

**Tuesday – May 25, 2010 – 3:30 p.m.
Worksession**

Present: Mayor Terry M. Bellamy, Presiding; 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: Vice-Mayor Brownie W. Newman

Budget Worksession Continued

Director of Administrative Services Lauren Bradley said that the purpose of this memorandum is to respond to questions submitted by City Council members after the proposed budget presentation on May 11, 2010 and to suggest alternatives for the remaining budget schedule.

Throughout Ms. Bradley's following discussion, City staff responded to various questions raised by City Council.

(1) Itemize the economic incentive allocation of \$606,250.

This amount is allocated to three existing economic development incentive agreements. The Smith Aerospace allocation is contingent on a required level of job creation and is only paid out if that performance metric is achieved.

- UNC Eshelman School of Pharmacy \$100,000
- Biltmore Town Center agreement \$459,000
- Smith Aerospace agreement \$47,000

(2) How much is budgeted for the Housing Trust Fund? What are the estimates for repayment into the fund during the fiscal year? How much will be available for loans in FY 2010-2011?

The FY 2010-2011 proposed budget includes a \$300,000 allocation for the Housing Trust Fund. Estimates for the available loan balance in the upcoming fiscal year are included below.

\$307,014	Current balance
-\$400,000	Larchmont allocation
\$134,123	Receipts from Loan Repayments
\$300,000	FY 2010-2011 Appropriation from General Fund
\$300,000	Estimated anticipated cash receipt for sale of land Acquired in Villas foreclosure
-\$43,201	Administrative Expenses
\$597,936	Estimated Amount Available to lend in FY 2010-2011

(3) How were reductions in the Parks and Recreation budget identified? Will reductions in community center hours affect staffing levels and after school/summer programming? How will site security be managed?

The goal of reductions in the Parks and Recreation Department was to identify operational efficiencies and cost reductions that would reduce overall operating costs of recreation programs while insuring minimal impact to children's services (afterschool and summer camps) and aquatic operations (i.e., opening of all three pools) and maintaining a focus on the long-term management of recreation services.

Strategies to attain these savings include:

1. Reducing seasonal and part-time staffing hours.
2. Freezing seasonal positions when possible.
3. Reducing hours of filled part-time positions.
4. Phasing out other part-time positions if and when needed.
5. Reducing operational hours of Community Centers and other special facilities (Aston Park Tennis Center, Food Lion Skate Park) while maintaining hours during peak usage times, especially for children's services.
6. Identifying programs that can be consolidated to attain economies of scale.
7. Continuing to cultivate partnerships with schools and non-profits to provide quality cost effective youth programming.

Impacts of these strategies include:

1. All three pools will remain open for the summer season with minor reductions in hours.
2. Community Center After School Programming and Summer Camp and Playground programs will experience minimal impact.
3. Community Centers and special facilities (except pools) will have reduced operating hours on the average of approximately 20-40%.
4. Community Center West will be phased to a turn key operation, similar to Community Center North, over the next six months.
5. Seeking partnerships to manage Licensed After School sites.

Community centers will utilize off-duty police personnel for security during large-scale events. Department staff will utilize security sign-in procedures during peak usage or high volume events.

These adjustments support the Parks and Recreation Master Plan as well as the department's goals for improving the quality of recreation services by focusing on core services (in this case, children's services); creating intentional, outcomes based programming, and; utilizing volunteers and partner agencies to support and expand programming options.

(4) Where is the debt service for City Hall roof and exterior repairs included in the budget?

It will take approximately 12 months to complete the planning and design phases stages of this project. Therefore, the City Hall renovation project is not part of the proposed FY 2010-11 budget. Instead, it is anticipated that the project will be financed through debt in FY 2011-12.

Mayor Bellamy suggested that City Council have offices on the 7th or 8th floors after renovation.

(5) Itemize all of the new debt that will be issued during this budget year.

FY 2009-2010

Due to project timelines and the debt issuance process, some financing packages are not issued in the same budget year that they were approved but will instead move forward in a subsequent year. However, these projects are not itemized in the following year's budget because they have already been approved by the Council. There are several projects approved for financing as part of the FY 2009-2010 budget that will move forward for issuance during budget year 2010-2011.

The budget for Livingston Street (Reid Center) construction was adopted by Council during the current year, and the process for securing the \$1.1 million in financing for that project is already underway.

Other projects and purchases included in the current year adopted budget that will be financed during the next budget year include: 1) Auto loader garbage truck (\$240,000); 2) Sardis Road Sewer (\$1,086,000); and the 3) Airport Road Sewer (\$250,000). Due to the timing of these other projects, the financing process has not yet begun for them. Staff anticipates bringing a financing package for these projects to Council in FY 2010-11. The debt service for these projects is included in the proposed FY 2010-11 budget.

FY 2010-2011

As for capital items in the FY 2010-11 proposed budget, only the fire aerial ladder (\$1.2 million) and the stormwater projects are slated to be financed. Staff is currently working to finalize the list of stormwater projects and determine the amount of debt funding that will be required.

(6) Please explain the \$1.26 million line-item increase in "Administrative Services."

As a part of a series of reorganizations during FY 2009-10, the following divisions were moved under the Administrative Services Department: purchasing, central stores, risk management, City Hall operations, and budget. The FY 2010-11 proposed budgets for each of these divisions is presented under the Administrative Services Department but prior year budgets for these divisions are presented in the departments in which they previously resided. The total budget amount for the divisions that were moved to Administrative Services totals \$1,353,454 (see chart below). If the impact of the reorganizations is factored out, the Administrative Services budget would show a decline of \$85,820.

Purchasing	360,409
Central Stores	162,216
Risk Management Admin	241,402
Budget & Research	188,839
City Hall Operations	400,588
TOTAL	1,353,454

(7) How do the city's economic development efforts compliment or duplicate the Chamber of Commerce/Economic Development Coalition?

The city's office of Economic Development actively works with numerous other regional organizations and networks to build quality, connected places to attract and retain people, jobs, investment, and innovative businesses. Partner agencies include AdvantageWest, Land-of-Sky and the Economic Development Commission.

The city's economic development efforts have also centered around strategic initiatives and collaborative partnerships to support businesses in the multiple clusters of business districts in the City. The office has stayed actively involved in city development processes, provides assistance for minority businesses, manages the city's real estate and redevelopment of city-owned property, and provides economic planning development services. The office is taking an active role in river redevelopment efforts, and the economic development director position was recently expanded to include management of the Asheville Civic Center.

(8) Outline the remainder of the budget schedule.

June 8 has been held as a tentative date for an additional budget work session if needed. City Council may wish to discuss the need for that worksession based on the public hearing and any outstanding Council questions.

If City Council determines the June 8 worksession is not needed, Council could consider moving budget adoption up from June 22 to June 8. This additional time would be beneficial for staff since they will be loading the budget onto the enterprise software system for the first time. Otherwise, staff will be ready to prepare and provide additional information as requested by City Council on June 8, with formal adoption considered on June 22.

Mayor Bellamy said that due to Council's agenda, she felt that adoption of the budget should remain on June 22.

At 4:07 p.m., Mayor Bellamy adjourned the worksession.

**Tuesday – May 25, 2010 - 5:00 p.m.
Regular Meeting**

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

CHANGE OF AGENDA

At the request of City Attorney Oast, Mayor Bellamy said that a resolution authorizing execution of an agreement regarding extension of sewer service needs to be added to Unfinished Business, prior to the resolution amending the Annexation Services Plan.

I. PROCLAMATIONS:**II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 11, 2010**
- B. RESOLUTION NO. 10-115 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FEDERAL FISCAL YEAR 2006-07 AND FEDERAL FISCAL YEAR 2009-10 FEDERAL TRANSIT ADMINISTRATION APPORTIONMENTS AND FOR THE MAYOR TO EXECUTE SAID GRANT**

Summary: The consideration of a resolution authorizing the City Manager to apply for the Federal Fiscal Year (FFY) 2006-07 and FFY 2009-10 Federal Transit Administration (FTA)

apportionments in the amount of \$1,628,856 and \$1,922,849 respectively; and the Mayor to execute said grant.

The City of Asheville plans to apply for the FFY 2006-07 and FFY 2009-10 annual apportionments using a FFY 2006-07 FTA apportionments under the Revised Continuing Appropriations Resolution 2007 and the FFY 2009-10 Federal Transit Administration apportionments under the Hiring Incentives to Restore Employment Act. The annual apportionments (Section 5307) authorizes Federal funding to be used for capital expenses, preventive maintenance, and in some cases, for operating assistance, and planning activities for transit in urbanized areas. The City was reclassified to an urbanized area greater than 200,000 in population as part of the 2000 Census and therefore lost its ability to use Federal Funds for operating assistance. However, the Asheville Transit System will be allowed to use part of this year's and next year's allocation for operating assistance, in the amount of \$484,022 each year.

As part of the reclassification Henderson County's Apple Country became part of the transit systems in the Metropolitan Area. As such the City and the County share the federal allocation. The County will receive approximately \$799,000 of the total allocation. The City and the County had signed a Sub-recipient Agreement in which it is specified how the funds are disbursed as well as the oversight of these funds. The city is responsible before FTA of the use of these funds and owns all the capital items Henderson County purchases with the allocation.

The City intends to use these funds for expenses incurred during FY 2009-10 and for future FY 2010-11 expenses, such as operating assistance, and for capital items allowed under the Master Agreement, such as preventive maintenance, Americans with Disabilities Act (ADA) service, and for other minor capital items (marketing study, small equipment for the buses, etc.). 1% of the allocation must be used for security purposes.

This action complies with the Strategic Operating Plan proactively leveraging funding from the Federal Government and other funding sources for transportation improvements.

Pro:

- These funds were budgeted in the FY 2009-10 and FY 2010-11 City Budgets and they will offset costs related to operations, preventive maintenance, and ADA services.

Con:

- The City has to contribute a local match of 20% for capital items, including preventive maintenance and ADA services; and 50% for operating expenses. The City has already incurred the respective matches for FY 2009-10.

The total amount of FTA transit funding available to the City in FY 2009-10 and FY 2010-11 will be \$3,551,705. Approximately \$799,000 of this amount will be allocated to Henderson County, leaving \$2,752,050 for City transit expenses over that two year time period. The FTA transit apportionments are already included in the FY 2009-10 adopted budget and the FY 2010-11 proposed budget.

City staff recommends City Council authorizing the City Manager to apply for the FFY 2006-07 and FFY 2009-10 Federal Transit Administration apportionments in the amount of \$1,628,856 and \$1,922,849 respectively; and the Mayor to execute said grant.

RESOLUTION BOOK NO. 33 – PAGE 37

C. ORDINANCE NO. 3852- BUDGET AMENDMENT TO RECEIVE DONATED MONEY FOR THE PURPOSE OF SPECIAL EVENTS AT THE CIVIC CENTER

Summary: The consideration of a budget amendment, in the amount of \$5,250, to receive donated money from corporate partners for the purpose of Civic Center Commission events.

The Civic Center Commission has received donations from corporate partners for hosting events to educate key organizations and officials about the economic impact of the Civic Center.

This action complies with the City Council Strategic Operating Plan goal to leverage internal and external partnerships for pursuing capital improvements and infrastructure projects.

Pro:

- This action allows for recognition of the Civic Center with expenses being underwritten by corporate partners. This action also provides for utilization of these funds as the donating organizations intended.

Con:

- None identified.

City staff recommends City Council approve the budget amendment, in the amount of \$5,250, to receive donated money.

ORDINANCE BOOK NO. 26 – PAGE

D. RESOLUTION NO. 10-116 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT BETWEEN THE GROVE ARCADE PUBLIC MARKET FOUNDATION INC. AND THE CITY OF ASHEVILLE FOR THE RENAISSANCE COMPUTING INSTITUTE DOWNTOWN ENGAGEMENT SITE

ORDINANCE NO. 3853 - BUDGET AMENDMENT FOR LEASE AGREEMENT WITH THE GROVE ARCADE PUBLIC MARKET FOUNDATION INC. FOR THE RENAISSANCE COMPUTING INSTITUTE DOWNTOWN ENGAGEMENT SITE

Summary: The consideration of a resolution authorizing the Mayor to execute a Lease Agreement between the Grove Arcade Public Market Foundation, Inc. and the City of Asheville for real property located at One Page Avenue, Suite 116, Asheville NC within the historic Grove Arcade building; and the associated budget amendment in the amount of \$69,805 with funding provided by the Renaissance Computing Institute at UNC Asheville (RENCI).

On June 1, 2009, the City of Asheville entered into a 12 month lease with the Grove Arcade Public Market Foundation, Inc. for space Suite 116 at the Grove Arcade. This space is utilized by the Renaissance Computing Institute at UNC Asheville (RENCI) for a Downtown Engagement Site. At this time, the City has the option to renew the lease for an additional two year term, at a rate of \$2,908.51 per month, with no additional increase. RENCI will fully reimburse the lease cost to the City on a quarterly basis throughout the duration of the lease. RENCI will be responsible for any and all costs related to the occupancy, maintenance and operation of the Downtown Engagement Site.

This action complies with the City Council Strategic Operating Plan by supporting an ongoing collaborative partnership between the City of Asheville and the RENCI at UNC Asheville.

Pros:

- Optimum location for Downtown Engagement Site
- Supports RENCI at UNC Asheville partnership
- All rent payments are fully reimbursed by RENCI

Con:

- None

Fiscal Impact:

- There is no financial impact to the City. RENCI will reimburse the City on a quarterly basis for the full cost of the lease.

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the lease agreement with the Grove Arcade Public Market Foundation, Inc. on behalf of the City of Asheville, and the associated budget amendment in the amount of \$69,805.

**RESOLUTION BOOK NO. 33 – PAGE 38
ORDINANCE BOOK NO. 26 - PAGE**

E. RESOLUTION NO. 10-117 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL ON MAY 28-30, 2010

RESOLUTION NO. 10- 118 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE BEER CITY BREWFEST ON JUNE 5, 2010

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the (1) Mountain Sports Festival on May 28, 29 & 30, 2010; and (2) Beer City Brewfest on June 5, 2010.

- The Asheville Mountain Center has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

The component of Mountain Sports Festival requesting alcohol will be held on Friday, May 28, 2010 from 4:00 p.m. – 10:00 p.m., Saturday, May 29, 2010 from 10:00 a.m. – 10:00 p.m. & Sunday, May 30, 2010 from 12:00 p.m. to 9:00 p.m. within the boundaries of Carrier Park, as per the event area limits referenced on the accompanying site map.

- Big Brothers Big Sisters WNC in conjunction with Beer City Festival, LLC has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at the Beer City Brewfest and allow for consumption at this event.

The Beer City Brewfest will be held on Saturday, June 5, 2010 from 12:00 p.m. to 7:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Spruce Street between the intersections of South Pack Square & College Street, and within the City Hall/Courthouse Parking Lot – backstage to festival operations.

These actions have no direct connection with the City of Asheville Strategic Operating Plan.

Pro:

- Allows fundraising opportunities for the Asheville Mountain Center and Big Brothers Big Sisters WNC.

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt the resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival and the Beer City Brewfest.

RESOLUTION NO. 10- 117 - RESOLUTION BOOK NO. 33 – PAGE 39
RESOLUTION NO. 10-118 - RESOLUTION BOOK NO. 33 – PAGE 42

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

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

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

III. PRESENTATIONS & REPORTS:

A. MEMORIAL DAY

Mayor's Committee on Veterans' Affairs

Ms. Gayle Sovinee, Chair of the Mayor's Committee on Veterans' Affairs, shared with Council their following 2010 events: Memorial Day on May 31, Bele Chere booth on July 23-25; the Veterans' Forum on September 27; and Veterans' Day on November 11.

USS Asheville Celebration

Mr. Ken Vasilik, Chairman for the Subcommittee on USS Asheville, updated City Council on the history of the four USS Asheville's and related activities in Asheville.

Mayor Bellamy proudly invited the public to tour of the USS Asheville exhibit on the First Floor of the City Hall Building.

B. DOWNTOWN COMMISSION UPDATE

Mr. Dwight Butner, current Chairman of the Downtown Commission, reviewed with Council their accomplishments in 2009: (1) Downtown Design Review; (2) develop and recommend to City Council a Comprehensive Strategic Plan and other plans for downtown; (3) evaluate plans and recommendations to City Council; (4) encourage implementation of approved projects; (5) provide recommendations for effective management of the public resources for downtown; and (6) cooperate with and evaluate and represent the recommendations of other organizations, including, but not limited to, the Asheville Downtown Association, property owners, merchants, residents, businesses, tenants, institutions and other members of the downtown community. He then briefly explained their focus for 2010.

On behalf of City Council, Mayor Bellamy thanked Mr. Butner and the entire Downtown Commission for their efforts and hard work on the Downtown Commission.

C. DOWNTOWN MASTER PLAN UPDATE

Ms. Sasha Vrtunski, Project Manager for the Downtown Master Plan, said that the Downtown Master Plan was adopted by City Council in May, 2009. Implementation efforts began

in fall, 2009 and continue with the help of community volunteers serving on implementation committees.

Following the adoption of the Downtown Master Plan, the Downtown Commission decided to appoint an Action Committee to work on implementation. This Action Committee is made up of five subcommittees that correspond with the recommendations in the plan; Arts & Culture; Historic Preservation; Transportation & Parking; Urban Design & Development; and Downtown Management. Progress is underway in all the committees, as noted below:

Arts & Culture - Concentrating on the creation of an Artist Alliance and a forum is being planned for this fall to kick off the Alliance. Has also the subcommittee has discussed the potential for a Cultural Arts Commission and is currently engaged in background research and starting discussions with the Public Art Board about this idea. The Subcommittee is currently concentrating on 4 items from plan: (1) Artist Alliance creation; (2) Coordinating arts calendars; (3) Pack Square Cultural District; and (4) Potential Cultural Arts Commission. Many of the other items in the Plan will flow from the creation of the Alliance and the Commission.

Historic Preservation - Has taken the time to add detail to the recommendations in the plan as they were somewhat vague in this area. These ideas will focus on how our community relates our history to residents & visitors and using the arts, architecture and public places to tell those stories. Staff is pursuing an update of the National Register District of downtown – which could potentially add buildings to the register, which are then eligible for tax credits. The Subcommittee has worked on ideas which add “meat” to Item 1M. These really address the question of how we tell the stories in our downtown, and how we link programs, art and public spaces.

Transportation & Parking – Is bringing together advocates of all forms of transportation. The subcommittee is reviewing the different elements of the plan and giving input on the implementation actions by staff. The Subcommittee is reviewing and monitoring progress on Master Plan items. Federal stimulus funding has enabled the installation of bike lanes on Asheland, Hilliard, Coxe and a climbing lane on N. Lexington. Other items are on hold due to economic downturn or cost, e.g., shuttle, parking reservation system.

Urban Design & Development - This subcommittee had the clearest task, and a very diverse membership reflecting the multiple constituencies that supported the need for the Downtown Master Plan, and changes to regulatory requirements for development or redevelopment downtown. They completed an eight month, 20 meeting evaluation process reviewing the recommendations in the plan for UDO changes, reaching a consensus recommendation on most of the recommendations. On the very few issues where no consensus was reached, they will present the recommendations of both the majority and minority members of the subcommittee. The Subcommittee met 20 times from October 2009 to May 2010. They combed through every piece of Unified Development Ordinance changes recommended in the Plan. They considered benefits, consequences, long term issues and real world costs when looking at each item. The recommendations have been passed onto the Downtown Commission. The Committee is staffed by Jessica Bernstein and Alan Glines.

The findings of this subcommittee began to be presented to the Downtown Commission last week. The DTC may schedule a special meeting to finish their review later this month. The changes will subsequently be reviewed by the Planning & Zoning Commission, the Planning & Economic Development Committee of Council and then City Council. Staff expects recommendations to reach City Council this coming fall.

Downtown Management - Has been seriously exploring the possibility of a community improvement district or business improvement district for downtown Asheville. These

districts traditionally rely on funding through a self-imposed tax district to pay for specific services over and above city provided services. These services can include sidewalk sweeping, downtown ambassadors, additional security, and advertising. The committee is currently looking at the current services provided by the city and other entities and working to discuss what needs to be added to ensure that downtown remains a successful and thriving area. The Subcommittee is studying improvement districts and how it could work in Asheville. Staff has created a draft baseline of current city services to downtown. Over next 2-3 months, the Subcommittee will decide whether to continue pursuing the district, and if so, outreach and education of other downtown property and business owners will occur. A proposal will come to Council only after there is a critical level of agreement in the private sector.

In addition to work by the subcommittees, certain items fall under staff work and are being pursued accordingly. These items are noted in the accompanying Implementation Matrix. One example of this is a grant that has been obtained by the Historic Resources staff to fund updating the National Register Historic District in downtown. This is important because adding buildings to the register can expand the availability of Historic Tax Credits. Likewise, staff pursued and obtained federal stimulus funding to install bike lanes on several downtown streets including Coxe, Hilliard, and Asheland.

Long term items from Strategy 3, which addresses extending a design framework and developing neighborhoods in downtown, have not yet been addressed. Once the UDO and Design Guideline changes recommended in Strategies 4 to 6 are implemented, planning staff will have more time to work on the implementation of Strategy 3. It is likely that in 2011, the Downtown Commission may consider appointing a separate committee that is interdisciplinary in nature to work on implementing the long-term vision laid out in the plan.

Council's Strategic Operating Plan calls for the completion of the master plan and to begin implementation. This one-year update confirms that there has been substantial progress toward that goal. The ongoing energy and commitment of the Downtown Commission and the members of the subcommittees is to be applauded and appreciated.

In general the Downtown Master Plan relies mainly on the efforts of city staff and the non-profit and private sectors. There are specific items which call for public investment such as the Civic Center or transportation improvements. These items will proceed separately to Council as funding is available. No funding is requested at this time.

Ms. Vrtunski asked for Council's input on how they would like to be educated on the Urban Design & Development Subcommittee recommendations for UDO changes, e.g., being invited to a Downtown Commission worksession or hold a City Council worksession on this topic.

Mayor Bellamy thanked Ms. Vrtunski, the Downtown Commission and all the members of the subcommittees for moving this task forward.

In response to Mayor Bellamy about extending the Central Business District, Ms. Vrtunski said that some areas have been recommended for inclusion; however, staff wants to get the building form changes through and then evaluate the boundaries, e.g., the head of Broadway and on Asheland Avenue. Councilman Davis noted that the triangle corner on Broadway is on the Metropolitan Planning Organization list and they will try to move it up.

At Mayor Bellamy's suggestion, it was the consensus of Council that after the Planning & Zoning Commission review of the changes, that possibly two City Council worksession be scheduled (by-passing the Planning & Economic Development Committee).

D. TRANSIT COMMISSION UPDATE

Mr. Paul Van Heden, Chairman of the Transit Commission, said that the mission of the Commission is to be an advisory board to the Asheville Transit System on matters affecting the transit system and its operations.

He provided the Council with an historical overview of the Commission.

The year in review includes (1) new Transit Commission members; (2) Stream-lined the public comment process; (3) Continued to do outreach to riders; (4) Transit Master Plan: Transit Commission members played a critical role in encouraging the passage of the Transit Master Plan - and the first phase of it's implementation; and (5) Securing funding for the plan was one of the commission's top goal in 2010. The commission is extremely grateful for council's support of the precepts set forth by the plan, and looks forward to working with council to make its recommendations a reality.

Their focus for 2010-11 includes: (1) SERVICES/IMPROVEMENTS (OPERATIONAL) (a) Revise routes for better services; (b) Improving on time service; (c) Raising frequency of main corridor routes; and (d) Sunday Service; (2) MARKETING (a) Market to get more riders/unfunded marketing; (b) Ambassadorship; (c) Advertising/Marketing to Riders; (d) Increase rider involvement; and (e) Promoting advertising system to Council and voters; (3) FUNDING SOURCES (a) Exploring Funding Options; and (b) Promoting advertising system to Council and voters; and (4) TRANSPORTATION CONGRESS (a) Encouraging City to take more multi-modal approaches – combine various boards and commissions; and (b) Help other boards and commissions with structure.

In conclusion there is a lot to do, some being (1) Automatic vehicle locator system; (2) Federal livability policy (HUD, EPA, DOT); (3) I-26; (4) Bringing back trolleys; (5) 10 new buses; (6) Instituting transit oriented development; (7) Growing public awareness of transit's value (including bus are and mktg.); (8) Instituting bus rapid transit; (9) Sunday service; (9) Stable marketing budget; and (10) Better street furniture.

On behalf of City Council, Mayor Bellamy thanked Mr. Van Heden and the entire Transit Commission for their hard work.

E. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 10-119 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE LOCAL ENERGY ASSURANCE PLANNING SCOPE OF WORK CONTRACT WITH THE LAND-OF-SKY REGIONAL COUNCIL

ORDINANCE NO. 3854 - BUDGET AMENDMENT TO RECEIVE FUNDS FROM THE LOCAL ENERGY ASSURANCE PLANNING GRANT

ORDINANCE NO. 3855 - BUDGET AMENDMENT INCREASING THE GRANT FUNDING FOR THE KIMBERLY AVENUE RESURFACING PROJECT

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of city staff's recurring ARRA update to Asheville City Council, staff is seeking Council consideration of three items for approval:

- Resolution authorizing the City Manager to approve the Local Energy Assurance Planning (LEAP) scope of work contract with the Land-of-Sky Regional Council; and the associated budget amendment, in the amount of \$209,940, to receive funds.
- Approval of a budget amendment, in the amount of \$154,594, increasing the grant funding to the Kimberly Avenue resurfacing project.

Local Energy Assurance Planning

The Local Energy Assurance Planning (LEAP) grant was awarded to the City of Asheville on April 28, 2010, in the amount of \$209,940. This grant encourages regional participation in the development of energy assurance planning and requires a city to be the grant applicant. For this reason, as the largest city in the region, the Land-of-Sky Regional Council had requested that the City of Asheville be the grant applicant and fiscal agent. The Land-of-Sky Regional Council (LOSRC) would manage implementation of the project. This was approved by City Council at the regular meeting of September 22, 2009.

The Scope of Work for this grant is the agreement between the City of Asheville and the LOSRC to complete the requirements of this grant which is scheduled for completion in 2012. This Scope of Work includes the following:

- Analyzing the current fuel infrastructure and assess fuel use;
- Creating a regional emergency fuel plan to unify the energy plans in the five county region;
- Assisting governments without emergency fuel plans in developing a plan;
- Developing a plan to mitigate energy supply disruptions;
- Establishing a long range plan that incorporated local bio-fuels, electric vehicles, propane and compressed natural gas to reduce the reliance upon traditional vehicle fuels;
- To create a long range plan to assist in the development of a fuel plan that focuses on non-traditional vehicle fuels;
- Training on developing emergency fuel plans; and
- Compliance with all grant requirements and provisions for ARRA

Pros:

- The Regional Strategic Fuel plan will enable the region to better endure a fuel shortage without breaks in vital services such as law enforcement, volunteer and municipal fire protection, and other emergency services.
- The LEAP grant will give the region the tools to better manage future fuel crisis and mitigate the reliance on fuel from a single source for a more energy independent future.
- Creation of more current or up-to-date energy assurance plans.

Con:

- The City of Asheville will be bear responsibilities as the fiscal agent of the grant for a regional project. This will include ARRA and other additional reporting requirements.

This is a 100% non-matching grant.

City staff recommends City Council authorize the City Manager to approve the scope of work agreement between the City of Asheville and the Land of Sky Regional Council and adoption of the budget amendment in the amount of \$209,940.

Kimberly Avenue resurfacing project

The Kimberly Avenue resurfacing project, which is currently underway, will provide milling, repair, resurfacing, and pavement markings on Kimberly Avenue from Edwin Place to Gracelyn Road/Griffing Boulevard. It includes the addition of a bicycle climbing lane on the northbound side of Kimberly within the project limits. The climbing lane is part of the infrastructure recommended for Kimberly Avenue in the city's bicycle plan.

This project was the last of the ARRA projects funded through the French Broad River Metropolitan Planning Organization (MPO) and has been the beneficiary of lower than anticipated

bids on other ARRA projects throughout the MPO. The original grant agreement and budget amendment were approved by the Asheville City Council on August 25, 2009.

The initial estimate for the amount of available ARRA grant funding for this project was \$462,000. The budget amendment that City Council approved in August for this project, which totaled \$577,500, included this \$462,000, as well as \$115,500 from the City's General Fund fund balance. Now that all the MPO project contracts have been let and grant amounts revised, the available grant funding for the Kimberly project has been revised upward to \$616,594, which is a \$154,594 increase over the initial estimate that was budgeted in August. It should be noted that the grant amount includes \$17,600 in STP-DA funding. The \$17,600 in STP-DA funding will reduce the City's FY 2014 funds awarded by the MPO for Hendersonville Road sidewalk.

This project supports the City Council's strategic plan goals of proactively pursuing funding opportunities with state and federal economic stimulus packages and leveraging funding for regional transportation improvements.

Pros:

- Potentially reduces the city's share of project costs
- Improves Asheville's transportation facilities
- Provides long term investment in the City's infrastructure

Con:

- Reduces the FY 2014 Hendersonville Road sidewalk project grant award by \$17,600

As noted earlier in the staff report, the Kimberly Avenue project budget includes \$115,500 in funding from the City's General Fund fund balance. Based on current cost estimates, it is likely that this entire amount will not be needed for this project. However, staff recommends that the \$115,500 remain budgeted in the project to provide a contingency for any unanticipated costs that may arise. Once the project is complete, staff will report back to Council on the final cost of the project and the amount of savings that are available to be returned to the General Fund or used for other capital projects.

City staff recommends City Council adopt the budget amendment to increase the anticipated grant revenue.

When Mayor Bellamy asked for public comment, she received none.

In response to Councilwoman Manheimer, Director of Transportation Ken Putnam believed the Kimberly Avenue sidewalk project will be finished in approximately 3-4 weeks.

Vice-Mayor Newman said that if there are any funds left over from the Kimberly Avenue project that they go back to the Hendersonville Road sidewalk project.

Mayor Bellamy explained the Mobility Fund that the Governor is proposing. She urged the public to contact our legislators to know that we need that additional pool of money which will not negatively impact the Metropolitan Planning Organization funding.

Mayor Bellamy said that members of Council have previously been furnished with copies of the resolution and ordinances and they will not be read.

Councilman Smith moved for the adoption of Resolution No. 10-119. This motion was seconded by Councilwoman Manheimer and carried unanimously.

Councilman Bothwell moved for the adoption of Ordinance No. 3854. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE

Councilwoman Manheimer moved for the adoption of Ordinance No. 3855. This motion was seconded by Vice-Mayor Newman and carried unanimously.

ORDINANCE BOOK NO. 26 - PAGE

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING ON THE FISCAL YEAR 2010-11 ANNUAL OPERATING BUDGET

Mayor Bellamy opened the public hearing at 5:56 p.m.

Director of Administrative Services Lauren Bradley said that the City Council conducts a public hearing each year to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal 2010/2011 Annual Operating Budget was presented to City Council on May 11, 2010. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on May 14 and May 21, 2010. The Fiscal Year 2010/2011 Annual Operating Budget is balanced with an Ad Valorem tax rate of \$0.42 per \$100 of assessed value. All essential City services are continued in the Proposed Budget.

Adoption of the Budget Ordinance is currently scheduled for June 22, 2010, at the regularly scheduled City Council meeting.

A copy of the Budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the Ad Valorem Tax rate, which can not be changed once adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2010/2011 Annual Operating budget and include public input in considerations on the Budget.

Mr. Mac Swicegood, representing the Council of Independent Business Owners, said that the Stormwater Utility has not performed as promised. Although it appears that a small effort has been made to address a few stormwater infrastructure issues, the fund basically collects money on raindrops from all the citizens and businesses and funds 35 jobs. The utility was sold as a way to fix and repair a dilapidated system. It was never sold as a way to fund additional desk jockeys in the City. We all expect more. Although you plan a \$2.3 Million bond this year paid mainly by this fund, the utility has primarily been and continues to be a bureaucratic effort with little to show for all the taxes collected from the City's property owners. Put the hard hats on and make repairs we all were promised. Secondly, Asheville is blessed with an abundance of water. With North Fork, the Mills River, and now Bee Tree as available resources, City Council needs to change its course on conservation and sell water. Now is your time to beat the Sullivan Act – not by legal disputes with Buncombe County and the State of North Carolina but by marketing and selling water to surrounding counties. Since we are not in a drought presently, this needs to be a priority to market and be ready for the next drought when the water is needed in areas that do not have it. Get ready – make the agreements with other systems and make connections to those

systems – and when the time comes – sell it. Ultimately this can help all of us later on by avoiding future rate increase. Finally, the City Council has emphasized and developed a large transit system. This system has the potential to service many citizens. However, as dollars dry up, you must evaluate the system for financial viability. This cannot be sustained as other priorities suffer.

Mr. Fred English felt we need to recruit more industry.

Mayor Bellamy asked City Manager Jackson to see if the City has any money invested in the Clingman Avenue project (which is N.C. Dept. of Transportation project) and to respond to the concerns raised by Mr. Swicegood.

Mayor Bellamy closed the public hearing at 6:03 p.m.

Mayor Bellamy announced that adoption of the budget will occur on the June 22, 2010, meeting.

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADD A NEW LAND USE DESIGNATION FOR ELECTRONIC GAMING OPERATIONS AND ESTABLISHING SPECIAL STANDARDS FOR THEIR REVIEW AND REGULATION

ORDINANCE NO. 3856 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ADD A NEW LAND USE DESIGNATION FOR ELECTRONIC GAMING OPERATIONS AND ESTABLISHING SPECIAL STANDARDS FOR THEIR REVIEW AND REGULATION

ORDINANCE NO. 3869 – ORDINANCE AMENDING THE FEES AND CHARGES MANUAL TO ADD A NEW PRIVILEGE LICENSE FEE TO BE COLLECTED FOR ALL ELECTRONIC GAMING BUSINESSES

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

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of (1) amending the Unified Development Ordinance to add a new land use designation for Electronic Gaming Operations (EGO) and establish special standards for their review and regulation; and (2) adoption of a new privilege license fee to be collected for all electronic gaming businesses. This public hearing was advertised on May 14 and 21, 2010.

In 2006, the State of North Carolina adopted legislation that banned video poker and other gaming machines across the state and all machines were phased out by July 1, 2007. Proponents for the video gaming industry responded by adapting machines allowing them to fall under a special provision that allowed the NC State Education Lottery and other sweepstakes games made popular by national food chains (McDonald's, Pepsi Co., etc.). Since then, there have been several legislative attempts to ban or restrict EGOs, but at least two superior (lower) courts have held that the new forms of the games are not covered by the law, and have enjoined its enforcement. There has been no ruling from an appellate court, and the validity of the State law remains uncertain.

In the absence of criminal enforcement measures, numerous municipalities are responding and controlling the proliferation of these businesses through various controls, the most common of which includes the adoption of a Conditional Use or Special Permit process and/or the adoption of a new privilege license fee designed to reflect the profitability of the machines. The Unified Development Ordinance (UDO) is structured such that a use that is not specifically allowed in a zoning district—as a use by right, use by right, subject to special requirements, or conditional use—is not permitted. In the River District, however, all uses are

allowed unless specifically prohibited. Currently, the City does not define or regulate EGOs. As a result of this absence of regulation, several EGOs have attempted to locate in commercial districts in the City, under the umbrella of similar uses, such as “recreational uses, commercial indoor.” At least one EGO has opened in the River District, but is subject to no regulations regarding its operation (parking spaces, etc.). Approximately ten (10) separate businesses have been established without permits and have been issued Notices of Violation. Most have complied and ceased their activity awaiting the adoption of new standards; however, several businesses have chosen to remain open after being cited for failing to comply and are currently accruing a \$100 per day fine that will continue until compliance is achieved or, the use is ceased. Recently, the Board of Adjustment ruled that EGOs were not encompassed within the use classification of “recreational uses, commercial indoor,” which is a permitted use in several districts, and upheld a notice of violation. Part of the basis for that ruling was that EGOs had the potential for substantial cash payouts, and their customers are limited to adults over the age of 18, which is a substantially different kind of business than the family-oriented establishments that typical of that use classification. In view of the regulatory uncertainty at the State and local levels, the need for some consideration as to whether and how to regulate EGOs is apparent. Local governments across the State are confronted with this same issue

After conducting a review of common practices, both locally and across the state, the City of Asheville staff feels that a reasonable response would be to pursue two separate actions.

- 1) Amend the City’s code of ordinances to create a new business designation and some appropriate controls to help mitigate any potential impacts from the businesses, and
- 2) Adopt a new privilege/business license fee specific to these uses and consistent with other local municipalities.

The first action noted above would require an amendment to the City’s *Unified Development Ordinance* and review by the Planning & Zoning Commission and City Council. The second action requires review by the Finance Committee and City Council.

City staff proposes to add the new land use designation to a number of commercial zoning districts that currently allow uses of similar impacts. While most other local governments that have adopted standards have permitted EGO’s through a Conditional Use or Special Use permit process requiring approval by the elected officials, Asheville staff proposes to allow the new use as a Use by Right, Subject to special requirements. This would streamline the review process while still maintaining a high level of review and accountability.

After reviewing numerous ordinances from other cities and towns, the most common elements of the newly adopted ordinances include:

- 1) A new, or expanded, or clarified definition
- 2) A limit on the total number of machines
- 3) A limit on the hours of operation
- 4) A separation requirement from:
 - Residences
 - Other gaming establishments
 - Adult establishments
 - Places of worship
 - Parks, playgrounds, ballfields
 - Daycare centers, daycare homes
 - Schools
 - Libraries
 - Child or family venues (i.e. children’s theaters, video arcades, etc.)

The wording amendment Ordinance proposes standards that the staff believes are appropriate for the Asheville community that would allow the freedom to pursue this new business opportunity while also providing for the necessary controls to mitigate any potential land use conflict or public safety concerns.

The fee component is expected to help offset potential impact and public safety/welfare concerns.

The proposed new definition would be:

Electronic Gaming Operation means a business enterprise, whether principal or ancillary, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games including but not limited to, sweepstakes, lotteries, games and/or games of chance where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not value of such distribution is determined by electronic games played or be predetermined odds which have a finite pool of winners. This term includes, but is not limited to internet cafes, internet sweepstakes, or cybercafés. Electronic Gaming Operations do not include operations associated with the official NC State Education Lottery or any nonprofit operation that is otherwise lawful under State law (for example, church or civic organization fundraisers) nor shall it include arcade games of skill.

The proposed new standards are as follows:

Electronic gaming operations.

- a. Use districts: Highway Business, Regional Business, Central Business District, River, Commercial Industrial.
- b. Electronic gaming operations, whether ancillary or primary, with five or more machines shall comply with the following separation requirements:
 - 1000 feet from all other electronic gaming operations and adult establishments
 - 1000 feet from schools, libraries, places of worship, child care centers, public parks/playgrounds, public recreation or community center
 - 500 feet from all residentially zoned properties
 - 200 feet from all non-residentially zoned properties occupied by structures that include residential uses
- c. Electronic gaming operations, whether ancillary or primary, with four or fewer machines shall comply with the following separation requirements:
 - 500 feet from all other electronic gaming operations and adult establishments
 - 200 feet from schools, libraries, places of worship, child care centers, public parks/playgrounds, public recreation or community center
 - 100 feet from all residentially zoned properties
 - 50 feet from any non-residentially zoned property occupied by structures that include residential uses
- d. For the purposes of this subsection, the distance shall be measured from the closest point of the outer wall of the structure housing the electronic gaming operation to the nearest property line occupied by a protected use, zone, or by any other electronic gaming operation or adult establishment.
- e. The Board of Adjustment may consider variances to the development standards found in articles VIII and XI. Variances to separation requirements may only be considered when major geological landforms, limited access highways, or other features that create a substantial divide separate the uses.

- f. No electronic gaming operation shall not engage in business prior to 10 a.m. or after 10 p.m. Monday through Saturday and, not prior to 1 p.m. or after 10 p.m. on Sunday. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by all safety and enforcement personnel. All entrance doors shall remain unlocked while patrons are on the premises. All electronic gaming terminals/machines/computers/gaming stations shall be open and visible from the exterior of the exterior front of the establishment.
- g. No person or entity engaged in electronic gaming operations shall allow, permit, or condone any person under the age of 18 to engage or play any game that is included in the definition electronic gaming operations.
- h. The maximum number of gaming terminals/machines/computers/gaming stations within an electronic gaming establishment is twenty (20).
- i. Any electronic gaming establishment existing prior to the effective date of this ordinance shall comply with the regulations contained within this subsection within 180 days after the effective date of this Ordinance Electronic gaming operations are prohibited in or as a part of any check cashing facility.
- j. The machines/terminals must not be prohibited by the State or Federal law and must have all applicable State and local permits and business licenses prior to the opening of the business.
- k. If food and/or beverages are served, the establishment must meet any State requirements and the requirements of the Buncombe County Health Department.

The proposed use does not align with stated goals or plans, predominately because it addresses a use intended to be prohibited that is now proliferating due to a judicial interpretation and, therefore, not considered when goals and plans were discussed and adopted. Regulating the use could, help control secondary impacts associated with criminal activity, nuisance complaints and other land use conflicts.

The proposed use does not align with stated goals or plans, predominately because it addresses a use intended to be prohibited that is now proliferating due to a judicial interpretation and, therefore, not considered when goals and plans were discussed and adopted. Regulating the use could, help control secondary impacts associated with criminal activity, nuisance complaints and other land use conflicts.

Pro:

- Regulates a new business that has judicially been interpreted as a legal use

Cons:

- Could eventually be “re-prohibited” by the State of North Carolina General Assembly (although it is unlikely to be taken up during the ensuing short session)
- Would require additional review and enforcement responsibilities when limited resources are available to accommodate new work
- May result in unanticipated impacts and concerns from citizen groups

Staff resources for review, inspection, and enforcement will be required; however, the number of applications is expected to remain relatively small and would not cause an undue burden on staff from a development review standpoint. It is less clear whether the uses could result in the need for additional public safety oversight which helps support the need for an individualized business fee to help offset the need for additional resources.

Before enforcement action was taken, it was estimated that the City of Asheville had up to ten (10) stand-alone EGO's; this does not include the number of establishments that currently support gaming stations as an ancillary use. Should this amendment be adopted, it is expected that many of the original gaming locations would not meet the proposed standards and would have to amortize their use over the proposed 180 days. Additionally, it is anticipated that several business would choose to remove the gaming use to avoid the fees. As a result, it is very difficult

to predict potential revenues but staff estimates that it could result somewhere between \$25,000 to \$50,000.

In February/March 2009, this proposal was reviewed by: (1) The Planning & Economic Development Committee; (2) The Finance Committee, and (3) The Public Safety Committee.

In all cases, the three committees recommended moving this proposal forward to the Planning & Zoning Commission and City Council for consideration. The Planning & Zoning Commission reviewed this item at their May 5, 2010, meeting and recommended approval 6-0. Interest in making the EGO use a Conditional Use Permit in the Central Business District was discussed but did not garner the support to be incorporate into the formal recommendation.

Staff recommends (1) adoption of the ordinance proposed that establishes a new land use designation and associated land use controls; and (2) adoption of a new privilege/business license fee of \$2500 per establishment with a \$500 per machine added to the base fee. Fee shall be renewed on a yearly basis.

Should the Council choose not to support this proposal or wish to consider other policy options a few alternatives could include:

- Adopt a new definition for *Electronic Gaming Establishments* and then adding them to the list of permitted uses in appropriate zoning districts. No special requirements included. (not recommended)
- Create a new Conditional Use Permit category for *Electronic Gaming Establishments*. CUP could be applied in certain districts only while remaining a Use by right, Subject to special requirements in other districts.
- Expressly prohibiting *Electronic Gaming Establishments* in the City of Asheville.

Mr. Fred English felt Council should charge the maximum fees.

Mr. William Withers, representing WPM Properties, did not support these regulations as his business is not a nuisance and they are properly run.

Mayor Bellamy closed the public hearing at 6:25 p.m.

In response to Councilman Russell regarding outreach to business owners or the public, Ms. Tuch said that even though the affected businesses are aware of this process as they have been following it from the beginning, she has not made an effort to inform the ancillary businesses. The proposed ordinance has been circulated to the Coalition of Asheville Neighborhoods as well as the other groups on their listserv.

When Councilman Bothwell asked if there are other separation requirements for other uses, Ms. Tuch replied that adult establishments have a stronger separation requirement. In addition, group homes and family care homes have separation requirements that are designed more to prevent a concentration of uses. Regarding the separation requirements for EGO's, we attempted to model that from what other municipalities were doing. She explained that on Sundays it is common for businesses to have shorter hours.

There was considerable discussion from Council. Amongst other things, the discussion surrounded the State's legislation and how other municipalities are dealing with the issue of proliferation and impact of the machines in communities; the rationale of the privilege license fee and cost per machine; the rationale of an implied criminal element of this type of business; whether we want a concentration of the businesses or have them spread to all areas of the city; should there be a cap of the number of machines at one location; and rationale behind the hours of operation, use districts, separation requirements, and 180 amortization period.

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

Vice-Mayor Newman moved to adopt a new privilege/business license fee of \$2500 per establishment with a \$2500 per machine added to the base fee. This motion was seconded by Councilwoman Manheimer and carried on a 4-3 vote, with Mayor Bellamy, Councilman Russell and Councilman Smith voting "no."

Councilman Davis moved to reconsider the motion of the new privilege/business license fee. This motion was seconded by Councilman Russell and carried unanimously.

After further discussion on the license fee, Vice-Mayor Newman moved to adopt Ordinance No. 3869, a new privilege/business license fee of \$1000 per establishment with a \$2500 per machine added to the base fee. This motion was seconded by Councilwoman Manheimer and carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 - PAGE

Councilman Davis moved to allow the EGO's in the following use districts: Highway Business, Regional Business, Central Business District, River, and Commercial Industrial. This motion was seconded by Councilwoman Manheimer.

After further discussion about the Community Business I and Community Business II Districts and in order to capture most ancillary operations, Councilman Davis and Councilwoman Manheimer agreed to amend their motion to include 4 or fewer EGO's in Community Business I and Community Business II Districts. The amended motion carried on a 6-1 vote, with Councilman Russell voting "no."

Councilwoman Manheimer moved to cap the number of machines at 20 per establishment. This motion was seconded by Vice-Mayor Newman and carried on a 6-1 vote, with Councilman Russell voting "no."

Vice-Mayor Newman moved to not adopt separation requirements and that staff report back to Council in six months to see if there have been any concerns raised. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no."

Vice-Mayor Newman moved to not adopt hours of operation and that staff report back to Council in six months to see if there have been any concerns raised. This motion was seconded by Councilman Bothwell and carried unanimously. Mayor Bellamy asked that staff pay particular attention to those establishments close to residential districts.

Councilwoman Manheimer moved to adopt an amortization period of 180 days. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

Councilwoman Manheimer moved to adopt all other provisions of the ordinance that do not conflict with the modifications made by Council. This motion was seconded by Vice-Mayor Newman and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Closed Session

At 7:25 p.m. Councilman Smith moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Larry Roland and the City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property by purchase, option, exchange or lease. The properties are located on the north side of Eagle Street, and the south side of Swannanoa River Road. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:23 p.m., Councilman Russell moved to come out of closed session and return to the formal meeting. This motion was seconded by Councilman Smith and carried unanimously.

C. PUBLIC HEARING REGARDING AN INSTALLMENT PURCHASE CONTRACT WITH BB&T TO FUND THE LIVINGSTON COMMUNITY CENTER PROJECT

Mayor Bellamy opened the public hearing at 8:30 p.m.

Treasury Services Manager Pat Liguori said that it is necessary for City Council to hold a public hearing authorizing the negotiation of the installment purchase contract with BB&T to fund the Livingston Street Community Center.

On April 27, 2010, City Council adopted a resolution authorizing negotiation of an installment purchase contract and setting a public hearing.

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. This public hearing is a legal formality required by the North Carolina General Statutes before the process of security financing can officially begin.

Pro:

- Allows the City to comply with the legal requirements of the Local Government Commission regarding installment purchasing financing.

Con:

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

The City will secure approximately \$1.1 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 \$1.1 million in debt proceeds ranges from approximately \$123,000 to \$76,000. Funds are already included in the City's Proposed FY 2010-11 debt service Budget to cover the debt service costs.

City staff recommends City Council hold the public hearing regarding an installment purchase contract with BB&T to fund the Livingston Street Community Center project.

Mayor Bellamy closed the public hearing at 8:31 p.m.

Mayor Bellamy said that a resolution approving an installment financing contract will be considered by City Council at their June 8, 2010, meeting.

V. UNFINISHED BUSINESS:

A. CONSIDERATION OF OUTDOOR SPECIAL EVENT CO-SPONSORSHIPS AND PARTNERSHIP AGREEMENTS FROM JULY 1, 2010, THROUGH JUNE 30, 2010

Director of Parks, Recreation and Cultural Arts Roderick Simmons said that this is the consideration of outdoor special event co-sponsorships and partnership agreements from July 1, 2010, through June 30, 2011.

At its meeting on March 4, 2010, staff presented a recommendation to the City Council Finance Committee to co-sponsor six anchor events (Asheville Drum Circle, Asheville Greek Festival, Asheville Holiday Parade, Downtown After 5, Goombay, Shindig on the Green) in the form of full permit fee waivers and in-kind labor support, a package valued at \$114,295. In addition, staff recommended that 27 additional events be granted full permit fee waivers estimated in value at \$26,032.

Subsequently, during the FY 2010-2011 budget process, staff received feedback from Council to seek opportunities for revenue enhancement and full cost recovery for services supported by fees. At the March 23 budget worksession, staff proposed an alternative cost-sharing proposal for event co-sponsorship as a way to enhance revenue and promote full cost recovery. At that worksession, Council asked for specific information about how a reduced event co-sponsorship model would work. Staff developed a proposal where organizers of the six anchor events would be responsible for paying 50% of their event costs (permit fees and/or in-kind labor costs) and no additional permit fee waivers would be granted, which was sent to City Council on April 9 and posted with the April 27 worksession agenda. The minutes of the April 27 budget worksession reflect that it was the consensus of Council to proceed with a reduced co-sponsorship program; however, Mayor Bellamy did not support that action.

The reduced co-sponsorship recommendation was brought forward for formal City Council consideration and adoption at its formal meeting on April 27, 2010. During Council discussion and public comment, four areas of concern were raised about the reductions, including:

- Loss of critical resources to event organizers;
- Providing adequate notice to event organizers to prepare for a reduced level of support;
- Fairness and clarity of eligibility requirements for events, and;
- Lack of consistency in the process for event organizers when support is considered and may change on a year-to-year basis.

City Council directed staff to develop alternatives for event co-sponsorship support based on the discussion at the April 27 meeting. Staff has broken down alternatives for each category of sponsorship below.

Community Event Programming Partnerships & Co-Sponsorships

The City of Asheville charges everyone a fee to permit and have priority use of parks, permitted amenities, or public facilities. These fees cover extra operational expenses associated with events and guarantee space for the permittee. At the same time, some events produced by non-profit agencies or other sister organizations - such as concerts, art shows, cultural celebrations, theater performances, health fairs, sports events, and others – can also directly further the department's core programs. Consequently, reducing or waiving permit fees and

considering in-kind support from city operational departments (i.e., Public Works, Asheville Police Department, Asheville Fire Department) can be an opportunity to leverage the city's ability to provide these programs while reaching a wider and more diverse audience, thus serving a public purpose. As a result, in recognition of the value these events bring the City of Asheville and the broader community, the city has historically offered support to events that meet certain criteria.

In recognition of the historical, economic, and community significance of certain events, staff would recommend developing three-year partnership agreements with the groups who produce six anchor events. These events include: Downtown After 5, Holiday Parade, Asheville Greek Fest, Drum Circle, Goombay and Shindig on the Green. The agreements would provide full support for permit fee waivers (i.e. park usage permits, building/fire safety permits, etc.) and labor costs (i.e. police support, sanitation, public works) not to exceed the dollar value of support established in FY 2010-2011 in future years (currently estimated at \$114,295).

In addition to anchor events, the City of Asheville maintains partnerships with several sister agencies that provide programming and support at city parks or facilities targeted for a specific community purpose. These sister agencies include: Friends of the Nature Center, the Downtown Association (via Friends of Pritchard Park) and the Pack Square Conservancy.

To formalize these partnerships and support for specific initiatives, staff recommends developing multi-year agreements for these purposes:

Friends of the Nature Center

To collect fees on behalf of the City and to manage the Nature Center Membership program and special events as defined by the multi-year partnership agreement and approved by the Parks and Recreation Advisory Board.

Downtown Association/Friends of Pritchard Park

Facility use and permit fee waivers for programming in Pritchard Park. The dates and times of programming to be approved by the Parks and Recreation Advisory Board as defined by the multi-year partnership agreement.

Pack Square Conservancy

Facility use and permit fee waivers for programming in Pack Square Park. The dates and times of programming to be approved by the Parks and Recreation Advisory Board as defined by the multi-year partnership agreement.

Permit Fee Waivers

To address concerns about the consistency of fee waivers granted for certain events, staff recommends City Council adopt for FY 2010-2011 a non-profit level fee, which would amount to a 50% reduction in event permit fees, for events that meet the following criteria:

- The event is produced by a registered 501c(3) non-profit verified through documentation;
- The event is open to the general public;
- There are no fundraising activities or aspects to the program or event, and;
- The non-profit permit holder remains responsible for general liability insurance and other related event costs including police coverage, barricades, parking meter closures, and other labor costs and needs associated with the event.

During the year, any event meeting the stated criteria above would be eligible for the non-profit fee. If approved, staff would bring back a Fees & Charges Amendment at the next City Council meeting.

To address the concern that the 27 events that were previously considered for full fee waivers have not had adequate time to plan for reduced levels of support in the coming year, City

Council could consider granting these agencies fee waivers for one additional year, knowing that these events may be eligible for the non-profit level fee the following year.

This action supports the current Parks, Recreation, Cultural Arts and Greenways Master Plan by making organizations aware of the value of their events to the community and by providing clear criteria for support.

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Events stimulate the local economy.
- Provides additional quality cultural programming and diversity.
- Reduces staff time in processing fee waiver requests.
- Provides multi-year consistency.

Cons:

- Anchor events have labor costs to the City in the amount of \$85,000, which can put a strain on city resources (police, fire, sanitation, park maintenance, etc.)
- A 50% reduction in permit fees for non-profit organizations would result in lost revenue for the city; however, the city does not budget for this revenue since it tends to fluctuate from year to year.
- Events contribute to decline on infrastructure such as parks.
- Some events close streets.

Partnership agreements will result in lost revenue from permit fee waivers and in-kind labor costs. In-kind labor costs for the six anchor events will be absorbed in existing budgetary allocations. Overtime budgets in FY 2010-2011 have been significantly reduced, and meeting event obligations along with routine service levels may be challenging but not impossible. A non-profit event permit fee level will also result in lost revenue; however, this revenue is not included in the budget due to year-to-year fluctuations, and so there is no budgetary impact from this action.

Below is the event requests for permit waivers and in-kind support:

	total requested permit fee waivers FY11	total requested labor cost FY11	total requested support FY11
<i>Anchor Events</i>			
Asheville Drum Circle	\$3,875	\$0	\$3,875
Asheville Greek Festival	\$10,742	\$1,342	\$12,084
Asheville Holiday Parade	\$1,562	\$39,462	\$41,024
Downtown After 5	\$2,143	\$14,780	\$16,923
Goombay Festival	\$2,942	\$26,869	\$29,811
Shindig on the Green	\$7,414	\$3,164	\$10,578
Anchor Event Sub-Total	\$28,678	\$85,617	\$114,295
<i>Non-Anchor Events</i>			
Asheville Citizen-Times Half Marathon/5K	\$884	\$3,300	\$4,184
Asheville Earth Day	\$3,342	\$2,286	\$5,628
French Broad Cycling Classic	\$290	\$1,900	\$2,190

HardLox Jewish Food and Heritage Festival	\$2,482	\$800	\$3,282
Just Folks Summer Festivals	\$4,639	\$2,850	\$7,489
Martin Luther King Peace March and Rally	\$537	\$1,520	\$2,057
Montford Music and Arts Festival	\$342	\$5,535	\$5,877
Ninja 5K	\$162	\$950	\$1,112
Oktoberfest	\$687	\$3,134	\$3,821
OrganicFest	\$1,357	\$1,774	\$3,131
RiverFest:Save the French Broad	\$959	\$2,572	\$3,531
Shamrock Run	\$240	\$2,250	\$2,490
Spring Market	\$206	\$3,840	\$4,046
Superhero 5K	\$162	\$1,350	\$1,512
Thomas Wolfe 8K Road Race	\$365	\$4,590	\$4,955
WNC Run/Walk for Autism	\$914	\$562	\$1,476
Asheville JCC Falafel 5K & Kids Run	\$495	\$2,385	\$2,880
Smoky Mountain Toy Run	\$362	\$6,673	\$7,035
Asheville Art Museum Art Party and The Big Crafty	\$387	\$523	\$910
Asheville Mardi Gras Parade	\$50	\$675	\$725
Blue Ridge Pride	\$639	\$1,350	\$1,989
Children's Health and Harmony Festival	\$617	\$374	\$991
Earth Day Bicycle Rodeo	\$278	\$400	\$678
Mountain Area Memory Walk	\$539	\$1,985	\$2,524
Mountain Sports Festival	\$4,367	\$4,376	\$8,743
March for Babies	\$440	\$1,685	\$2,125
New Balance Girls on the Run 5K	\$290	\$4,330	\$4,620
Non-Anchor Event Sub-Total	\$26,032	\$63,969	\$90,001
Grand Total	\$54,710	\$149,586	\$204,296

In order to move forward with the recommendations outlined above, staff is seeking Council policy affirmation for the four items listed below.

City Council then discussed at length each item, asking for clarification or further explanation when needed, in particular issues related to labor costs.

- (1) City Council affirms that providing support community events and programming is beneficial to the City of Asheville and serves a public purpose.

It was the consensus of Council to provide support for community events and programming as they are beneficial to the City of Asheville and they serve a public purpose.

- (2) City Council wishes to continue public support through three-year agreements for six specific events (Downtown After 5, Holiday Parade, Asheville Greek Fest, Drum Circle, Goombay and Shindig on the Green) produced by partner agencies that further the city of Asheville's goals and entail historical, economic and community significance.
 - a. City Council is supportive of capping the value of in-kind support for anchor events at an annual amount not to exceed \$114,000 for all six events.

Mr. Bryon Greiner, representing the Asheville Downtown Association, supported staff's recommendation for Council support.

Mr. Robert King, representing the Goombay Festival, supported staff's recommendation for Council support.

A representative from Blue Ridge Pride hoped they could be considered as one of the six anchor events in the future.

Vice-Mayor Newman felt it might be appropriate to discuss partnership opportunities with Buncombe County and the Buncombe County Tourism Development Authority to help support the six anchor events since they are beneficial to not only Asheville but all of western North Carolina.

Mayor Bellamy said that when staff comes back that the conversation about the cap for the anchor events that we need to be committed to the three-year period.

Councilman Davis moved to continue public support through three-year agreements for six specific events outlined above, capping the value of in-kind support at an annual amount not to exceed \$114,000 for all six events. This motion was seconded by Vice-Mayor Newman and carried unanimously

- (3) City Council affirms that partnerships with three sister agencies (Friends of the Nature Center, Downtown Association, and Pack Square Conservancy) warrant formalized community partnership agreements by which those organizations receive facility use and fee waivers for the purpose of providing programming that supports specific city goals or initiatives.

Mayor Bellamy asked that the Urban Trail be a part of the partnership agreement discussion with the Downtown Association.

Vice-Mayor Newman moved to direct staff to craft the partnership agreements with the Friends of the Nature Center, Downtown Association and Pack Square Conservancy to include facility use and fee waivers and to bring those back for Council consideration. This motion was seconded by Councilman Smith and carried unanimously.

- (4) City Council endorses the concept of adopting a non-profit event permit fee level to become effective in FY 2010-2011 for any non-profit organization whose event meets certain criteria. The fee level would represent a 50% reduction in existing event permit fees.
- a. City Council could consider grandfathering in 27 events for permit fee waivers for one year to allow for additional time to prepare for the new fee level.

Mayor Bellamy felt it would be appropriate to not charge non-profits for items that only the City can provide, e.g., street barricades. Regarding criteria for non-profits, she felt it was not necessary because we want all non-profits to fund raise in order to be sustainable. Mr. Roderick said that he would take a recommendation to the Finance Committee.

Ms. Sharon Farr, Coordinator of the Montford Community Arts Festival, was appreciative of being able to use the City of Asheville's name as a co-sponsor.

The Volunteer Sponsorship Coordinator for the Autism Society of North Carolina, Western North Carolina Chapter, thanked the City for being one of their co-sponsors and Hoped that could continue.

Councilman Russell moved to adopt a non-profit event permit fee level representing 50% reduction in existing event permit fees and to grandfather in 27 events for permit fee waivers for one year with a \$20,000 cap for Fiscal Year 2010-11, to be reviewed annually by the Finance Committee. This motion was seconded by Vice-Mayor Newman.

Councilman Smith asked for a friendly amendment that we allow for non-profits to have

fund-raising activities and also that the registered non-profits include 501 c(4)s.

Councilman Smith and Vice-Mayor Newman accepted the friendly amendment to their original motion.

At Mayor Bellamy's suggestion, Councilman Russell moved to amend the amended main motion (1) to adopt a non-profit event permit fee level representing 75% reduction in existing event permit fees; (2) to grandfather in 27 events for permit fee waivers for one year with a \$20,000 cap for Fiscal Year 2010-11, to be reviewed annually by the Finance Committee; (3) all for non-profits to have fund-raising activities; and (4) registered non-profits include 501 c(4)'s. This motion was seconded by Councilman Smith and carried on a 4-3 vote, with Vice-Mayor Newman, Councilwoman Manheimer and Councilman Davis voting "no."

The amended main motion carried unanimously.

It was the consensus of Council that any event that meets the criteria is eligible for this fee level beginning July 1, 2010.

B. RESOLUTION NO. 10-120 - 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

Director of Transportation Ken Putnam said that this is the consideration of a resolution authorizing the City Manager to apply for the Fiscal Year (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.

The subject staff report was first presented to City Council on April 27, 2010. Before action was taken, City Council asked staff to provide additional information about past accomplishments of the TDM program. He provided Council with a list of various local programs and/or accomplishments within the TDM strategies including FY 2009-10 goals, performance measures, and FY 2010-11 goals.

TDM programs promote alternative transportation options 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.

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 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.

The grant provides funds for up to 50% of the total administrative costs including salaries and fringe benefits (one full-time position), marketing, office expense, etc. The TDM coordinator is in charge of administering the grant which includes but is not limited to the following programs:

- 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

In July 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.
- As of April 30, 2010, these statewide programs have reduced the growth of VMT by 24.6% - the goal for Senate Bill 953 was 25%.
- As of April 30, 2010, these programs have reduced NOx by 7.55170944 tons.
- These programs promote alternatives to single vehicle occupancy (carpooling, vanpooling, transit, bicycles, and telecommuting).
- 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.

When Mayor Bellamy asked for public comment, no one spoke.

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

Councilman Davis felt the \$50,000 match was not a good use of dollars during this difficult budget year.

Mr. Putnam responded to Vice-Mayor Newman when he questioned if the vehicles miles travelled was due more to recession.

Councilman Smith moved for the adoption of Resolution No. 10-120. This motion was seconded by Councilman Bothwell and carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 46

C. RESOLUTION NO. 10-121 – RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT REGARDING EXTENSION OF SEWER SERVICE

City Attorney Oast said that Ms. Norma M. Kushigian is the owner of two adjacent parcels proposed for annexation in the area known as the Airport Road Annexation, there was a request to remove Lot 1 from the annexation plan. In exchange the City will not have to install sewer to Lot 2 (currently in the annexation plan). Because Council cannot make promise with respect to their legislative discretion, he recommended Council authorize the agreement whereby if Council decides not to annex Lot 1 then certain consequences would take effect. If during the one-year non-annexation period Council decides to annex Lot 1 then we will be required to install sewer to Lot 2. Beginning after that non-annexation period there is a five-year period during which it is expected the owners will petition for the annexation of Lot 1. If and when that occurs, the City would be required to provide sewer to Lot 2. After the expiration of that agreement (6 years from now), we can annex Lot 1 but any obligation to provide sewer service to Lot 2 is gone.

In response to Councilman Russell, City Attorney Oast said that this agreement has been reviewed by the attorney representing the property owner.

Mr. Rick Jackson, attorney representing property owner Norma M. Kushigian, felt the agreement is in the best interest of the City and the property owner.

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

Councilman Russell moved for the adoption of Resolution No. 10-121. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 47

C. RESOLUTION NO. 10-122 - RESOLUTION AMENDING THE ANNEXATION SERVICES PLAN FOR THE YEAR 2010 ANNEXATION AREAS

Urban Planner Blake Esselstyn said that this is the consideration of a resolution amending the Annexation Services Plan for the Year 2010 Annexation Areas.

In adopting an annexation ordinance, the City has the authority to annex all or some of an area proposed for annexation, as long as that area qualifies for annexation. The City may also amend the services plan for the proposed annexation area or areas, as long as the requirements for providing service to the annexation areas continue to be met.

City staff presented the Annexation Services Plan for the Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road,

Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road areas to City Council on March 9, 2010. The City Council adopted the plan on this date.

The staff is now proposing that nine pages, three maps, and the property index of this plan be amended. The changes proposed reflect the removal of one lot on which an industrial facility is located. The Asheville City Council discussed deleting this lot as part of an agreement with the property owner that sewer would not be extended to her property until the property is voluntarily annexed. The changes to the plan necessitated as a result of the removal of one lot and one sewer extension are as follows.

- The first amendments are to Page 21 – Statutory Standards Statement for the Airport Road Area. The revisions are to the total acreage in the area, to the measurements of the aggregate external boundary line of the area, to the contiguous portion of this boundary, to the percent of external boundary that coincides with the City boundary, to the total number of lots and tracts in the area, to the total number of lots and tracts used for industrial purposes in the area, and to the percentage of lots and tracts in the area used for commercial or industrial purposes.
- The second amendments are to Page 22 –Statutory Standards Statement for the Airport Road Area. The revisions are to the total acreage in the Airport Road Area, and to the percentage of area classified as non-urban.
- The third amendment is to Page 38 – Plan for Extension of Services – Sewer Collection. The revision is to the number of linear feet to be constructed in the Airport Road Area with added accompanying language.
- The fourth amendments are to Page 40 – Ad Valorem Property Tax Revenue. The revisions are to the real property valuation and total annual revenue for the Airport Road Area, and the real property valuation and total annual revenue for all of the annexation areas.
- The fifth amendments are to Page 41 – State Utility Tax Revenue. The revisions are to the property acres and total annual revenue in the Airport Road Area, and to the property acres and total annual revenue for all of the annexation areas.
- The sixth amendments are also to Page 41 – Local Option Sales Tax. The revisions are to the total tax levy and total annual revenue for the Airport Road Area, and to the total tax levy and total annual revenue for all of the annexation areas.
- The seventh amendments are to the revenue summary found on Page 43. The total annual revenue accruing to the City of Asheville from these annexations is \$348,321 which reflects the removal of the one lot in the Airport Road Area.
- The eighth amendments are to the annually recurring expenses found on Page 44. The changes reflect the reduction in the financial impact payments to be made to the Skyland Fire District due to the deletion of the one lot in the Airport Road Area.
- The ninth amendments are to the capital expenditures summary found on Page 45. The total capital expenditures for the annexation areas were reduced by \$184,740 due to the deletion of one sewer line extension. The capital expenditures are estimated to be \$ 204,939.
- The tenth amendments are to the financial impact statement on Page 47. The valuation figure and the projected impact for the Airport Road Area are reduced due to the removal of the one lot.

- The final amendments are to the Present and Proposed Boundaries Map, the Generalized Land Use Map, the Sanitary Sewer Map, and to the Property Inventory for the Airport Road Area. The maps and inventory now reflect the deletion of the one lot and one sewer extension in the Airport Road Area.

As long as the Annexation Services Plan does not show the annexation area as qualifying under any additional statutory tests, no additional public hearing is required for this amendment to the Plan.

Pro:

- Clarifies details and provides more accurate information in the Annexation Services Plan for 2010.

Con:

- None seen.

The projected revenue for the twelve annexation areas is \$348,321. The anticipated annually recurring expenses total \$125,296 for five years and \$85,969 for all following years. The one time capital expenditures are projected to be \$204,939. None of the revenues or expenses are included in the FY 2010-11 Proposed Budget pending possible challenges from property owners in the annexed areas. Once the time period for appeals has passed, but prior to the September 30, 2010 effective date, staff will bring forward a budget amendment to City Council to recognize the revenues and budget for the expenses associated with these areas for the time period between September 30, 2010, and June 30, 2011.

City staff recommends City Council adopt a resolution amending the Annexation Services Plan to reflect revisions/corrections as presented.

Mr. Esselstyn asked that the Sanitary Sewer System Map language be added to the resolution as a page that was replaced.

When Mayor Bellamy asked for public comment, no one spoke.

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

Councilman Smith moved for the adoption of Resolution No. 10-122. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 48

D. ORDINANCE NO. 3857 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE INGLES AREA

ORDINANCE NO. 3858 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE SCHENCK PARKWAY AREA

ORDINANCE NO. 3859 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE FARLEIGH STREET AREA

ORDINANCE NO. 3860 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE DEERFIELD AREA

ORDINANCE NO. 3861 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 67 MOUNTAINBROOK ROAD

ORDINANCE NO. 3862 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 73 AND 75 WATERS ROAD

ORDINANCE NO. 3863 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 26 ROCKING PORCH ROAD

ORDINANCE NO. 3864 - - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 40 KEASLER ROAD AND 23 SUNNYCREST DRIVE

ORDINANCE NO. 3865 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 617 UPPER SONDDLEY DRIVE

ORDINANCE NO. 3866 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 1445 TUNNEL ROAD

ORDINANCE NO. 3867 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE WILLOW WINDS LANE AREA

ORDINANCE NO. 3868 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE AIRPORT ROAD AREA

Urban Planner Blake Esselstyn said that this is the consideration of the adoption of ordinances to extend the corporate limits of the City of Asheville to include the following twelve annexation areas: Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road, Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road.

On February 23, 2010, the City Council adopted Resolutions of Intent beginning the annexation process for the following twelve areas: Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road, Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road. The Annexation Services Plan for these areas was approved on March 9, 2010, and a public information meeting was held on April 12, 2010. Public hearings on each of the annexation ordinances were held on May 11, 2010. Adoption of the annexation ordinances is the final step in the annexation process. Amendments to the Annexation Services Plan will be considered prior to discussion on the ordinances. The effective date for these annexations is proposed in these ordinances to be September 30, 2010.

The ordinances set forth this effective date and also reference a metes and bounds description attached to the ordinance. The staff has made revisions in the previously introduced metes and bounds description (those contained in the Resolution of Intent) for the Airport Road Area to reflect the recommended deletion of one parcel.

Pros:

- Supports City of Asheville's Smart Growth Annexation program (regular program of annexations) as set forth in the City's 2025 Plan.

- Provides for an urban level of service for developed and developing areas adjacent to the existing city limits and includes those benefiting from existing City services in participation in the costs of such services.
- Fills in service delivery gaps and split jurisdiction issues on the edge of corporate limits.

Cons:

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

The projected revenue for the twelve annexation areas is \$348,321. The anticipated annually recurring expenses total \$125,296 for five years and \$85,969 for all following years. The one time capital expenditures are projected to be \$204,939. None of the revenues or expenses are included in the FY 2010-11 Proposed Budget pending possible challenges from property owners in the annexed areas. Once the time period for appeals has passed, but prior to the September 30, 2010, effective date, staff will bring forward a budget amendment to City Council to recognize the revenues and budget for the expenses associated with these areas for the time period between September 30, 2010, and June 30, 2011.

City staff recommends City Council adopt the twelve annexation ordinances for the Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road, Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road Areas with the effective dates as established by ordinance.

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

When Councilman Russell asked if staff had any indication that an annexation area might be contested, Mr. Esselstyn said that he has received no such indication.

Vice-Mayor Newman moved for the adoption of Ordinance No. 3857. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Vice-Mayor Newman moved for the adoption of Ordinance No. 3858. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Vice-Mayor Newman moved for the adoption of Ordinance No. 3859. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilwoman Manheimer moved for the adoption of Ordinance No. 3860. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilwoman Manheimer moved for the adoption of Ordinance No. 3861. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilwoman Manheimer moved for the adoption of Ordinance No. 3862. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilman Bothwell moved for the adoption of Ordinance No. 3863. This motion was seconded by Vice-Mayor Newman and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilman Bothwell moved for the adoption of Ordinance No. 3864. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilman Bothwell moved for the adoption of Ordinance No. 3865. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilman Bothwell moved for the adoption of Ordinance No. 3866. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Councilwoman Manheimer moved for the adoption of Ordinance No. 3867. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 – PAGE

Mayor Bellamy said that we do not have anticipated General Fund revenue for the capital expense in the Airport Road annexation and could not support the motion.

Councilwoman Manheimer moved for the adoption of Ordinance No. 3868. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no."

ORDINANCE BOOK NO. 26 - PAGE

VI. NEW BUSINESS:

A. RESOLUTION NO. 10-123 - RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

Vice-Mayor Newman said that Mr. Scott Barnwell has resigned as a member of the Recreation Board, thus leaving an unexpired term until June 30, 2011.

At the Council meeting on May 11, 2010, it was the consensus of Council to interview Todd Dunnuck, Mark Strazzer, Michael Holgate and Will Callaway. Due to a misunderstanding of the date, Mr. Dunnuck did not attend the interview.

After Council spoke highly of the candidates, Todd Dunnuck received 0 votes, Mark Strazzer received 2 votes; Michael Holgate received 0 votes; and Will Callaway received 4 votes.

Councilman Russell passed on voting due to his absence in the interviews. Therefore, Will Callaway was appointed as a member of the Recreation Board to serve the unexpired term of Mr. Barnwell, term to expire June 30, 2011, or until his successor has been appointed.

RESOLUTION BOOK NO. 33 – PAGE 63

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte was opposed to the no smoking prohibiting, especially in parks.

The following claims were received by the City of Asheville during the period of April 23 – May 13, 2010: PSNC (Water), Darrell R. Thomas (Water), Donna Fitzpatrick (Sanitation), Meghan S. Sumner (Building Safety); Ada B. Wilson (Building Safety), Phillip S. Camby (Water), Teresa Smith (Police), City of Asheville (Inspections), Jan Hart (Water) and Charter Communications (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:57 p.m.

CITY CLERK

MAYOR