROPERTY LOCATED AT 18-20 MEADOW ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT

Mayor Bellamy opened the public hearing at 6:50 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of 18-20 Meadow Road from RS-8 Residential Single-Family High Density District to Urban Place District. This public hearing was advertised on April 16 and 23, 2010.

Mr. Esselstyn said that the property under review with this application is split zoned between Urban Place District (UP) and Residential Single Family High Density (RS-8). The UP portion of the property is located at the bottom of the slope adjacent to Meadow Road. The line dividing the two zoning districts appears to have been established years ago, at a time when this parcel contained tracks for a rail spur, and the railroad right-of-way was used as the dividing line. The railroad tracks have long since been removed, and while the zoning district boundary exists

in zoning maps, it would be extremely difficult, if not impossible, to locate with “survey grade” precision on the ground.

One of the applicant’s primary objectives in pursuing this rezoning is to re-establish the line with a description that can be precisely located on a modern survey. Potential developers of the property often wish to know exactly how much of the lot is commercially zoned, and at present, the property owner can not furnish that information, owing to the situation described above.

Another objective of the rezoning is to shift the zoning district boundary north, not all the way to the property line, but far enough up the slope that some retention of the slope could be undertaken without a Conditional Use Permit (CUP) process. A retaining wall related to a commercial development, but within the residential zoning, would constitute an ancillary non-residential use in a residential district, which requires review as a CUP. According to the applicant, the prospect of additional substantial review steps and public hearings, even for a small wall, has discouraged potential developers.

The applicant has requested that the zoning boundary be shifted north to an alignment 30 feet south of the northern property line. Under this proposal, then, a 30-foot strip of residential zoning would be preserved at the highest part of the lot, and the zoning district boundary could be precisely mapped relative to the property boundary. The additional area zoned UP would be roughly one-third of an acre. The northern boundary of the property is also separated from the adjacent residential uses by a 30 foot unopened right-of-way (created for Roebling Circle).

Staff feels that if a substantial retaining wall were to be proposed for this site, it is appropriate that it be reviewed as a CUP. Staff analysis suggests that any wall larger than a modest wall would require modification of the slope on the portion of the property which is proposed to be residentially zoned, triggering the higher standard of review.

Staff also recognizes the sensitivity of the St. Dunstan’s historic residential district up the hill from the site, and feels that a significant separation should be maintained between the subject property and those lots. In staff’s estimation, the combination of the vertical gap between the areas, the unopened right-of-way, and the proposed 30-foot-strip, as well as the landscape buffering which would be required, would combine to provide a suitable separation.

As of this writing, staff has received one communication from a neighboring property owner regarding this rezoning, and the citizen was simply seeking more information.

At their April 7, 2010, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the request.

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

Pros:

- Amount of property to actually change zoning designations is small.
- Proposed rezoning would allow location of the zoning boundary with high precision.
- Could encourage development and improvement of an underutilized property.

Con:

- Rezoning would allow commercial development slightly closer to the historic residential district than is currently allowed.

Staff views the proposed rezoning as an appropriate remedy and recommends approval.

Mr. Joe Miller, applicant, explained their concern is erosion for any potential development. He showed various pictures of the elevation difference between this property and St. Dunstan's Circle. He urged Council to approve this rezoning request.

Mayor Bellamy closed the public hearing at 6:55 p.m.

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

Councilman Russell moved for the adoption of Ordinance No. 3847. This motion was seconded by Councilman Davis and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER 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

RESOLUTION NO. 10-105 - RESOLUTION ADOPTING 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

Mayor Bellamy opened the public hearing at 6:56 p.m.

Community Development Director Jeff Staudinger said that this is a public hearing will be conducted to receive comments regarding the proposed 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 for the coming fiscal year., followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 16 and 23, 2010.

The City will have available approximately \$1.6 Million in CDBG funds and approximately \$1.4 Million in HOME funds in the fiscal year beginning July 1, 2010. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 36 programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2010-2015.

If approved, the HOME funds and some CDBG funds will assist in creating or improving 271 housing units and helping an additional 182 households afford housing Consortium-wide. CDBG funds will also benefit more than 8,500 low-income City residents through homeless services, housing counseling, small business assistance, and other needed services. Our partner agencies will contribute over \$29,000,000 of other funding to these programs, leveraging \$9.60 for every \$1 of HOME and CDBG funds.

A public hearing will be held at the Council meeting of April 27. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15.

This Annual Action Plan directly supports Council's Strategic Goals of: (1) Affordable: This plan directly supports the City's affordable housing plan, uses innovative public-private

partnerships to incentivize affordable housing development, and supports initiatives to end chronic homelessness emphasizing the Housing First model; (2) Green and Sustainable: works with regional partners creating green buildings and energy conservation; (3) Safe: Supports employment alternatives for youth at risk of gang exposure; and (4) Job Growth and Community Development: Supports diversified job growth and small business development; promotes sustainable high-density infill growth; and attracts and retains quality employees.

Pros:

- Approval of the Action Plan paves the way for the receipts of over \$3,000,000 of HUD funding to the City, which will be used to create affordable housing, create jobs, and improve public infrastructure.
- HUD funding will leverage \$29,000,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment. New assisted housing units to be constructed in Asheville will add significantly to the City's tax base. Staff will bring the FY 2010-11 CDBG and HOME budgets to City Council for adoption in June along with the rest of the City's FY 2010-11 Operating Budget.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2010-11 to the U. S. Dept. of Housing and Urban Development.

Mr. Roy Harris urged Council to support the Plan.

Mayor Bellamy closed the public hearing at 7:03 p.m.

In response to Councilwoman Manheimer, Mr. Staudinger explained what falls into the administration category.

Councilman Smith felt that all the projects deserve more attention and funding; however, we had less funds than last year to allocate. For those groups that did not receive funding, he encouraged them to reapply knowing they have worthy projects.

Vice-Mayor Newman noted that the Asheville Regional Home Consortium is a great model of regional cooperation.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-105. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33– PAGE 26

C. PUBLIC HEARING TO CONSIDER ADOPTION OF THE CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2010-2015

RESOLUTION NO. 10-106 - RESOLUTION ADOPTING THE CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2010-2015

Mayor Bellamy opened the public hearing at 7:08 p.m.

Community Development Director Jeff Staudinger said that a public hearing will be conducted to receive comments regarding the proposed Consolidated Strategic Housing and Community Development Plan for 2010-2015, which sets out the proposed priorities, strategies and performance targets for the use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for 2010-2015, followed immediately by Council's consideration of a resolution authorizing adoption of the Plan and submission of this Consolidated Strategic Housing and Community Development Plan for 2010-2015 to the US Department of Housing and Urban Development. This public hearing was advertised on April 16 and 23, 2010.

Every five years, the City is required to prepare a Consolidated Strategic Housing and Community Development Plan to set out broad priorities, strategies, and targets for the use of Community Development Block Grant (CDBG) and HOME funds. This Strategic Plan covers not just the City of Asheville, but also the four-county Asheville Regional Housing Consortium (Buncombe, Henderson, Madison, and Transylvania counties) within which HOME funds are used.

Under the direction of the Consortium Board, staff commissioned a detailed Housing Needs Assessment for the entire Consortium, and prepared a more limited assessment of non-housing community development needs for Asheville. Nine public meetings and 12 focus groups were held to gather community input on priorities and strategies. An on-line poll on priorities received 289 responses.

He reviewed with Council Buncombe County's highest priorities: (1) affordable rental housing, particularly for households earning 60% of median income or less; (2) coordinate housing development with transportation, jobs and services and make efficient use of land and infrastructure; (3) emphasize high quality, energy efficient, environmentally friendly designs; and (4) house those with special needs – the homeless, the frail elderly, persons with mental illness, and people with disabilities and help them succeed through support services coordinated with housing development. Additional priorities include (1) target low wealth neighborhoods for improvements that will improve housing conditions and create strong communities; (2) preserve existing housing and focus preservation efforts to make rental and homeownership housing affordable to promote long-term affordability; and (3) promote homeownership.

He also provided the highest priorities for Henderson County, Madison County and Transylvania County.

He explained the housing achievements for the Consortium for 2005-09 and the housing projection targets for the next five years (annual target is 240 total units and five-year target is 1200 total units).

He provided Council with the homelessness priorities and non-housing community development's highest priorities for the next five years.

Using numbers from the past five years of 2005-09, he provided Council with a list of non-housing outcomes assisted with CDBG funds. He also provided them with non-housing targets for the next five years.

The draft Plan was published on March 28, to allow for a 30-day public comment period. A final public hearing is required during this comment period. Staff will then seek Council's approval of the Plan.

The Annual Action Plan for 2010-2011, which allocates CDBG and HOME funds to specific activities over the next 12 months, is the subject of a separate public hearing and resolution, also on April 27.

This Consolidated Strategic Housing and Community Development Plan directly supports Council's Strategic Goals of (1) Affordable: Directly supports the City's affordable housing plan, uses innovative public-private partnerships to incentivize affordable housing development, supports the Housing Authority goals to redevelop public housing, and supports initiatives to end chronic homelessness emphasizing the Housing First model; (2) Fiscal Responsibility: Identifies resources for strategic initiatives and creates meaningful performance measure for programs and services, provides opportunity to leverage partnerships for capital improvements and infrastructure projects, and proactively pursues funding opportunities; (3) Green and Sustainable: Outlines how we work with regional partners creating green buildings and energy conservation, and supports implementation of a multi-modal transportation plan; (4) Job Growth and Community Development: Supports diversified job growth and small business development; promotes sustainable high-density infill growth; and attracts and retains quality employees; and (5) Safe: Supports recreation and employment alternatives for youth at risk of gang exposure.

Pros:

- The Consolidated Strategic Housing and Community Development Plan enables the City to access federal funding for affordable housing and community development, estimated at \$15,000,000 of direct funding over the next five years;
- These funds are used for projects that create affordable housing, create jobs, and improve public infrastructure.
- Other public and private investment in these projects has historically averaged over 9-1, potentially resulting in additional investment of over \$135,000,000 in the next five years;

Cons:

- Decision-makers and administrators must recognize that the Plan is a guide, not an unalterable dictate, and should stay alert to changing economic and social conditions. The Plan should not be an impediment to innovation.
- The use of the federal funds is regulated, and care must be taken to ensure compliance in the use and administration of the funds.

The Consolidated Strategic Housing and Community Development Plan provides the mechanism for receipt of significant federal funds by the City and region. These funds are used to primarily benefit low and moderate income persons through affordable housing, economic development, public services and public facilities. Staff costs to administer the program are fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment. Projects constructed using these funds have the potential to add millions of dollars to the City's tax base.

Staff recommends approval of the resolution authorizing adoption and submission of this Consolidated Strategic Housing and Community Development Plan for 2010-2015 to the US Department of Housing and Urban Development.

Mayor Bellamy closed the public hearing at 7:18 p.m.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-106. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33– PAGE 27

At 7:20 p.m., Mayor Bellamy announced a short recess.

V. UNFINISHED BUSINESS:

A. SHORT-TERM ACTION PLAN ON THE TRANSIT MASTER PLAN IMPLEMENTATION

RESOLUTION NO. 10-107 - RESOLUTION AUTHORIZING CITY STAFF TO IMPLEMENT CERTAIN OPERATIONAL CHANGES TO THE TRANSIT SYSTEM INCLUDING ON-TIME PERFORMANCE CHANGES, 30-MINUTE FREQUENCY, AND CONSOLIDATING EVENING ROUTES INTO DAY ROUTES

RESOLUTION NO. 10-108 - RESOLUTION AUTHORIZING CITY STAFF TO MOVE FORWARD WITH DEVELOPING A MARKETING STRATEGY TO PROMOTE THE OPERATIONAL CHANGES AND CREATING A NEW “BRAND” FOR THE TRANSIT SYSTEM

ORDINANCE NO. 3848 - BUDGET AMENDMENT TO SET UP THE PROJECT BUDGET FOR THE MARKETING STRATEGY PROJECT

Director of Transportation Ken Putnam said that this is the consideration of (1) a resolution authorizing City staff to implement certain operational changes to the transit system, based on recommendations included in the Transit Master Plan; (2) a resolution authorizing City staff to move forward with developing a marketing strategy to promote the operational changes and creating a new “brand” for the transit system; and (3) a budget amendment, in the amount of \$150,000 amending the capital projects budget to account for the \$150,000 marketing strategy cost.

As requested by City Council on March 9, 2010, the subject staff report has identified an alternative method to fund the 20% Local match for the marketing strategy cost.

The Transit Master Plan (TMP) was approved by City Council on October 27, 2009. As a part of the plan’s approval, City Council asked staff to meet with the Transit Master Plan Steering Committee and the Transit Commission to develop an action plan to begin the implementation process for the Transit Master Plan. City staff met with both groups during November and December 2009 and developed the action plan. The complete report was sent to City Council members on March 2, 2010. The action plan focuses on three operational areas; specifically, operational changes, fare structure, and marketing. The specific recommendations for each area are listed as follows:

- Operational Changes

In order to provide better service to our customers, 30-minute frequency is recommended along the main corridors. In order to accomplish this task, existing routes would be staggered in four corridors; namely, Patton Avenue – Routes 15 and 16, Haywood Road – Routes 1 and 9, Biltmore Avenue – Routes 4 and 8, and Tunnel Road – Routes 13 and 26. Merrimon Avenue would remain at hourly service (In order to achieve 30-minute frequency along Merrimon Avenue, an additional bus would be needed and that is cost prohibitive at this time).

System-wide on-time performance changes are also recommended. Currently, one of the biggest challenges the transit system faces is keeping the buses on-time mainly due to route deviations and Dial-A-Ride service. In order to accomplish this task, existing route deviations will be reduced or eliminated and Dial-A-Ride service will be stopped. The subject action will address driver's concerns with the current route schedules and the pressure they constantly receive from riders to be on-time. First Transit, the City's management company, stresses safety and has an extensive ongoing training program for the bus drivers. This training includes defensive driving, state laws regarding safe driving, accident reporting and investigation, and regular safety meetings. The overall purpose of the training is to ensure that the rider's safety is always the main consideration when using an Asheville Transit bus.

Finally, consolidating the evening routes with the day routes, eliminating the gap, and ending the evening routes earlier is recommended. This change will eliminate the current gap existing between day and evening routes and will provide service to 10:30 pm as recommended in the Transit Master Plan. The evening routes will replicate the day routes as much as possible making system navigation smoother for the rider. This change will save about \$65,000 per year.

The total cost to implement the 30-minute frequency on four of the five major corridors and the system-wide on-time performance changes, and the changes to evening service is \$44,000. \$31,000 of the cost is due to the production and printing of new maps and is included in the marketing section. The remaining \$13,000 will be absorbed in the current fiscal year's operating budget.

The timeline to implement these changes would be 120 days beginning after City Council approval.

Although the action plan recommends implementing the system-wide short-term recommendations as proposed in the Transit Master Plan including Sunday service, 30-minute frequency on all five main corridors, and more evening service, City staff is not asking for specific action at this time. This recommendation should be considered as a part of the overall ongoing budgetary process for Fiscal Year 2010-11.

- Marketing

One of the most important elements to enhance the Asheville Transit System, as expressed in the Transit Master Plan, is to develop a marketing strategy that focuses on the creation of a new image for the system and promotion of route changes including system "branding" (logo), color schemes for the buses, signs, and new maps. The City would hire a consultant to support and assist in the implementation of the marketing strategy. Marketing is an eligible expense under the annual Federal allocation, with an 80%/20% ratio (Federal/Local).

The total cost to implement the subject marketing strategy is a maximum of \$150,000, with \$120,000 being paid by Federal Funds and \$30,000 paid by City Funds. \$13,000 of the Local match will come from a settlement with Professional Transit Management, the former management company and the remaining \$17,000 will come from projected savings in the current fiscal year's transit operating budget. The consulting work represents 33% of the cost, which equates to \$50,000. The balance of the cost, \$100,000, will be used to produce and print the appropriate schedules and maps.

The timeline to complete the subject task would be 120 days beginning after City Council approval.

This action complies with the current City Council's Strategic Operating Plan for Fiscal Year 2009-10 by helping to support a sustainable community through a strong commitment to long-term planning and fiscal responsibility; and helping to establish a multi-modal transportation plan by making needed transit system improvements.

The Transit Commission and the Transit Master Plan Steering Committee support the subject actions. Both groups actively participated in the process to suggest the recommendations.

Pros:

- On-time performance changes will increase the transit system's reliability and will have a positive impact on the drivers and riders.
- 30-minute frequency on four of the five main corridors will give riders more mobility options and will potentially attract choice-riders to the system.
- The elimination of the evening gap and consolidating the day routes will make system navigation smoother for the rider.
- The marketing strategy will give a fresh image to the transit system, promote the operational changes, and highlight the new buses that the City should receive towards the end of the current calendar year.
- Federal Funds will provide 80% of the total cost of the marketing task, which equates to \$120,000.

Cons:

- The total maximum cost of the subject project is \$163,000.
- The \$13,000 cost to implement the operational changes would be absorbed by the current fiscal year's transit operational budget.
- A 20% local match, which equates to \$30,000, is required for the marketing task.

The total anticipated cost of the subject project is \$163,000. The \$13,000 operational changes cost will be absorbed by the current fiscal year's transit operational budget. The marketing strategy cost of \$150,000 will be funded with Federal Funds at the rate of 80% or \$120,000 and the balance of \$30,000 by the City. The Local match is funded through monies that will come as a \$13,000 settlement from the former management company and \$17,000 in projected savings from the current fiscal year's Transit Fund operating budget. Throughout the current fiscal year, City staff has been projecting that the Transit Fund operating budget would finish the year with better than budget performance of approximately \$56,000. Even by absorbing the subject \$30,000 in the current fiscal year's operating budget, Transit should still finish the year about \$26,000 better than budget. No additional funding from the General Fund is required for this project.

City staff recommends that City Council adopt (1) a resolution authorizing City staff to implement certain operational changes based on recommendations included in the Transit Master Plan; (2) a resolution authorizing City staff to move forward with developing a marketing strategy to promote the operational changes and creating a new "brand" for the transit system; and (3) a budget amendment amending the capital projects budget to account for the \$150,000 marketing strategy cost.

Mr. Mike Fryar did not support spending \$150,000 for marketing.

Ms. Hanna Raskin, Chair of the Transit Commission, spoke in support of these short-term initiatives.

Mr. Paul Van Heden, Vice-Chair of the Transit Commission, felt these actions are a start and urged Council to support them.

Councilman Russell felt that he could not support spending \$150,000 for a marketing plan.

Mayor Bellamy noted that 80% of the budget will be federal funds and was pleased to see that staff has found an alternative way to raise the City's 20% (\$30,000) portion. Transit is an important asset to our community as 17% of our transit users don't have any other means of transportation to get to school and work. We do subsidize the transit system, but we also subsidize other programs that provide services as well.

Councilman Bothwell felt transit benefits the workers and also the businesses that hire the workers. He felt that using transit is cheaper than building new parking spaces.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-107. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 28

Vice-Mayor Newman moved for the adoption of Resolution No. 10-108. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no".

RESOLUTION BOOK NO. 33 – PAGE 29

Councilman Bothwell moved for the adoption of Ordinance No. 3848. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no".

ORDINANCE BOOK NO. 26 – PAGE

B. PARKING DECK RATES UPDATE

Transportation Director Ken Putnam said that purpose of the subject memorandum is to provide City Council a final report regarding the impact that the new variable parking rate structure is having on after hour's customers to the City's three parking decks (*The term "after hour's customers" refers to the activities that take place in the City's three parking decks after 7:00 pm on weekdays and on weekends*).

In addition, City staff will provide an update regarding the discount rates for parking in the decks that were approved on October 13, 2009 (Resolution # 09-217).

Prior to the equipment upgrade that was completed in the City's parking decks during September 2009, a flat \$1.00 fee was charged to customers exiting the Civic Center Deck and the Rankin Avenue Deck and a flat \$2.00 fee was charged to customers exiting the Wall Street Deck after 7:00 pm on weekdays and on weekends (*not including times when the special event fee was in effect*) because the old equipment could not support variable rates. Some customers quickly learned that they could enter one of the City's parking decks anytime during the day and if they waited until 7:00 pm to leave, they would only pay either a \$1.00 or \$2.00 (*in the Wall Street Deck*) instead of the appropriate fee up to the daily maximum. Not only did this practice decrease potential revenues to the City, it created an unequal rate structure compared to daytime customers.

City staff began the process to replace the old equipment in late 2005. Originally, the equipment upgrade project was going to be included with the Haywood Street Parking Deck project. When that project did not materialize, City staff recommended and City Council approved the funds for the equipment upgrade project in FY 2008-09. In addition, City Council approved the variable rate structure and eliminated the flat fee as a part of the FY 2008-09 budget process. Given the downturn in the economic climate that began in late 2008 and continued in 2009, City staff decided that it would be a good idea to revisit the new variable rate structure before it was

implemented. They met with the Asheville Downtown Association and the Downtown Commission and both groups agreed that City staff should move forward with implementation. City Council also agreed that City staff should move forward and as a result, the new rate structure became effective on September 8, 2009.

Within the first 30 days that the new rate structure became effective, citizens began sharing some concerns with City Council members. The primary concern included the conclusion that long-term customers (*nighttime workers*) were now being “forced” out of the parking decks and onto the streets where on-street parking is free after 6:00 pm. As a result, these long-term customers are now using on-street parking spaces that should be used by restaurant patrons and shoppers.

In order to analyze the primary concern in a fair, logical, and reasonable manner, City staff suggested that parking activity be monitored closely for a six-month time period between October 1, 2009 and March 31, 2010 and then compare the results with the same time period a year ago. City Council agreed with this suggestion and asked that an interim report be presented on February 9, 2010 and the final report to be presented on April 27, 2010.

According to our records, 47,100 after hour’s customers used the City’s parking decks between October 1, 2008 and December 31, 2008 compared to 46,700 after hour’s customers between October 1, 2009 and December 31, 2009. The data indicates that the after hour’s parking deck usage has virtually remained at the same level with a decrease of only 400 customers. Much of the decrease could be attributed to the major snowstorm that hit Asheville on December 18, 2009.

Under the old flat rate structure, the City would have received a minimum of \$47,100 in revenue (*not accounting for the \$2.00 fee in the Wall Street Deck*). With the new variable rate structure, the City actually received \$65,400 in revenue. It should be noted that 44% of the after hour’s customers paid less than \$1.00 to exit the parking decks. 65% of the after hour’s customers (44% + 21%) paid less than \$2.00 to exit. The total “stay” for these customers was less than three hours with the first hour being free. The remainder of the after hour’s customers stayed in the parking decks for three hours or more (*93% stayed in the parking decks for a total time period of less than eight hours with the first hour being free*).

FINDINGS – FINAL REPORT - According to our records, 86,700 after hour’s customers used the City’s parking decks between October 1, 2008, and March 31, 2009, compared to 81,300 after hour’s customers between October 1, 2009, and March 31, 2010. The data indicates that the after hour’s parking deck usage has virtually remained at the same level with a decrease of 5,400 customers. Much of the decrease could be attributed to the major snowstorms that hit Asheville during the winter months. In an effort to encourage citizens to keep their vehicles off of the streets during the snow cleanup periods, free parking was offered to anyone at the three City parking decks. During four of the major snow events, the City experienced a decrease of 8,200 customers in the parking decks, which exceeds the overall total decrease for the six-month test period. Based on this information, a reasonable conclusion can be made that if the snow events had not occurred, the after hour’s customers would probably have been higher than the previous year.

Under the old flat rate structure, the City would have received a minimum of \$86,700 in revenue (*not accounting for the \$2.00 fee in the Wall Street Deck*). With the new variable rate structure, the City actually received \$119,800 in revenue, a 38% increase. It should be noted that 45% of the after hour’s customers paid less than \$1.00 to exit the parking decks. 66% of the after hour’s customers (45% + 21%) paid less than \$2.00 to exit. The total “stay” for these customers was less than three hours with the first hour being free. The remainder of the after hour’s customers stayed in the parking decks for three hours or more (*93% stayed in the parking decks for a total time period of less than eight hours with the first hour being free and 7% stayed in the parking decks for more than eight hours*).

PARKING DECK DISCOUNT RATES

City Council approved the following discount rates for parking in the decks on October 13, 2009 (Resolution # 09-217):

- A 15% discount for 10 or more monthly parking spaces owned by one individual or agency in the Civic Center Parking Deck.
- A 10% discount of five to nine monthly parking spaces owned by one individual or agency in the Civic Center Parking Deck.
- A 15% discount for 300 or more bulk vouchers purchased at one time by the same individual or agency for hourly parking in any of the City Parking Decks.

Currently, five individuals and/or agencies are taking advantage of the 15% discount affecting 145 parking spaces in the Civic Center Parking Deck and seven individuals and/or agencies are taking advantage of the 10% discount affecting 46 parking spaces in the Civic Center Parking Deck (*During October 2009, a total of 13 individuals and/or agencies took advantage of the discounts*). Three to four agencies are taking advantage of the 15% discount for 300 or more bulk vouchers purchased at one time for use in any of the City Parking Decks.

CONCLUSIONS

As stated earlier, the purpose of the subject memorandum is to provide City Council with information (*based on actual use of the parking decks for the six-month period from October 1, 2009, through March 31, 2010*) regarding the impact that the new variable parking rate structure is having on after hour's customers. Although, we cannot measure how many customers are now using on-street parking spaces because of the new rate structure, the data suggests that the usage is virtually the same or higher when compared to the time period from October 1, 2008, through March 31, 2009, when the major snow events are removed. The City is currently experiencing a strong demand for parking spaces during the evening hours especially on the weekends.

Another issue that City staff has been monitoring is how well the new parking deck equipment responds to special event activities. This equipment, which now accepts credit and debit cards, responds well during times of normal exiting activity throughout a typical day. It does not respond well during exiting activities for a special event when everyone is leaving at the same time with only one available exit access point for the Rankin Street and Wall Street Parking Decks. Typically, during special events, a special event-parking fee is charged and is collected when the customers enter a parking deck. That way, no time is lost for fee collection as customers leave a parking deck. City staff has experimented with having a special event fee at the Civic Center Parking Deck but not at the Rankin Street and/or Wall Street Parking Decks in an effort to provide choices for all of the customers coming to downtown including the ones that are not attending the special event. Based on customer feedback, that experiment has not worked in a satisfactory manner. In an effort to improve the customer experience, we are now staffing the Rankin Avenue and Wall Street parking decks until 11:00 pm on Fridays and Saturdays throughout the summer (*we also provided an extended service during the months of November and December 2009*). City staff continues to look for ways to improve the customer experience and we will continue to make appropriate changes.

Based on this information, City staff does not recommend any specific changes at this time. We can and will continue to monitor the parking activity to identify any unusual trends that might develop.

In response to Councilman Smith, Mr. Putnam said that the City Attorney will be bringing a report to Council regarding handicapped parking policy downtown.

Councilwoman Manheimer felt that to park in our decks is a good deal, and felt the City should continue to evaluate whether we are charging a market rate for a destination city such as Asheville.

Mr. Putnam responded to Mayor Bellamy when she suggested providing incentives for handicapped people to park in our parking garages.

VI. NEW BUSINESS:

A. MOTION TO APPROVE DOWNTOWN ASSOCIATION FEE WAIVER REQUEST THROUGH DECEMBER 2010 FOR CULTURAL ARTS PROGRAM IN PRITCHARD PARK

Superintendent of Cultural Arts Diane Ruggiero said that this is the consideration of a request from Asheville Downtown Association (ADA) to waive park rental fees in the amount of \$21,650 and to waive fire, zoning and technical review fees in the amount of \$11,076 for a total fee waiver in the amount of \$32,726 for a cultural arts program at Pritchard Park.

ADA proposes conducting a cultural arts program at Pritchard Park during the park's regular operation hours according to the dates listed on the attached documents.

The mission of the ADA is to be a voice of the downtown community and to promote and support quality economic, cultural and residential development of downtown Asheville. All of the events conducted by ADA will be free and open to the public.

In 2008, the City supported the cultural arts program in Pritchard Park in which the City allocated \$10,000 in cash and waived the park rental fee and fire, zoning and technical review permit fees for a total value of \$17,585. In 2009, the City continued to support the cultural arts program and waived park rental fees and fire, zoning and technical review permit fees for a total value of \$9,011.

For 2010, the ADA is requesting permit and fee waivers for a total of 117 event days from May 2010 until June 2011. The total event permits include park rental fees (valued at \$21,650) as well as fire, zoning and technical review permit fees (valued at \$11,076) for a total fee waiver in the amount of \$32,726 for the said events.

This would represent a 41% increase in the number of events from last year held by ADA for programming in the park.

The additional events days will put a strain on City resources such as Police, Fire, Sanitation, Park Maintenance and will have a greater impact on the availability and usage of the park by other citizens and groups.

Pros:

- Enhances ADA's ability to provide cultural arts programming in Pritchard Park
- Supports recommendations of the Downtown Social Issues Task Force

Cons:

- Lost revenue from permit fee waivers in the amount of \$2,964;
- Lost revenue from park rental fees in the amount of \$6,275;
- Reduces the use of the park by other groups or individuals;
- Limits park reservation availability to only Monday's and Wednesdays.
- Events put a strain on City resources such as Police, Fire, Sanitation, Park Maintenance, etc.

Under staff's proposal, the lost revenue to the General Fund for facility rentals, permits and technical review will be \$9,239.

City staff recommends City Council to approve waiving of the requested park rental fees for May and June, 2010 in the amount of \$6,275, and the fire, zoning and technical review permit fees in the amount of \$2,964 for a total value of \$9,239; and that the Parks and Recreation Advisory board develop a recommendation for council consideration for the cultural arts program in Pritchard Park for the remaining dates requested by ADA.

Vice-Mayor Newman moved to waive the requested park rental fees for May and June, 2010 in the amount of \$6,275, and the fire, zoning and technical review permit fees in the amount of \$2,964 for a total value of \$9,239; and that the Parks and Recreation Advisory board develop a recommendation for council consideration for the cultural arts program in Pritchard Park for the remaining dates requested by ADA. This motion was seconded by Councilwoman Manheimer.

Mr. Bryon Greiner, representing the Downtown Association, briefly explained the history of programming in Pritchard Park. He said they are not asking for cash, but for fee waivers to program the park 4 days a week. He felt that there would not be a strain on others using the park because not a lot of people are scrambling to rent the Park. Their budget is planned per calendar year, noting the programming includes the holiday parade, and asked Council to waive the fees for 2010 and the programming dates in May/June 2011.

Ms. Kitty Love also explained the history of how the program in the Park first started in 2008. City Council was concerned with how the Park was being used and after a group of citizens looked at best practices and successes in other places, it was determined if you bring more people in the Park it will be used. City Council then appropriated \$10,000 seed money to get the programming started. She encouraged Council to approve these fee waiver requests because we have had success with this program. It also benefits the lives of grassroots artists in our community.

One of the artists in the Pritchard Park programming, the Hoop Jam, urged Council to waive the fees. She showed pictures of how her particular business has brought people into the Park.

Mr. Adrian Vassallo, Treasurer for the Asheville Downtown Association, said that they want to not only complement the program but partner with existing businesses downtown. He hoped Council would look favorably upon their request.

Councilman Bothwell wondered if these fee waivers should be a part of the conversation of co-sponsorship that was continued to May 25. He also wondered if we will be setting aside other events in Pritchard Park since the Downtown Association is booking up all Saturdays and Sundays.

Councilman Smith supports the Downtown Association and acknowledges the benefits for downtown, but we are raising fees at one meeting and then waiving them for one organization without consideration of other organizations in other parks. He felt this should be discussed in the other conversation about fee waivers and event subsidies in general. He did not want to look at these fee waiver requests on a case by case basis. As a compromise this time for the Downtown Association he would offer that we waive all fees in Pritchard Park for the entire year for all groups.

In response to Councilman Smith's compromise, Vice-Mayor Newman felt we need to think through all the groups that use Pritchard Park because there might be some that we would have a trouble explaining to taxpayers why we waived their fees for their event. He would not support Councilman Smith's suggestion to waive all fees in Pritchard Park for the year.

In response to Vice-Mayor Newman, Mr. Greiner said that in the fall of 2009 the Downtown Association agreed to take over the programming aspect. They were under the impression that the Friends of Pritchard Park's permit ran until May 31 of this year so they applied for the period of June 1, with the idea that this year's programming would start under their permit. However, they now understand that their permit expired on December 31. They thought everything was in place when they did planned their budge for the entire year.

Vice-Mayor Newman supported waiving the fees through the end of December, 2010. He felt these are different events than co-sponsorship events. We should support this because we are trying to reclaim our space that has been troubled in the past. If we don't support this programming in this Park, we will spend more money for law enforcement.

Councilman Bothwell noted that the nationally known Drum Circle brings in far more people than probably all four days of events to downtown and they are talking about raising fees for them.

Councilman Smith looked forward to discussions of a clear policy as to what we want to do with our parks.

Councilwoman Manheimer noted that some entities who apply for grants for a certain amount of money have to prepare a thorough grant application with all kinds of scrutiny to demonstrate that they are a sound organization to receive the funds. That may be something we need to adopt so we can maintain a more objective posture in what we fund, recognizing that there is value in funding a lot of different programs through fee waivers.

The motion made by Vice-Mayor Newman to waive the requested park rental fees for May and June, 2010 in the amount of \$6,275, and the fire, zoning and technical review permit fees in the amount of \$2,964 for a total value of \$9,239; and that the Parks and Recreation Advisory board develop a recommendation for council consideration for the cultural arts program in Pritchard Park for the remaining dates requested by ADA and seconded by Councilwoman Manheimer carried on a 6-1 vote, with Councilman Smith voting "no."

Mayor Bellamy said that staff has been directed to come back to Council on May 25 regarding co-sponsorships. When staff comes back with whatever is recommended, she asked that the formula not be just for this fiscal year but at least for two years. While we are on a fiscal year calendar (July 1-June 30), others in the community may not be. We need to let the community know what to expect. If we are clear up front with the rules, we won't have so many exceptions at the end.

Councilman Davis moved to waive the requested park rental fees and the fire, zoning and technical review permit fees through the end of December, 2010, with a larger on-going conversation how we deal with Pritchard Park. This motion was seconded by Councilman Russell.

Mayor Bellamy noted that we have volunteers and community partners helping us with our problems. We changed the rules when we stopped giving money and fee waivers without letting them know in advance. She felt that programming in Pritchard Park and the Nuisance Court has really transformed Pritchard Park.

Discussion occurred, initiated by Councilwoman Manheimer, about a long-term partnership agreement with the Downtown Association.

City Attorney Oast said that as a result of the negotiations there is some need for the fee waiver structure between now and the end of the year to change, it can be covered in the partnership agreement.

Councilman Smith could not support the fee waivers; however, he would support a partnership agreement between the parties.

The motion made by Councilman Davis to waive the requested park rental fees and the fire, zoning and technical review permit fees through the end of December, 2010, with a larger on-going conversation how we deal with Pritchard Park and seconded by Councilman Russell carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

B. RESOLUTION NO. 10-109 - RESOLUTION APPROVING A HOUSING TRUST FUND LOAN TO MOUNTAIN HOUSING OPPORTUNITIES (LARCHMONT)

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing approval of a Housing Trust Fund loan to Mountain Housing Opportunities - Larchmont.

Staff has received an application from Mountain Housing Opportunities (MHO) requesting \$400,000 from the Housing Trust Fund (HTF) for the development of sixty (60) affordable rental units at 785 Merrimon Avenue. The application was presented to the Housing and Community Development Committee (HCD) on January 28 and was recommended for approval. A zoning change request from Institutional to Urban Residential Conditional Zoning was heard and approved by City Council on March 23rd.

A. Available Funds

The current available balance in the Trust Fund is \$282,909.24. Given the limited resources available, HCD has chosen to commit funds contingent on the anticipated receipt of future program revenue. Disbursements for the Larchmont project are not expected to occur until early 2011. Scheduled HTF payments for the remainder of the calendar year are projected at \$146,591. This estimate includes regular monthly payments of principal and interest and scheduled loan payoffs.

Due to uncertainty about continued support from the general fund, this estimate does not include any new appropriations that may be allocated during the annual budget process. Additional program income may be realized through land sales, release fees, and/or early loan payoffs but have not been considered in these projections as the payments would be speculative and the timing of receipt is unknown. Late year construction loan payments have also been excluded given the potential for delays in construction that may require a short-term extension.

B. Project Proposal

The proposed project is a multifamily development on 2.29 acres bordering East Larchmont Rd, east of Merrimon Avenue and directly behind the Grace Station Post Office. The site was formerly occupied by the Naval Reserve Center which has since been demolished. The property is easily accessible to transit, employment, and services and meets many of the City's strategic goals and objectives. The total anticipated project cost is \$8.2 million.

The application scored 118 of a possible 130 points. The terms requested are \$400,000 at 2.00% interest for 30 years, representing 4.9% of total project cost. Payments will be interest-only with principal deferred. The per-unit subsidy is very low at \$6,667. The project will be heavily leveraged with tax credit financing and all units will remain affordable to those below 60% AMI for a minimum of 30 years. There will be a variety of 1, 2, and 3-bedroom floor plans. In response to current community needs, more than 50% of the units will be one-bedroom units. Three (3) units will be ADA compliant and an additional three (3) units will be handicapped visitable.

The project directly supports the City's Strategic Operating Goals in the following areas (1) *Affordable*: The project proposal is supportive of the City's goal of providing safe and decent

affordable housing units to the citizens of Asheville; and (2) *Sustainable*: The proposed project provides new housing units located near transit lines, higher urban development densities, and encourages higher standards of energy efficiency. The project also addresses the priorities of the Consolidated Strategic Housing & Community Development Plan by increasing the housing stock, providing affordable rental units, building high quality energy-efficient housing, and coordinating development with transportation and jobs.

Pros:

- A large number of affordable units will be created.
- Low per-unit subsidy.
- Development team has been successful on similar projects.
- The urban location provides easy access to employment, transit, and services.
- 30 years of guaranteed affordability.
- Very low site development costs.
- The development will obtain Energy Star certification.
- Addresses the need for additional one-bedroom units.
- The project is heavily leveraged with other funding.

Cons:

- The estimated land cost is very high at \$30,000 per unit. The developer is confident that they can absorb this cost as a result of the very low site development expense.
- Final sales price of the land has not yet been established (lesser of \$1.8 million or the appraised value).
- Land has not yet been appraised.
- The projected rate of sale for tax credits is very optimistic. Failure to find an investor at the projected sales price of .76 cents could substantially reduce equity and create a financing gap that would need to be filled through other sources.

The current balance in the Trust Fund is \$282,909.24. There are insufficient funds at the present time to fully fund the proposed development; however, anticipated program revenues in the amount of \$146,591 are expected prior to disbursement of the \$400,000 to MHO in early 2011. This forward commitment allows the City to support an additional project and utilize existing resources to the fullest extent possible.

If the loan is approved as requested, the available fund balance will be reduced by \$400,000 to -\$117,090.76; however, additional funds anticipated in the new budget year will return the fund to a positive balance. All disbursements from the Housing Trust fund for the proposed project will be subject to the availability of funds and will be made only upon receipt of program income equal to or greater than \$117,100.

The project is new construction and is anticipated to add \$8.2 million dollars in new development to the City tax base.

The Housing and Community Development Committee recommends City Council approve a resolution approving a loan of \$400,000 to Mountain Housing Opportunities for the development of 60 rental units at 785 Merrimon Avenue.

Vice-Mayor Newman felt this is a good way to utilize our Housing Trust Fund dollars to leverage private investment.

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 Manheimer moved for the adoption of Resolution No. 10-109. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 30

C. ORDINANCE NO. 3849 - ORDINANCE REGULATING SMOKING IN MUNICIPAL BUILDINGS AND ON MUNICIPAL GROUNDS

Assistant City Attorney Kelly Whitlock said that this is the consideration of an amendment to Chapter 11 of the City's Code of Ordinances pertaining to smoking as a result of the new state law giving local governments increased authority to regulate smoking on municipal grounds and public places.

In 2009, the North Carolina General Assembly enacted a law that creates a statewide prohibition of smoking in restaurants, bars and certain lodging establishments, and also gives local governments increased authority to regulate smoking on municipal grounds and public places. The new law went into effect on January 2, 2010.

Previously, local governments could regulate smoking in government buildings and vehicles but this authority did not extend to parks or other municipal grounds. The new law extends the local government's authority to regulate smoking to "grounds", which is defined as an unenclosed area owned, leased, or occupied by local government, and "public spaces" which is defined as an enclosed area to which the public is invited or in which the public is permitted. While this is a significant expansion of regulatory jurisdiction, it does not include streets or sidewalks within the public right-of-way. The new law specifically prohibits local governments from regulating smoking in certain private premises, including residences and vehicles, tobacco shops, the premises of tobacco products processors/manufacturers, designated smoking guest rooms in lodging establishments, cigar bars, private clubs, and motion picture, television or theater sets.

For counties, a prerequisite to local government action is that a rule or policy must be adopted by the local board of health after July 1, 2009. Pursuant to this provision, the Buncombe County Board of Health adopted a resolution recommending that smoking be prohibited in all County facilities and on all County property. On August 4, 2009, Buncombe County passed an ordinance which extended its smoking prohibition to include Buncombe County grounds and Buncombe County vehicles. Buncombe County's prior ordinance only prohibited smoking in County buildings.

On October, the new law was discussed with the City's Recreation Board and the Public Safety Committee. The Recreation Board recommended that smoking be prohibited in parks and greenways; the Public Safety Committee expressed concern with the enforceability of an ordinance that encompassed so many properties and so much area. In addition to these formal reviews, there have been informal discussions regarding other public facilities, such as Pack Place and the airport, where the City owns the property but does not directly operate the facility. The Civic Center is directly operated by the City but is included here because of its function. Under the current ordinance, smoking in these facilities is regulated by the operating entities. City staff also attended an on-line program sponsored by the School of Government where the effect of the new law was discussed.

On the basis of this information, the following changes have been incorporated into the proposed ordinance:

1. Prohibition of smoking in all City parks and greenways, as recommended by the Recreation Board.

2. Prohibition of smoking on other municipal "grounds" directly controlled or operated by the City (e.g., City Hall, Public Works) except in areas designated by the City Manager (as in current ordinance).
3. Prohibition of smoking within or on grounds of other facilities owned by the City, but operated by other entities (e.g., airport, Pack Place, Civic Center Commission) except as allowed by facility management.
4. Substantial revision of Sec. 11-34 which regulated smoking in businesses to conform to State law, which is more restrictive and pre-empts the local ordinance. Also, replaces the word "business" with the words "public place" to conform to State law usage.
5. Revision of penalties section to conform to State law.
6. Deletion of Sec. 11-32(2) because the Transit Authority no longer exists, and the transit facilities are directly controlled by the City. Transit Commission may be the appropriate agency to delegate.
7. Deletion of Sec. 11-32(6) because the law gives local boards of education authority to adopt and enforce policies regarding smoking in school buildings and grounds.

Continuing to smoke in violation of this ordinance constitutes an infraction, and the person committing the infraction may be punished by a fine of not more than (\$50.00).

Pros:

- Provides a healthier environment for City employees and public on municipal grounds
- Eliminates the potential for secondhand smoke on municipal grounds
- Reduces litter of cigarette butts on municipal grounds

Cons:

- Reduces the number of smoking areas available to smokers
- Enforcement challenges due to limited staff and the extensive number of areas affected by the regulations
- Enforcement challenges involving greenways located on private property
- Need for additional staffing
- Need for additional signs

This action complies with the City Council Strategic Operating Plan in the focus area of "green" by increasing downtown cleanliness and beautification efforts.

The changes could potentially have a fiscal impact due to the need for additional staffing and signs. Staff is not able to accurately estimate the impact at this time.

If Council approves of the proposed changes, adoption of the ordinance is recommended.

In response to Councilman Bothwell's concern about enforcement, Ms. Whitlock said that we do recognize that enforcement will be a challenge. The enforcement will be self-policing and the City will have to rely upon complaints by citizens, similar to other regulations that affect our parks, e.g., no drinking, no public urination, not being in the park after hours, etc.

Councilman Smith said that the County has not written a single citation since adoption of their ordinance in August of 2009. Their idea is that it is a community policing effort and where they have found people smoking they are trying to find a way to do better signage. Since there

may be people in violation who do not have the \$50 fine, perhaps they could be referred to the Nuisance Court.

City Attorney Oast said that our agreement with the Nuisance Court allows us to specify the kinds of offenses that we can take there and this could certainly be one of them.

When Councilman Smith asked if we choose to police this at Pritchard Park, for example, can we direct some or all of that money to a fee waiver fund, Ms. Whitlock replied that we cannot.

In response to Councilman Smith, Mr. Byron Greiner, representing the Downtown Association, said that they are in favor of banning smoking in parks.

City Attorney Oast said that staff recommends an effective date of July 1, 2010, in order to allow staff to notify the public and put up appropriate signage.

Mr. Dwight Butner felt that any restaurant that has had smoking in the past would want to allow any guest to be able to smoke outside. He suggested if there is going to be active enforcement of the ordinance that we target those aspects of the ordinance which might have an increased risk of public health.

In response to Councilman Bothwell, City Attorney Oast explained that the ban does not include streets and sidewalks, unless the sidewalk runs through the park.

When Councilman Bothwell asked about the cost of signage, Director of Parks, Recreation and Cultural Arts Roderick Simmons said that he would have to get that information for Council, but we will save some costs because they will be on the same pole as other signs.

Vice-Mayor Newman noted that the Civic Center Commission is an advisory board. He wondered if Council is specifically delegating the authority to them to decide the smoking policy at the Civic Center. Mr. Whitlock said that it does give the authority to the Civic Center Commission to delegate no smoking areas and that they have had this authority since 1993. Councilman Davis noted that the Civic Center has a smoking patio outside.

When Vice-Mayor Newman questioned what the City Manager's approach will be to prohibit smoking on City property, City Manager Jackson said he does not plan to make any revisions to what we have in our buildings at this time. We have limited options available to lessen the risk of second hand smoke, lessen the impact upon non-smokers, out of public view and not near a ventilation intake. He would be happy to take a comprehensive look at what we currently do in City facilities, but it hasn't been an issue.

Vice-Mayor Newman didn't see the logic in saying that on a greenway route where you interact with very few people you can't smoke, but you can stand next to City Hall and have a cigarette. This may be something that the City Manager should report back to Council and look at the County's and Mission Hospitals' experience is going and think through if we should consider a more comprehensive ban on smoking on City properties.

Councilman Russell noted that smoking was prohibited on State Farm facilities nationwide in the 1990's and operation managers designated a small area, usually in the back door, for smokers. He felt this approach has worked well.

Councilman Smith noted that the greatest problem with our air quality is coming from vehicle emissions. From a public health standpoint, banning smoking will help a little.

In response to Mayor Bellamy stressing the need to notify the public about the prohibition and penalty, City Attorney Oast said that education will be on-going and staff will put notice on the

City's website, notices on Parks kiosks, use the City's government channel, possibly insert a flyer with employee's pay stubs, etc.

Ms. Mary Ann West spoke in support of the ordinance.

Mr. Jeff Turner, veteran, felt that Council was taking away people's rights.

Mayor Bellamy said that the City is not prohibiting people from smoking on streets, sidewalks or their homes, only in what they do in the public parks and the public buildings.

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

Councilman Russell moved for the adoption of Ordinance No. 3849. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting "no".

ORDINANCE BOOK NO. 26 - PAGE

D. RESOLUTION NO. 10-110 - RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION

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

The term of John Rogers, as a member of the Downtown Commission, expired on December 31, 2009.

In addition, there currently exists a vacancy from Brad Galbraith, whose term expires December 31, 2011.

On April 13, City Council instructed the City Clerk to arrange interviews for Rebecca Hecht, Jimi Rentz, Henry Watts, David Nutter and Karen Kotiw.

After Council spoke highly of the candidates, Rebecca Hecht received 3 votes, Jimi Rentz received 6 votes, Henry Watts received 2 votes, David Nutter received 2 votes and Karen Kotiw received 1 vote. Therefore, Rebecca Hecht was appointed as a member of the Downtown Commission to serve a three-year term, term to expire December 31, 2012; and Jimi Rentz was appointed as a member of the Downtown Commission to serve the unexpired term of Mr. Galbraith, term to expire December 31, 2011. Both terms are until their successors have been appointed.

RESOLUTION BOOK NO. 33 – PAGE 31

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Bellamy was pleased to announce that our Sister City group delegation from Osogbo will be in Asheville May 1-10, 2010. She provided Council with an itinerary for the delegates and urged them to participate in as many events as possible.

Mayor Bellamy thanked City staff for their efforts during President Obama's visit to Asheville. His visit will have an impact on our community for years to come.

On behalf of City Council, Mayor Bellamy thanked City staff for their excellent teamwork and quick response during the recent bus accident on College Street. She expressed Council's sympathy to the victims and the family that was impacted.

Mr. Larry Merrill, 62 Cumberland Circle, spoke about the need to pick up brush on his street. Mayor Bellamy advised Mr. Merrill that City Manager Jackson will investigate the concern and follow-up with him.

In response to Mayor Bellamy, City Manager Jackson said that he would reinforce our efforts to notify people of their responsibilities concerning sidewalks in front of their homes or businesses.

Mr. Jeff Turner felt that Asheville's economy will lean more towards entertainment and tourism in the future and appreciated Council's fiscal responsibility.

Mr. Dwight Butner, Chair of the Downtown Commission, suggested Council charge the Downtown Commission to explore the pros and cons of waiving fees.

The following claims were received by the City of Asheville during the period of April 9-22, 2010: Elisha Resper (Parks and Recreation), Douglas Styles (Parks and Recreation), Catherine Wallenborn (Streets), David Jenkins (Engineering), Courtney Dute (Police), Dottie Lawing (Civic Center), Kristy Martinez (Water), Jennifer Coyle (Transit), Margaret C. Estes (Transit), Pete Apostolopoulos (Transit), Susan J. Zakanyycz (Transit), Mediterrian Restaurant (Transit), Spa Theology (Transit), Stella's (Transit), PSNC Energy (Water), Sondra Allison (Police), Eugene Paul – Wonderland (Transit), and PSNC Energy (Transit). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:31 p.m.

CITY CLERK

MAYOR