

Tuesday – December 14, 2010 – 3:00 p.m.
Worksession
1st Floor North Conference Room

Present: Mayor Terry M. Bellamy, Presiding; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; 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 and Councilman William A. Russell Jr.

Annexation Policy Direction

Urban Planner Blake Esselstyn said that in October of this year, in reviewing two annexation areas, the Asheville City Council decided to forego one of the annexations. At that time, Council expressed an interest in conducting a worksession to examine the City's annexation policies and related legislative objectives.

Annexation is the methodical extension of a city's boundaries into adjacent unincorporated areas, and the corresponding extension of that city's services to the areas encompassed by the new boundaries. As a matter of policy, annexation is permitted in North Carolina subject to statutory requirements because the State has found that "sound urban development is essential to the continued economic development of North Carolina" and that "municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing such development." [NCGS § 160A-47]

Annexation is seen as a way to ensure fairness amongst those living in an urbanized area and as a way to maintain the strength of North Carolina cities. Several studies have shown that allowing for "elastic" cities helps to reduce sprawl, maintains population growth, and promotes financial stability of the municipalities in the State (bond ratings, tax base, etc).

The use of the tool of statutory, or city-initiated, annexation is perhaps more important to Asheville as a growth management tool than other cities because our local government has been deprived of both the traditional annexation incentives other cities have to ensure steady growth and other traditional revenue sources such as hotel/motel fees. The Sullivan Acts are the most egregious example of this situation in that they restrict the ability of Asheville to grow with water line extensions and to charge differential water rates. Thus, Asheville taxpayers must absorb operation cost deficits for water customers not within the City.

The City of Asheville's approach to annexation since 1999 has been to conduct city-initiated annexation in a conservative fashion [see comparative information]. The characteristics of this approach have been:

- Undertaking the annexation of properties that are clearly urban (i.e. meeting density or development thresholds) in nature.
- Annexing areas that are carefully defined from a rational service provision standpoint – omitting areas where service provision is infeasible.
- Annexing areas that enhance our ability to provide efficient and effective municipal service.
- Annexing relatively small areas unless such areas incorporate a road corridor or a large subdivision.
- Evaluating potential annexation areas adjacent to all quadrants of the City.
- Per Council direction, we have avoided annexation of industrial areas, primarily in the southern part of Buncombe County.

Staff has continued to follow this approach in presenting proposed annexations to the Asheville City Council once or twice each year.

To assist Council in policy review, staff provided Council the following materials: (1) Comparative Annexation Information – From City of Raleigh; (2) Comparative Municipal Growth Table; (3) Brookings Institute Report; and (4) Baltimore Magazine Article.

Using the map for the resolution of consideration (adopted by City Council in February of 2010 and effective until February of 2012), Mr. Esselstyn reviewed the methodology on why we annex certain areas of the community.

Throughout discussion, Mr. Esselstyn, City Attorney Oast and Director of Public Works Cathy Ball responded to various questions/comments from Council, some being, but are not limited to: why have we not annexed the I-26 corridor; why wasn't more of the Royal Pines area included in the earlier annexation proposal; since the City is not in the sewer business and it is a huge expense, why do we have to install sewer lines; does the Town of Woodfin provide sewer service as they seem to be annexing aggressively; how does Asheville compare in annexing with other cities over the last five years; and can Asheville charge new water customers a differential rate.

Mayor Bellamy supported providing sidewalk service in our future annexation plans.

It was Councilman Bothwell's opinion that we should annex areas in our resolution of consideration which are particularly likely to change in use or development of commercial areas in the future.

Noting that if the legislature moves forward with any iteration of the annexation bills that would effectively eliminate Asheville's ability to annex at all, City Attorney Oast explained the number of technical revisions to the act that municipalities were okay with. One major point of debate was the inclusion of a requirement of a referendum involving the area to be annexed, which was what caused the bill to fail. He said that the 2009 one version of the legislation would have stopped annexations in process and at the time we had two that were in the Court of Appeals. It was scaled back that it only applied to annexations on a going forward basis and the changes would have only applied to annexations to which a resolution of intent had been adopted before October 1, 2009. There was a lot of objection to stopping the annexations in process.

Mayor Bellamy said we need to look at the Sullivan Acts not just from the perspective of differential rates for Buncombe County and City of Asheville residents, but the future of this area because counties adjacent to our area need this resource and if we are not planning for our community to benefit financially, we are doing our City a disservice.

City Attorney Oast said that in the law proposed in 2009, there was a section that provided for annexation agreements, which is along the lines of what we have been talking about with the Sullivan Acts. It says a city may enter into a contract under which the city agrees to extend water service, sewer service or both to specific property and in return the owner or owners of the property agree to the following ... to petition the city for annexation and not to join in any appeals. When Councilwoman Manheimer asked if that would supersede the Sullivan Act restriction specific to Asheville, City Attorney Oast said this appears to be new language.

Mayor Bellamy felt that if residents of the proposed annexation areas are allow to vote whether to become a part of the city, then she would support city residents having the ability to vote on the expansion of their boundaries.

Councilman Bothwell felt we should entice people to want to become City residents and suggested ways to create a dollar differential for those that live in the City from those that live in the County, e.g., discount to City residents in our parking deck rates.

At Mayor Bellamy's request, City Attorney Oast said that he would provide Council the bill which the League supported, until the referendum revision was added.

Mayor Bellamy stressed that we need a plan to talk with our legislators about if the legislature eliminates cities to annex, as it is an equity issue for not just now but in the future because there is no way to grow Asheville and people will continue to tap into our water system. Said plan could include some negotiation/compromise tools, e.g., letting Asheville continue with their annexations in progress, an annexation contract to require voluntary annexation of developers that develop adjacent to the City limits; our willingness to have a 5-year delay for annexations to become effective; phasing services; phasing taxations; etc. City Attorney Oast said that he will also provide Council the information he compiled in 2009 when this issue was last discussed.

It was the consensus of Council to have a subcommittee made up of Mayor Bellamy, Councilwoman Manheimer and Councilman Smith discuss the negotiation/compromise tools, some outlined above, that Asheville would be willing to support of the ability for cities to annex is eliminated.

With all the factors in play, it was the consensus of Council to postpone any specific annexation proposals for the next few months.

At 4:20 p.m., Mayor Bellamy adjourned the worksession and to reconvene the formal meeting at 5:00 p.m. in the Council Chamber.

Tuesday – December 14, 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 Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman William A. Russell Jr.

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Manheimer gave the invocation.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized (1) Francois de Clarens, first year Engineering Student in Polytech 'Orleans France. His home town is Saumur, France a sister city of Asheville. From October 4 until January 1 Francois is working with the City of Asheville in the position of

Engineering Services Internship. In this role he is being exposed to Land Surveying, Computer Aided Drafting and design on our Civil Engineering projects. In the short time that he has been here, he has worked on the ongoing projects with sidewalk, bicycle and pedestrian design, bus stop shelters, retaining wall design and construction. Francois's mentor for the Internship is John White the Survey Coordinator for the City of Asheville. ; (2) Assistant Fire Marshal Kelly Hinz - Assistant Fire Marshal Kelly Hinz of the Asheville Fire Department has successfully completed the process that awards her the professional designation of "Fire Officer" (FO). The Commission on Professional Credentialing (CPC) met on November 16, 2010, to officially confer the designation upon Kelly Hinz. Kelly is one of only 20 FO's worldwide. The CPC awards the FO designation only after an individual successfully meets all of the organization's stringent criteria. The process includes an assessment of the applicant's education, experience, professional development, technical competencies, contributions to the profession, and community involvement. In addition, all applicants are required to identify a future professional development plan. Assistant Fire Marshal Kelly Hinz has been a member of the Asheville Fire Department for 10 1/2 years; and (3) Firefighter Combat Challenge World's Competition - Ruth Olson; Joy Ponder; Kelley Webb; Ashley Hamilton; and Maureen Casey-- From Reem's Creek Fire Department. Local female firefighters returned home with a bronze medal after competing in the Scott Firefighter Combat Challenge®- World's Final Competition, held in Myrtle Beach, SC this past week. Four members from the Asheville Fire Department, Ruth Olson, Joy Ponder, Kelley Webb and Ashley Hamilton along with team member Mo Casey from Reem's Creek Fire Department, joined forces to create an Asheville team, better known as FUEL. In 2008 the team finished second in the world and this yearly proudly finished third. Each year the competition gets tougher as more women come out to compete. The Challenge annually attracts hundreds of U.S. and Canadian municipal fire departments at more than 25 locations and is now expanding to countries around the world, including New Zealand, Germany, Argentina, Chile, and South Africa. The Challenge seeks to encourage firefighter fitness and demonstrate the profession's rigors to the public. Wearing "full bunker gear" and the SCOTT Air-Pak breathing apparatus, pairs of competitors race head-to-head as they simulate the physical demands of real-life firefighting by performing a linked series of five tasks including climbing the 5-story tower, hoisting, chopping, dragging hoses and rescuing a life-sized, 175 lb. "victim" as they race against themselves, their opponent and the clock. Through support of the Asheville Fire Department, Reem's Creek Fire Department, Asheville Firefighters Association, and through assistants of local grants and fundraisers the team was able raise money in order to attend several training events and competitions throughout the season conditioning them for the final event.

On behalf of City Council, Mayor Bellamy thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. RECOGNITION OF BILTMORE FARMS' EASEMENT DONATION FOR DINGLE CREEK WETLANDS PROJECT

Mayor Bellamy was pleased to recognize Mr. Paul Szurek, Chief Financial Officer of Biltmore Farms, LLC, for Biltmore Farm's easement donation for the Dingle Creek Wetlands Project. Mr. Szurek also spoke about how two of their buildings have reached a LEED certification level.

C. PROCLAMATION PROCLAIMING JANUARY 10-17, 2011, AS "DR. MARTIN LUTHER KING JR. WEEK"

Mayor Bellamy read the proclamation proclaiming January 10-17, 2011, as "Dr. Martin Luther King Jr. Week" in the City of Asheville. She presented the proclamation to Ms. Oralene Simmons, who briefed City Council on some activities taking place during the week. City Manager Jackson said that he would add a link to the City's website to find all the activities that will be taking place during the week.

D. RECOGNITION OF NEW HUMAN RESOURCES DIRECTOR

Assistant City Manager Jeff Richardson was pleased to introduce Ms. Kelley Dickens, the new Human Resources Director. Mayor Bellamy said that the City will look forward to learning from her experience.

II. CONSENT AGENDA:

Mayor Bellamy asked that Consent Agenda Item G be removed from the Consent Agenda.

Councilman Smith asked that Consent Agenda Item B be removed from the Consent Agenda for an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 23, 2010; AND THE COMMUNITY MEETING HELD ON NOVEMBER 30, 2010

B. RESOLUTION SETTING A PUBLIC HEARING ON JANUARY 11, 2011, TO CLOSE SEVERAL PORTIONS OF UNOPENED RIGHTS-OF-WAY AND CITY STREETS WITHIN THE MONTFORD COMMONS DEVELOPMENT AREA

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

C. RESOLUTION NO. 10-254 - RESOLUTION AUTHORIZING SETTLEMENT OF A PROPERTY DAMAGE CLAIM FOR THE HAYES & HOPSON BUILDING

Summary: The consideration of a resolution authorizing settlement of a property damage claim for the Hayes & Hopson Building.

In the course of construction of the Pack Square Park, surface water that previously had been collected in the storm drainage system of the Court Plaza roadway was directed to the North wall of the Hayes & Hopson building, and entered the basement and sub basement of the building. The intrusion occurred in two locations, one on the Northwest corner, and one midway along the North wall, where a manhole is.

The water intrusion resulted in recurring damage to the finish work in the Hayes & Hopson building, requiring replacement and repair of the work, mold remediation, and extensive use of dehumidifiers. The cost of this work was \$35,150.54.

The problem has been corrected by the installation of a shallow drainage system in the area between the North wall of the building and the southern walkway through the park, which was tied into the storm drain collector in South Spruce Street. The Pack Square Conservancy was responsible for the design and installation of the drainage system in the park area; the City installed the improvements on Spruce Street. The corrective measure appears to have been effective.

The Asheville Claims Corporation and our engineers monitored this situation while construction of the park was in progress, and confirmed the source of the water intrusion, the extent of damage, the cost of repairs, and efficacy of the redesigned drainage system. We were initially concerned that the cost of correcting the problem might involve waterproofing the building, a far more expensive proposition.

The owner of the building has agreed to a complete release of the City from liability for damage resulting from water intrusion. Because the adjacent property is owned by the City and

Buncombe County as tenants in common, the County was requested to participate in this settlement, but declined. Accordingly, the release will apply only to the City.

Approval of the City Council is required because the amount of the settlement exceeds the settlement authority of the Asheville Claims Corporation.

Pros:

- Forecloses potential litigation
- The City is released from liability for damage

Con:

- Cost to the City's Insurance Fund

The \$35,150.54 cost to settle this claim will be paid from the existing claims budget in the City's Insurance Fund.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 33 – PAGE 279

D. RESOLUTION NO. 10-255 - RESOLUTION ADOPTING THE 2011 CITY COUNCIL MEETING SCHEDULE

RESOLUTION BOOK NO. 33 – PAGE 280

E. ORDINANCE NO. 3931 - ORDINANCE ESTABLISHING A 25 MPH SPEED LIMIT ON MORRIS STREET FROM TALMADGE STREET TO BREVARD ROAD IN WEST ASHEVILLE

Summary: The consideration of an ordinance to enact and/or change a speed limit on Morris Street in West Asheville to 25 mph.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

The City Traffic Engineer recently completed an engineering and traffic investigation and determined that a 25 mph speed limit would be reasonable and safe on Morris Street from Talmadge Street to Brevard Road. The subject street primarily serves residential properties in a well established neighborhood. Daily traffic volumes are less than 400 vehicles per day and the 85th percentile speed equals 23.3 mph.

This action complies with the City Council Strategic Operating Plan in the Safety focus area by improving the "street experience" for all users including pedestrians, bicycles, and motorists in a medium commercial corridor.

Pros:

- City staff has been able to respond favorably to a citizen's request.

- Based on the 85th percentile speed, most drivers are in compliance with the recommended change.

Cons:

- The initial cost to install the appropriate speed limit signs is about \$500.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about \$500 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting and/or changing a 25 mph speed limit on Morris Street from Talmadge Street to Brevard Road in West Asheville.

ORDINANCE BOOK NO. 26 - PAGE

F. RESOLUTION NO. 10-256 - RESOLUTION AUTHORIZING CHANGES IN THE CITY OF ASHEVILLE WATER RESOURCES DESIGN AND CONSTRUCTION MANUAL

ORDINANCE NO. 3932 - ORDINANCE APPROVING AMENDMENTS TO THE CITY OF ASHEVILLE WATER POLICIES

Summary: The consideration of (1) a resolution authorizing changes in the City of Asheville Water Resources Design and Construction Manual and (2) an ordinance authorizing changes in the Water Policies.

The Water Resources Design and Construction Manual (herein "Manual") was last updated and adopted by City Council on February 23, 2010, to be effective on March 1, 2010. The Manual must be revised to maintain compliance with federal and state regulations and to reduce maintenance and repair costs by providing a higher level of protection for the City public water system. Along with some grammatical revisions, the substantive revisions to the Manual include but are not limited to a requirement for backflow protection device installations associated with Fire Department Connections (FDCs).

The revised Water Policies were adopted by City Council by ordinance on January 26, 2010. Along with some grammatical revisions, the substantive revisions to the Water Policies include but are not limited to there being a reference in Section VI of the Policy for Cross-Connection Control relative to the backflow protection device installations associated with FDCs.

This is in compliance with the City Council's Strategic Operating Plan to provide safe drinking water to area residents and to ensure compliance with state and federal laws.

Pros:

- Adoption of the changes in the Water Design and Construction Manual will ensure that the design and construction standards are compliant with State and federal laws.
- Changes will provide a higher level of protection to the public water system.
- Changes will help reduce maintenance and construction costs to water customers and developers, respectively.
- Changes will help clarify language.

Cons:

- Failure to adopt the change in the Water Design and Construction Manual will result in standards that are not compliant with state and federal laws and industry standards.
- Failure to adopt the changes in the Water Policies may cause confusion about interpretation.

There is no fiscal impact.

Staff recommends City Council adopt (1) a resolution authorizing changes in the City of Asheville Water Resources Design and Construction Manual and (2) an ordinance authorizing changes in the Water Policies.

**RESOLUTION BOOK NO. 33 – PAGE 281
ORDINANCE BOOK NO. 26 – PAGE**

G. RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD SALE OF CIVIC CENTER ICE RINK AND EQUIPMENT TO THE HIGHEST BIDDER

This item was removed from the Consent Agenda.

H. RESOLUTION NO. 10-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CANDLER CONCRETE WORKS INC. FOR THE DOGWOOD GROVE AND NORTHWOOD ROAD CURBING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change order within the budgeted amount with Candler Concrete Works Inc. for the project known as Dogwood Grove and Northwood Road curbing project in the amount of \$123,456.78.

The Dogwood Grove Development has existing curb that has deteriorated over the years and is in need of replacing. Northwood Road has curbing on one side of the road and has several areas that are broke. These two areas are going to be resurfaced after the curbing has been installed. The Adopted Capital Improvement Program (CIP) includes a budget of \$87,440 for the Dogwood Grove project and a budget of \$225,000 for the Northwood Road project. Funding for both projects came from Sullivan Act proceeds that were transferred from the Water Services Fund.

The initial contractor defaulted on the project and that contract was successfully terminated. The project was re-advertised and Candler Concrete Works, Inc. was the lowest responsive/responsible bid.

This action complies with the City Council Strategic Operating Plan in fully leveraging internal partnerships for pursuing capital improvements and infrastructure projects.

Pros:

- Will repair an existing curbing to current standards.
- Provides long term investment in the City's infrastructure.
- Improves vehicular safety.
- Helps with Storm Water run-off.
- Prolongs the useful life of a valuable City asset.

Cons:

- Project management and contract administration will consume staff time.
- A travel lane on this section of roadway may be required to be closed for a short time during the construction of the project.

The initial contract amount for the curbing portion of these projects totals \$123,456.78. As noted above, funding for this contract will come from existing CIP budgets that were previously approved by City Council.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a contract with Candler Concrete Works, Inc. and any change orders, within the budgeted amount of \$123,456.78.

RESOLUTION BOOK NO. 33 – PAGE 283

I. RESOLUTION NO. 10-258 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON-MATCHING GRANT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR THE PROCUREMENT OF EQUIPMENT AND TRAINING/EXERCISE FUNDS TO BE USED BY HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 – ASHEVILLE

ORDINANCE NO. 3933 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR THE PROCUREMENT OF EQUIPMENT AND TRAINING/EXERCISE FUNDS TO BE USED BY HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 – ASHEVILLE

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a non-matching grant from the N.C. Dept. of Crime Control and Public Safety, Division of Emergency Management, for the procurement of equipment funds to be used by Hazardous materials Regional Response Team 6 – Asheville; and (2) the associated budget amendment, in the amount of \$51,429.

The U.S. Department of Homeland Security and the Office of Domestic Preparedness has made funds available through State Homeland Security Grant Number: FY2010-SS-T0-0075 to implement the State Homeland Security Strategy. The strategy identifies the NC Hazardous Materials Regional Response Teams (RRT) as an integral component of North Carolina's preparation and response to manmade and natural emergencies and disasters. The purpose of the grant is to purchase specialized equipment to be used on-scene and to prepare for threatened or actual weapons of mass destruction or domestic terrorists attacks or major disasters.

There are seven Regional Response Teams (RRT) strategically located throughout the state. Asheville Fire and Rescue hosts one of the seven state funded teams - RRT 6. The team responds to hazardous materials incidents in the twenty westernmost counties of North Carolina.

Each of the seven RRTs will receive an equal amount of non-matching funding and each will procure comparable equipment. The equipment consists of updated Level A Personal Protective Equipment (PPE) and other equipment for training.

The grant is non-matching and all equipment provided through this grant will become the property of the Asheville City Government.

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

Pros:

- The Department of Crime Control and Public Safety, Division of Emergency Management, will provide \$51,428.57 in non-matching funds for the purpose of upgrading Asheville and Western North Carolina's terrorism response capabilities.
- The equipment is state of the art and will better address the risk of terrorist's attacks and hazardous materials incidents.
- All statewide regional response teams will be comparably equipped and interoperability will be realized should an event require the resources of additional teams.

- This equipment is immediately available to Asheville residents and businesses. This level of equipment would most likely not be able to be obtained through the city's general budget process.
- Firefighter and citizen safety will be enhanced.

Con:

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

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

City staff recommends that City Council (1) authorize the City Manager to accept the non-matching grant from the NC Department of Crime Control and Public Safety, Division of Emergency Management, to enhance AFD's capabilities to protect Asheville and Western North Carolina; and (2) adopt the associated budget amendment.

**RESOLUTION BOOK NO. 33 – PAGE 284
ORDINANCE BOOK NO. 26 – PAGE**

**J. RESOLUTION NO. 10-259 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO APPLY FOR AN IBM SMARTER CITIES GRANT**

Summary: The consideration of a resolution authorizing the City Manager to apply for an IBM Smarter Cities Grant on behalf of the City of Asheville.

IBM Corporation is currently accepting grant applications for up to \$400,000 of technology and services to solve urban issues through the use of technology.

The grant is primarily aimed at cities with populations greater than 100,000. Due to Asheville's status as a regional hub, and due to Asheville's daytime population of nearly 120,000, staff feels that Asheville is well positioned to apply for this grant. Additionally, due to citizen interest, staff feels that significant support is available in the community, which may translate into increased exposure and awareness of Asheville's application on social media sites.

With Council or City Manager direction, staff can choose proposed problems to focus upon.

Key considerations for grant proposal success include:

- 1-3 problems or issues for the grant award to focus upon. These should be "pressing concerns" of the City.
- Demonstrate City's "commitment to publicly available data"
- Demonstrate City's "track record of innovative problem solving", "including any initiatives to implement new technologies or open data policies"
- Provide "clear, compelling evidence" that the city is well positioned to utilize the resources.

Staff feels that the City of Asheville has an excellent chance of capturing this grant, given the City's track record in the past few years of investing in technology (notably \$2M on BTIP), and engaging citizens in technology decisions, notably mapAsheville's citizen engagement and the Google Fiber grant proposal.

Applying for this grant would align with City Council's "Fiscal Responsibility" goal from Council's 2010-2011 Strategic Plan, notably to "leverage internal and external partnerships for pursuing capital improvements and infrastructure projects". Other City Council goals, such as

“Green & Sustainable” or “Safe”, could also be positively affected, depending upon which issues are chosen for the grant.

Pros:

- Potential to have greater ability to enhance the City’s technology offerings to citizens and line department
- Citizen outreach will engage citizens in a positive manner
- Ability to engage IBM’s best thinkers to apply cutting-edge technology to local issues

Cons:

- Time and effort spent on a grant application may not yield the desired result
- Given scarce resources, City must be careful to select service areas that will have fiscal and operational support

The grant would provide up to \$400,000 in services and technology with no impact on the City’s General Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply for an IBM Smarter Cities Grant on behalf of the City of Asheville.

In response to Mayor Bellamy about obtaining Council’s direction on problems to focus on, City Manager Jackson said that Council can e-mail their comments to him via e-mail.

RESOLUTION BOOK NO. 33 – PAGE 285

K. RESOLUTION NO. 10-260 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH KEVIN T. AND LISA A. FOX FOR A HEALTH SERVICES OFFICE AT 155 BILTMORE AVENUE

Summary: The consideration of a resolution authorizing a lease agreement between Kevin T. and Lisa A. Fox for a Health Services Office at 155 Biltmore Avenue.

The City of Asheville is recommending expansion of the existing Health Services Clinic to provide primary medical care to city employees and dependents over the age of 15, in an effort to reduce the city’s medical costs.

As one strategy to lesson health care costs to the City of Asheville, analysis of clinic expansion and services offered has been explored with a hopeful implementation date of February, 2011. Expansion of the primary health services provided by the City of Asheville at its clinic will increase the number of visits by employees, covered dependents, and retirees for episodic care. Plan design of the clinic services will include financial incentive for access/use of clinic services. City staff has visited other municipality-operated health clinics for benchmarking comparison and has been pleased with analysis on cost-savings generated by this concept.

There are several downsides to expanding Health Services in its current location in City Hall to include: 1) lack of ADA accessibility in the building, 2) lack of parking, and 3) lack of confidentiality to access city hall and lack of feel of a primary health care clinic.

Examination of other city facilities did not yield a possible site at the current time, which has led staff to explore leasable medical space in close proximity to downtown. Several locations have been considered. The current best potential option is leasable space at 155 Biltmore Avenue. This 3,422 square foot space is almost move-in ready and requires minimal construction/remodeling in order to operate the city’s health clinic.

Staff has presented this analysis and clinic expansion to the City Council Health Care Blue Ribbon Task Force at its November 30, 2010, meeting and received unanimous endorsement for City Council consideration.

This action aligns with City Council's Strategic Operating Plan under fiscal responsibility - Operate the City of Asheville to the highest levels of fiscal responsibility. As outlined in the staff report, staff and consultant analysis of clinic expansion projects significant savings to the city's self-funded Health Insurance Fund, which should provide opportunity to build the fund's current fund balance level.

Pros:

- Clinic expansion should generate reduction in medical claims costs to the Health Plan.
- Employees and other covered dependents will be provided with expanded primary care services at nominal costs.
- Employees should see clinic expansion as a welcomed benefit in the face of rising employee costs for service/premiums.
- Off-site location provides better accessibility and confidentiality to current location.

Cons:

- Initial up front investment cost.
- Lease cost of space.

There is a financial analysis for expenses and savings over a two year period. In summary, for the first year, anticipating a February 1, 2011, opening, there are nominal upfront costs to bring this clinic on-line. Beginning July 1, it is estimated that this expanded services clinic should reduce medical claims by \$500,000 per year, which will generate a cost savings to the Health Fund of approximately \$322,000 for the first full year that the clinic is in operation.

Staff recommends City Council support the resolution of a lease for \$3,800 per month at 155 Biltmore Avenue for an initial term of three years, with the option of a two year renewal.

RESOLUTION BOOK NO. 33 – PAGE 286

L. ORDINANCE NO. 3934 - BUDGET AMENDMENT FOR THE SENIOR OPPORTUNITY CENTER AND THE HARVEST HOUSE FOR FACILITY IMPROVEMENTS AND EQUIPMENT

Summary: The consideration of budget amendments in the amount of \$16,065 for Senior Opportunity Center and \$15,230 for Harvest House for 1) appropriations from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding; and 2) transfers from the General Capital Projects Fund to provide the City's local match.

Funds will be used at the Senior Opportunity Center to 1) replace a unit within the HVAC system, 2) install ADA accessible drinking fountain, and 3) purchase program and facility equipment. The allocation requires a 25% local match which will be provided via capital improvement funds that were approved as a part of the FY 2010-11 adopted budget and in-kind services of staff time to manage the project.

Funds will be used at Harvest House to 1) repair the roof, 2) purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via capital improvement funds that were approved as a part of the FY 2010-11 adopted budget and in-kind services of staff time to manage the project.

This action aligns with the City Council Strategic Goal of fiscal responsibility in that it 1) provides an alternative for enhancing the city's long-term financial commitment to infrastructure maintenance, and 2) leverages an external partnership for pursuing capital improvements. This action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it will 1) increase the level of service for indoor facilities to bring older facilities up to date before building new facilities, 2) increase department funding with alternative funding via grants, and 3) enhance the department's means to respond to identified programming priorities.

Pros:

- Facility improvements will address existing major maintenance projects and improve accessibility.
- Equipment purchases will enhance the customer experience and expand programming opportunities provided

Cons:

- None

The allocation will increase the City's Grant Fund budget by \$31,295 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through capital improvement funds that were approved as a part of the FY 2010-11 adopted budget and in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) \$16,065 for Senior Opportunity Center, and 2) \$15,230 for Harvest House for facility improvements and equipment.

ORDINANCE BOOK NO. 26 – PAGE

M. RESOLUTION NO. 10-261 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT FOR ELECTRICAL POWER FACILITIES AT THE WNC AGRICULTURAL CENTER

Summary: The consideration of a resolution authorizing the Mayor to execute an easement for electrical power facilities at the Western North Carolina Agricultural Center (herein "WNCAC").

The land on which the WNCAC is located is owned by the City of Asheville. It is leased to the State of North Carolina, specifically, the Department of Agriculture and Consumer Services, which uses it for the WNCAC. Davis Arena, one of the major facilities at the WNCAC, is being expanded. In connection with this expansion, Progress Energy Corporation is upgrading the electrical service, and relocating the supply line. The proposed new line will be underground. The area of the easement will be 10 feet in width for its entire length (approximately 535 feet), with the power line located in the center of it. The existing power line and easement will be abandoned.

This installation has been approved by the Department of Agriculture, which requested it. Such improvements are within the scope of and contemplated by the lease.

This action complies with the City's Strategic Operating Plan in that it contributes to an existing partnership with the State for the operation of a regional facility, and promotes community education on agriculture.

Pros:

- Facilitates development and use of WNCAC
- Promotes community education on agriculture

Con:

- None noted

Regarding the fiscal impact, there is none directly for City; marginal impact on State.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 33 – PAGE 287

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 Bothwell and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 10-253 - RESOLUTION SETTING A PUBLIC HEARING ON JANUARY 11, 2011, TO CLOSE SEVERAL PORTIONS OF UNOPENED RIGHTS-OF-WAY AND CITY STREETS WITHIN THE MONTFORD COMMONS DEVELOPMENT AREA

Summary: The consideration of a resolution of intent to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area, which includes; an unopened portion of Woodside Place; an unopened unnamed right of way between Gudger Street and the unopened portion of Woodside Place; an unopened portion of Bay Street; all of the unopened portion of Jason Street and a portion of City maintained Jason Street; all of City maintained Michael Street; and all of the unopened unnamed right of way located near Jason Street.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Frontier Syndicate LLC; Rhesa Read Tull Jr., Dorothy Tull Mothershead, and Margaret Tull Davis (heirs of Farrar G. Parker) have requested the City of Asheville to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area, which includes; an unopened portion of Woodside Place; an unopened unnamed right of way between Gudger Street and the unopened portion of Woodside Place; an unopened portion of Bay Street; all of the unopened portion of Jason Street and a portion of City maintained Jason Street; all of City maintained Michael Street; and all of the unopened Elizabeth Place. Adjacent property owners Asheville Board of Education and did not join the petition, a copy of this resolution of intent shall be sent by registered mail.

The Greenway Commission met on November 11, 2010. They voted unanimously to support the street closures and strongly recommended that any future development plan include the greenway connection as discussed in the site master plan.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use. The Strategic Plan Goals most closely aligned with the Montford Commons Development closure requests is the Job Growth and Community

Development Goal in that it will provide sustainable high density infill growth that makes efficient use of existing resources.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close several portions of unopened rights of way and City streets within the Montford Commons area.

Councilman Smith said that because he has not been in favor of moving forward with the Montford Commons project he would not support this action.

Councilwoman Manheimer moved for the adoption of Resolution No. 10-253. This motion was seconded by Councilman Davis and carried on a 5-1 vote, with Councilman Smith voting "no."

RESOLUTION BOOK NO. 33 – PAGE 277

G. RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD SALE OF CIVIC CENTER ICE RINK AND EQUIPMENT TO THE HIGHEST BIDDER

Summary: The consideration of a resolution authorizing the City Manager to award sale of Civic Center ice rink and equipment to the highest bidder.

Pursuant to N.C. Gen. Stat. sec. 160A-266, City Council may dispose of personal property valued at \$30,000 or more by private negotiation or sale. The Civic Center has requested the disposal of property for the ice rink and all related equipment as follows:

Refrigeration Plant with spare parts
Ice Resurfacers
Ice Edger
Hockey Goals, Nets and Pads
Ice Skates
Skate Sharpener
Jet Ice Paint System
Ice Floor Cover

This action complies with the City Council Strategic Operating Plan in that supports a fiscally responsible city government through identifying opportunities for revenue diversification.

Pros:

- Promotes City of Asheville fiscal responsibility by disposing of surplus property which generates revenue
- Space Utilization-eliminates the need to store large, bulky, unused equipment

Cons:

- None

Proceeds from the sale are estimated to be over \$30,000. The net proceeds will be deposited in the Civic Center Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to award the ice rink and all related equipment to the highest sealed bidder.

Mr. Hutch Kerns, President of the Asheville Hockey League, looked forward to working with the City to discuss opportunities for the future of the ice rink in Asheville.

Councilman Davis felt it was important for the community to know that we have had a vibrant hockey community in Asheville for a long time, beginning with the Asheville Smoke. Last year City Council, with regret, accepted the Civic Center Commission's recommend to not have ice at the Civic Center due to the aging equipment and the many challenges associated with the ice. In addition, with the recent renovations to begin at the Civic Center, storage of the equipment has also become a concern, along with the amount of taxpayer dollars tied up with the ice and associated equipment. He hoped that the hockey community sees this as an opportunity to work with the City to see if there is a viable place to have ice in our community. Personally he would like to see the ice remain in the community.

When Councilman Bothwell asked about moving the equipment prior to the renovations, Economic Development Director/Civic Center Director Sam Powers aid that they are in the very beginning stages of reconfirming the design of the renovations. There is a sense of urgency in this process as the area where the equipment is stored is a connective tissue between the Arena and the Thomas Wolfe Auditorium and there are preliminary plans to benefit both areas. He felt the equipment should be out of the Civic Center within the next four months.

Mr. Powers noted that the value of the equipment is much more than \$30,000 and that the \$30,000 is only the threshold that requires a Council action to dispose of personal property by private negotiation or sale.

In response to Mayor Bellamy, City Manager Jackson said that still will need to research what, under State law, we can do, because this is disposal of a real asset. Staff will provide Council on the asset cost and how it ties into the Civic Center Financial Plan, noting that the Civic Center is an Enterprise Fund with an extensive list of capital improvements that need to be made. Staff will also provide Council with the pros and cons to a negotiated sale or an outbid bid over a donation of the property, in addition to the fiscal impact statements associated with the options.

It was the consensus of Council that this matter be reviewed by the City Council Finance Committee prior to coming back to the full Council.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF CROSSROADS PUBLICATION

Ms. Karen Loughmiller, Librarian, Buncombe County Public Libraries; Ms. Priscilla Ndiaye, Author, researcher, and community activist; Dr. Dwight Mullen, Political Science Dept.; UNC Asheville Deborah Miles, Director, Center for Diversity Education; Ms. Johnnie Grant, Owner and Publisher of the Urban News and Native Ashevilleian; and UNC Asheville DeWayne Barton, Co-founder of Asheville Green Opportunities, President of the Burton Street Neighborhood Association, said that the Buncombe County Public Libraries, the Stephens-Lee Alumni Association, and the Center for Diversity Education at UNC-Asheville were invited by Dr. Harlan J. Gradin of North Carolina Humanities Council to create this issue of the Council's CROSSROADS publication.

In 2008, Ms. Andrea Clark, photographer and community activist, made a major contribution to this collection allow the Library to add over 1,200 over her black and white photographs of East End and other African American neighborhoods in Asheville taken just before urban renewal. The stunning photographs became the basis of a year-long research and local history project called "*Twilight of a Neighborhood: Asheville's East End, 1970*", (jointly sponsored by these organizations and the NC Humanities Council), this CROSSROADS is the word of local scholars, community historians, community leaders, and neighborhood residents. Technical and editorial assistance was provided by the staff of Buncombe County Public Libraries and by the North Carolina Humanities Council. The publication was financed jointly by the North Carolina Humanities Council and by significant donations from various Asheville residents, businesses, and institutions.

The project originally focused on the East End, but the project expanded as residents and former residents of other neighborhoods shared the impact of urban renewal on all of Asheville's historically African American communities, revealing a part of our common history that had been lost to many.

Approximately 3,000 copies of the publication will be distributed locally at no charge, with distribution targeted to Asheville neighborhoods adversely affected during urban renewal, their local neighborhood groups, and organizations and institutions partnering with them to promote sustainable living wage employment, affordable housing, environmental restoration, and some visible acknowledgement of their significant history (extension of the Urban Trail, for example, or historic markers or other memorials).

The presenters were pleased to present City Council with the publication and spoke about their ongoing efforts.

On behalf of City Council, Mayor Bellamy thanked the CROSSROADS working group for their efforts on this wonderful publication, and thanked Ms. Clark for the wonderful photographs. She suggested the City Manager have the City's Neighborhood Coordinator contact Ms. Miles and Ms. Ndiaye to see how the City can work together on some opportunities of partnerships to help people find homes, and to rebuild the torn fabric of our communities.

IV. PUBLIC HEARINGS: None

V. UNFINISHED BUSINESS:

A. REID CENTER PROPERTY UPDATE

Parks, Recreation & Cultural Arts Director Roderick Simmons said that the first phase of construction for the new community center at Livingston Street Park is set for completion in February 2011. Following completion, most of the current recreation programming at the WC Reid Recreation Center will vacate and transition to the new facility. When the new project was initially approved, City Council asked staff to research the property value of the current facility to determine if funds would be available to implement future phases of the project. This report examines the future use of the WC Reid Center once this transition has occurred, within the context of Council's Strategic Goals, community development opportunities and real property valuation.

Real Estate Manager Nikki Reid said that the Reid Center property is comprised of two parcels, both fronting on Livingston Street, and separated by Gaston Street. East of Gaston Street, the smaller of the two parcels contains an asphalt basketball court in poor condition and measure 0.40 acres in size. The larger parcel equals 2.27 +/- acres and is improved with a former public school facility, gymnasium and related improvements. The City of Asheville Parks, Recreation and Cultural Arts Department currently utilizes the WC Reid Center for recreation programming, such as the Therapeutic Recreation Program. It should be noted that while most of

the recreation programming will relocate to the new center, the City will continue to use the gymnasium until the gym at the new center is constructed.

In addition to City use, the City leases space at the Reid Center to outside agencies as outlined below:

Reid Center Tenants

- **Partners Unlimited:** According to a 1996 agreement between the City and Asheville City Schools, the City provides at no cost one classroom, utilities and janitorial services in the Reid Center for what was then known as Metro School. This entity, now known as Partners Unlimited, provides academic services to at risk youth ages 10 to 18 who are referred by school system, court system, etc. The agreement automatically renews annually unless either party wishes to terminate the agreement.
- **Asheville Housing Authority (AHA):** Lease agreement between City and Asheville Housing Authority for AHA office space in Reid Center began in 1976 in which AHA contributed \$150,000 to assist city in making improvements to the center. Lease amended in 1994 to add additional space to house the AHA Youthful HAND Program at no additional cost to AHA. Lease expired Oct 1, 2010. No action has been taken to consider renewing this lease, and is considered to be on a month-to-month basis.
- **Asheville Green Opportunities:** One-year facility use agreement beginning April 27, 2010, between City and Green Opportunities to use 1 classroom and janitorial services as an administrative office, cafeteria as a workshop for client services at no cost.
- **Community Action Opportunities (CAO):** CAO has leased in the Reid Center Annex (Lonnie Burton Building) for 11 years for the operation of a Head Start program. The lease began in 1999 at which time the Reid Annex was in a significant state of disrepair. As part of the original lease agreement, CAO made the investment to complete a major building renovation and to design the building to meet the needs and requirements of the Head Start Program. In return, the city agreed to a multi-year lease agreement at \$1.00 per year. CAO is currently replacing the roof on the Reid Annex at its own expense. The lease is set to expire October 2012.

Appraisal Review: When the Livingston Street project was approved, Council asked staff to obtain information on property values of the WC Reid Center at 133 Livingston Street and to discuss as a possible funding source for Phase II. Given the age and condition of the structures on the property, it appears that these improvements may be at or near end-of-life and would require significant renovation of core systems to continue use. The improvements are also constrained by considerable physical and functional obsolescence, for example, the lack of Americans with Disabilities Act (ADA) accessibility to all floors of the building and structural limits to interior redesign.

With the perceived cost to renovate being very high, staff requested that the appraiser approach the valuation of the property as if vacant, and to consider potential demolition costs as well. The appraisal yielded mixed results: the total value of the property, as if vacant, is estimated at \$254,500, yet the perceived cost of demolition may equal or exceed this price point, given the presence of considerable amounts of asbestos and lead paint materials.

Upon review the appraisal data within the scope of the Council's strategic plan, the following options are available for further discussion:

- 1 – Dispose of property via upset bid process.

Per the appraisal, the highest and best use of the site as if vacant is residential compatible with the surrounding uses. The 0.40 acre portion (basketball court) is zoned RS8 for single family residential uses, and the 2.27 acre parcel is zoned Office II, and allows for a variety

of residential and non-residential uses, subject to height and scale limitations of the district. The current economic market indicates a modest demand for this type of property and the timing of a fee simple sale may be difficult to predict. With the perceived costs of demolition or renovation, there may be limits to net yield of a private transaction. The perceived benefit of this method is to place the property back on the tax rolls.

2 – Dispose property via public purpose for affordable housing.

If the stated intent of the reuse of this property is to achieve affordability with the residential uses listed above, this may also include the City acting in a financial lending capacity to support affordable development. This type of deal structure is very dependent on the partner developer, but there are recent examples of this type of financial partnership (Habitat for Humanity at Pisgah View, for example) that provide a pattern of success that could be examined specific to this property. More review is necessary on this option and the perceived benefit would be a specific number of affordable units available for sale and the property would be back on the tax rolls.

3 – Dispose of property via public purpose for community services

The current tenants of the Reid Center, Green Opportunities, Partners Unlimited, Community Action Opportunities and the Asheville Housing Authority, have expressed serious interest in continuing to use the facility after the City moves its recreation functions, in collaboration with the City and other local partners. The Housing Authority has brought to our attention a current grant opportunity through the HUD Office of Capital Improvements, as discussed below. Pending the success of a grant application, the perceived benefits may include a market-based sale of the property and furthering the Council strategic goal of supporting job growth and community development.

Staff is seeking City Council policy direction on future use of the Reid Center property once the second phase is completed.

Staff Report from Community Development Director Jeff Staudinger: The current users of the Reid Center are exploring a recently announced grant opportunity that would preserve and rehabilitate the building for community services. The US Department of Housing and Urban Development in the past month announced a national capital grants competition for public housing authorities. The Housing Authority of the City of Asheville is eligible to apply for as much as \$5 million to purchase, construct or renovate property for a community education and training center.

The grant requirements directly align with the existing uses now at the Reid Center, and may represent a unique opportunity to meet Council, neighborhood, and community-wide public service goals. The grant funding is specifically for public housing authorities to develop facilities to provide early childhood education, adult education, and/or job training programs for public housing residents. Each of the current users of the Reid Center is directly engaged in those activities:

- Community Action Opportunities operates their Head Start program in the “annex” building;
- Green Opportunities now runs their green job training and placement program from the Reid Center;
- Partners Unlimited provides training and remediation services to keep students in school and for out-of-school youth.

The Housing Authority uses part of the Reid building space for management and maintenance of its public housing developments in the area. The Reid Center is located adjacent to or nearby Erskine, Walton and Livingston Street public housing communities, and residents of

those communities and other public housing communities directly benefit from the activities at the Center. All of these community partners would commit to a plan to renovate the Center, enhancing the energy efficiency and sustainability of the existing buildings, and using the renovation itself as a training opportunity for underemployed community residents.

From a community and neighborhood perspective, preserving the Center as an important historical resource has been voiced as a key community priority. The Housing Authority would incorporate Asheville's African-American heritage in its vision for the facility.

The use of the facility as a community education and training center would help meet Council strategic goals for sustainable development and job creation. Council currently funds both through Outside Agency and through federal funds distributed by the City - Green Opportunities and the Housing Authority.

Additionally, if successful, the grant would allow the City to sell the property to the Housing Authority for its appraised value, potentially contributing significantly to the next phase of construction at the ne Livingston Street Center.

The key commitment required at this time from the City for this project to be eligible for funding, would be the commitment from the City to provide the Housing Authority with long term site control of the property (sale or long term lease), contingent only on grant approval.

The deadline for the grant application is January 14, 2011. Prior to that date, the Housing Authority will need to prepare a preliminary plan for renovation, gain commitments from not only existing partners but also from other education and training partners in the community, and provide commitments for five percent of the grant in matching funds. The Housing Authority has discussed with community development division staff the possibility of using some portion of the recently awarded TIGER II grant for that purpose, and also possibly applying for CDBG funding.

It appears that pursuing a sale to the Housing Authority may be the most viable option for the City to achieve many of its strategic and fiscal goals. This action would align with Council's Strategic Goals by supporting fiscal responsibility through a market-based sale and furthering job growth and community development through the missions and actions of the non-profit agencies. Staff recommends allowing the Housing Authority to move forward with a formal offer to purchase and pursuing next steps as it relates to the sale of city-owned property. This would need to be done in a timely manner to allow further Council consideration prior to the grant deadline of January 14, 2011.

HOUSING AUTHORITY – POTENTIAL HUD RENOVATION GRANT OPPORTUNITY FOR REID CENTER

Mr. David Nash, Chief Operations Officer of the Housing Authority of the City of Asheville, said that with the W.C. Reid Center in transition, the current tenants of the center are working with the City and other community partners to identify opportunities to preserve the Center as a community asset. They have not spoken yet with A-B Tech, but they will be a critical partner in the process as they go forward. These partners envision the Center as a place where people from the surrounding neighborhoods could access education, job training, support services and other resources that help them achieve greater self-sufficiency and empowerment.

The HUD grant that is currently available is for a community education and training facility. It can be either an early childhood education facility or an adult education and training facility – or both. It fits well with the current use of the tenants in the building.

Specifically, we envision adaptive reuse of this historic African American school and neighborhood center as a job training facility that incorporates some or all of the following components:

- Technical training, life skills training and job placement, with an emphasis on “green-collar” careers—those that improve environmental, community and human health (Green Opportunities);
- Basic adult education (GED preparation) and credit recovery programs for high school students along with tutoring and academic remediation for short and/or long-term middle and high school students; emphasis on parent support group meetings; disseminating drug and alcohol effect information; computer recycling along with internet access usage for the community (Partners Unlimited);
- Continued high quality early childhood education in the Lonnie Burton Building (Community Action Opportunities);
- Youth programs designed to engage local youth in positive, community-based activities, including music, academics, pre-employment training and service (The Empowerment Resource Center, GO);
- Monuments, displays and programs that honor the contributions of prominent African Americans from the Asheville area (Empowerment Resource Center); or
- A public housing resident services and management/maintenance center for the neighborhood (Asheville Housing Authority and Residents Council).

A core principal in our vision for the building would be engagement of the surrounding community. We have held one community meeting with another meeting to be held later in the evening. We want to find out the neighborhood’s interest for the building in general and their interest in this grant request. If they are not interested, the Housing Authority will stop until further discussions.

The renovation of the building itself would provide ongoing opportunities to train and employ locals, especially public housing residents. We see the future Reid Center as a Neighborhood Sustainability Center, linking history, housing, multi-modal transportation, education/training and jobs, located in the center of the Southside neighborhood close to some of Asheville’s major job centers.

The grant opportunity is up to \$5 Million and there may be some advantages to applying for a smaller amount. The grant requires a minimum 5% match and they have talked with Mr. Staudinger about one possible resource for that match. They will look for others possible match sources in the community, along with the Housing Authority’s non-federal funds. They are thinking that they will propose to include a purchase price to the City of the appraised value in the grant so that could be reinvested into other parks & recreation facilities. However, that is contingent upon the AHA receiving the grant. Since the grant deadline is January 14, on January 11, 2011, they would need an option to purchase the property. That option could be contingent upon the AHA receiving the grant. A long-term lease is also a possibility, but it would need to be at least a 50-year lease and it would restrict some of the operating funding we could put into it. An option to purchase would be the better option for them.

In response to Vice-Mayor Newman, Mr. Nash said they should know in approximately 4-5 months if they have been awarded the grant.

Vice-Mayor Newman moved to allow the Housing Authority to move forward with a formal offer to purchase and pursuing next steps as it relates to the sale of city-owned property. This motion was seconded by Councilman Smith and carried unanimously.

City Manager Jackson clarified that this will be back on the January 11 agenda for formal Council consideration prior to the January 14 grant deadline. At the January 11 meeting staff will provide Council information on the actual structure of the real estate relationship.

Vice-Mayor Newman suggested on January 11 Council be advised of the public input process, along with the more fully-prepared grant proposal. He understands that the AHA is talking to the Housing & Community Development Committee (HCD) for some of the 5% match.

Mr. Nash said that he has talked with Mr. Staudinger to see if there may be some unused program income or other funding that could be allocated to this grant and he has generally discouraged him from that idea. They must have the 5% match prior to grant application. There are other options and he will talk again with the HCD Committee. He will not come to Council on January 11 and ask the City to make the \$250,000 contribution to this project. This is a competitive federal grant and he thinks our chances are good to get.

In response to Mayor Bellamy, Mr. Staudinger said that possibly some of the funds awarded to the City under the N.C. Dept. of Transportation's TIGER II planning grant may be available for this type of initiative. Mayor Bellamy hoped the HCD Committee will keep that in mind that this meets the threshold of qualifying for a project that is able to be funded by money received but not technically allocated to a project.

B. RESOLUTION NO. 10-262 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A UTILITY CUT ENTERPRISE FUND REPAIR AGREEMENT WITH PUBLIC SERVICES OF NORTH CAROLINA

In response to Councilwoman Manheimer about a possible conflict of interest due to her law firm's representation of Public Services of North Carolina on a condemnation issue, City Attorney Oast did not see that is a disqualifying conflict.

Public Works Director Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to enter into a Utility Cut Repair Enterprise Fund Agreement with Public Services of North Carolina (PSNC).

PSNC and Metropolitan Sewerage District (MSD) have requested that the City repair all utility cuts made to City streets and sidewalks within the City limits. City staff has evaluated this request and proposed a financial structure that would allow the City to perform these services without an increase in cost to the City's General Fund. The program which operates as an enterprise fund allows local utilities to deposit an estimated sum of funds to cover anticipated utility cut repairs. The program which commenced July 1, 2010, currently has two participants; the City Water Department and the Stormwater Enterprise Fund. MSD has indicated they are interested in participating in the program July 1, 2011. Progress Energy has also indicated some interest participating in the program.

Under the agreement, the City makes all repairs consisting of asphalt or concrete to trenches cut and backfilled by PSNC. While PSNC will not be required to obtain permits, PSNC must notify the City within 24 hours of any cuts made. The City will utilize a nuclear density gauge to determine the compaction of the trench and if acceptable will make the utility cut repair. There is no longer a warranty period for the utility cut.

The Street Utility Cut Enterprise Fund was approved by City Council as part of the FY 2011 Budget. The action supports several of Council's Strategic Goals by leveraging internal and external partnerships as well as improving the affordability of water and stormwater rates.

Pros:

- All cuts and repairs will be made in accordance with the City of Asheville Standards and Specifications Manual.
- PSNC will not be required to obtain street cut permits.
- The program will be more efficient due to number of cuts the City will be repairing.
- Repairs will be more consistent.
- Due to the structuring of the program, the City has minimal risk in this agreement.

Con:

- o The Contractor that has been performing this work for PSNC will no longer be contracted to perform these repairs inside the City limits. City staff met with the contractor and asked him to submit bids on other work for the City. While staff cannot guarantee award of bid to the contractor, the contractor will be provided with the necessary information to submit bids.

The City's ability to provide these services, based on the previous five years data, would cost approximately \$1.6 million. A review of the amount of permits over the past five years indicates that approximately 55% of the permits were obtained from the Water Department, 35% of the permits were obtained by MSD, 5% from PSNC and 5% to the City's Stormwater. The cost of the program is broken down as follows:

Agency	% of cuts	% of cost
Water Department	55	\$880,000
MSD	35	\$560,000
PSNC	5	\$80,000
Stormwater	5	\$80,000
Total	100	\$1,600,000

The program will be reviewed annually. In the event that actual cost exceeds 10% of the budget, PSNC will be required to pay the difference between the budgeted amount and the actual amount. In the event that actual cost is 10% less than the budgeted amount, the City will reimburse PSNC the difference between the budgeted amount and the actual amount.

City staff recommends City Council authorize the City Manager to enter into a Utility Cut Repair Enterprise Fund Agreement with Public Services of North Carolina.

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

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

Councilman Bothwell moved for the adoption of Resolution No. 10-262. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 289

C. 51 BILTMORE PARKING DECK PROJECT

51 BILTMORE PROJECT UPDATE

PARKING DEMAND STUDY UPDATE

RESOLUTION NO. 10-263 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TWO-YEAR LEASE AGREEMENT WITH PUBLIC INTEREST PROJECTS FOR PROPERTY KNOWN AS 86 S. LEXINGTON STREET FOR THE PURPOSE OF PROVIDING TEMPORARY PARKING DURING THE CONSTRUCTION OF THE PARKING GARAGE AT 51 BILTMORE AVENUE

RESOLUTION NO. 10-264 - RESOLUTION FOR THE PARKING DECK FINANCING AND SETTING THE PUBLIC HEARING FOR THE FINANCING ON JANUARY 11, 2011

Administrative Services Director Lauren Bradley said that this is the consideration of a project update for the 51 Biltmore Avenue Parking Garage and associated resolutions authorizing the negotiation of project financing and a lease for temporary parking during construction.

In October 2008, City Council approved a Downtown Development Agreement (DDA) with McKibbin Hotel Group (MHG), Public Interest Projects and the City of Asheville for the purpose of constructing a parking garage at 51 Biltmore Avenue. Since 2008, City Council twice extended the DDA to allow for more time for MHG to obtain financing in a difficult market. MHG obtained a bank commitment for financing its portion of the project in September 2010.

With a financing commitment in place for the private portion of the project, staff is seeking City Council authorization to negotiate financing for the parking garage as well as other actions related to proceeding with the project.

I. Project description

The project is a mixed-use building that includes: an Aloft Hotel; sub-leased retail spaces along Biltmore Avenue; a City owned parking garage; and a component that may be a second phase for an area along Biltmore Avenue and Lexington Avenue to include housing units. The second phase portion of the project will come back through the review process including the Downtown Commission. This site is identified in the City Development Plan 2025: Center City Plan as both a potential parking garage site and as a possible location for a catalytic development because of its important location and size. Catalytic developments are projects that because of their size, location or programming have the potential to stimulate additional investment or provide missing uses that are critical to maximizing downtown vitality.

The current proposed parking garage will have 412 spaces and access points from three streets: one-way in from Biltmore Avenue and Aston Street, and two-way movement at Lexington Avenue. Several garage levels are below grade with the design taking advantage of the natural terrain across the site to eventually meet Aston Street and Biltmore Avenue at grade. Public restrooms are provided in the garage with direct access from Aston. Four of the garage's spaces will be for electric vehicles, and ten bike lockers will be made available in the facility. Because of the presence of the garage on the sidewalk edge, a space for public art will be provided to soften the façade and create pedestrian interest.

The retail spaces and hotel use cover and top the garage along Biltmore Avenue. Along Aston Street the garage fronts directly at the street and provides a driveway into the garage.

The retail and hotel uses occupy the frontage areas along Biltmore Avenue and above the street level along Aston Street. The building is six stories along Biltmore Avenue and measures about 91 feet to the top of the roof structure at the Biltmore/Aston corner. Ground level retail space along Biltmore Avenue will total about 5,397 rentable square feet, which will be leased. The hotel use occupies the second floor and above as measured from Biltmore Avenue and has 115 guest rooms. A balcony space for the hotel is located on the second level of the building and will serve to activate the street. A hotel amenity floor is provided at the top of the garage level.

The cost associated with building a parking garage includes property acquisition, design and hard construction. The total project cost for the parking garage is projected to be \$14,792,436.

Conditional zoning to permit this use was adopted by the City Council on October 14, 2008. Also, the properties on which the project is to be constructed have been under option to the City since late 2008.

II. Due diligence

During the last three months, staff has worked with the project partners, including MHG and MHG's lender, to ensure financial, legal and risk management matters related to the project have been sufficiently evaluated. Significant time has been spent on developing agreements - including the DDA, a condominium agreement, a parking lease agreement and a construction management agreement – to ensure that the public's interests are protected as the project moves forward.

As a public-private partnership, there is a risk that the public component of the project could move forward to completion while the private component does not. This risk will diminish as private investment (both the developer's equity and financing) in the project progresses during construction. In order to fairly evaluate and mitigate this risk, staff offers the following:

- A need for additional public parking in this area has been identified and verified through a parking demand study, as described in Section III below. The construction of the parking garage meets this public purpose independent of the proposed private development on the site;
- The DDA provides that, if either party becomes unable to meet its financial obligations with respect to the project, the other party may undertake completion of that part of the project. The effect of this is that, if MHG cannot complete the hotel, the City can. While this would be at some cost to the City, it does put the City in control of the development.
- Should the private development component be assigned to another entity, the agreements mentioned above, and the Conditional Zoning ordinance, provide that the private development can only proceed as currently planned unless otherwise agreed by all parties (including the City), and;
- Staff is recommending an interim financing approach during the construction of the project to minimize any financial risk the City may have in the early stages of the project. This approach is further explained in Section IV below.

III. Parking demand study update

A parking study prepared by Kimley-Horn and Associates in 2008 evaluated the demand for parking versus the supply in the Central Business District. The study determined that the area around Biltmore Avenue had a peak deficit of parking in the amount of 622 spaces and a normal demand of 476 parking spaces. The proposed location of the garage is a surface parking lot with approximately one hundred parking spaces. Given economic conditions and related project extensions, staff updated the original parking demand study data. The updated study suggests that the deficiencies in this zone are not drastically changed in the new projections, and that the parking system demands are generally consistent with the original study.

IV. Parking garage financing

The financing of the 51 Biltmore project (the Aloft Hotel, sub-leased retail spaces and parking garage) involves separate, but integrated financing transactions. As previously mentioned, MHG has obtained a bank commitment for financing its portion of the project consisting of the Aloft Hotel and sub-leased retail spaces. The City is responsible for securing and financing the parking garage component of the 51 Biltmore project.

There are several types of capital financing methods available to local governments in North Carolina. The primary forms of those capital financing methods include general obligation, revenue-backed and asset-backed securities. The City currently does not have GO authorization for parking debt issuance. While the 51 Biltmore parking garage will become part of the City's overall Parking Services Enterprise Fund, as a practical matter, the overall parking system does not generate sufficient financial coverage or "mass" to issue revenue bonds in the capital markets for system improvements. The remaining type of financing available to the City to finance the

parking garage is through the issuance of asset-backed securities. This type of financing instrument (also known as “installment financing contract”) has been used periodically by the City to finance a variety of assets including fire stations, renovation of the Municipal Building, sanitation trucks and public safety equipment.

The City proposes to secure financing for the parking garage improvements through a private placement installment financing contract with a bank. Additionally, the installment financing contract will be structured in a manner that provides the City interim, construction draw down financing – essentially a temporary construction loan with the City paying interest on the periodic construction draws. Current interest rates are anticipated to be about 1% for this interim financing method.

There are several reasons for this interim financing strategy, including:

1. Provides the City greater flexibility (as compared to a permanent, long-term financing approach) to deliver at closing the City’s funding simultaneously with the developer’s financing. Fixed rate public offerings (like a COPs transaction) require highly rigid financing calendars with sale dates calendared and fixed transaction closing dates. Additionally, with fixed rate public offerings that have been priced and sold, there is significant market, legal and tax consequences related to failure to close and failure to complete the project. A private placement with a bank for an interim financing provides the City with significantly greater closing flexibility, because it has essentially obtained construction line of credit, which the City can pay-off at any time with reasonable notice.
2. Provides the City greater flexibility to terminate the financing (as compared to a permanent, long-term financing approach) should 51 Biltmore project development risk (construction completion) materialize after closing. The City has 51 Biltmore project development risk throughout the project; at closing, through the construction period in which MHG is expending its equity, through the period in which the MHG’s lender is expending its commitment and to the grand opening of the Aloft. Construction completion risk is partially mitigated in the early period of the construction calendar of the parking garage through the interim financing mechanism because the City could terminate any further draws on the construction financing. As the 51 Biltmore project - both the garage and hotel construction - progresses to completion, the likelihood of termination occurring is lessened.
3. Provides the City greater flexibility in integrating other City financing needs with the permanent financing (which would occur within 12-18 months). The City has several financing projects that are in the initial stages of development including Civic Center improvements, City Hall renovations, street light retrofitting and a potential new fire station. Additionally, the COPs that were issued in connection with the Municipal Building are candidates for an economic refunding thereby saving the City annual debt service. Combining many of these projects in single, fixed rate permanent financing will provide the City with overall improved collateral, better interest rates and lower overall transaction costs.
4. Provides the City with low cost financing during the construction period in the range of 1%. A later (12-18 months) permanent financing package does subject the City to fixed interest rate risk over that period.

It is anticipated that repayment of the lease payments associated with the 51 Biltmore parking garage would come from parking revenues of the financed facility as well as the favorable cash flows from the operating activities of the Parking Services Enterprise Fund.

Under the provisions of Section 160A-20 of the General Statutes of North Carolina, installment financing contracts that involve land require a public hearing in which the public may comment on the proposed financing and project. The resolution sets the public hearing for January 11 and authorizes the City Manager and various other officials to make application to the

Local Government Commission, to engage various professionals in connection with the financing and to proceed with securing the financing.

City staff is scheduled to meet with the staff of the Local Government Commission on December 17 in connection with continued due diligence with the Commission scheduled to take action on the financing at its February 8, 2011 meeting. The parking garage financing would close shortly thereafter.

V. Lease for temporary public parking during construction

The site on which the new parking garage will be built currently provides about 100 public parking spaces. These spaces will be taken out of use during construction of the garage. In order to continue to provide public parking in the area during construction, staff is recommending that the City enter into a two-year lease agreement with Public Interest Projects for land at 86 South Lexington Street, a parcel immediately adjacent to the site, that will be used to provide approximately 45 public parking spaces. The city will operate and manage the temporary lot. It is anticipated that parking revenues from the lot will more than cover the cost of the lease, which has been negotiated at \$3,000 per month.

This project is in alignment with the Strategic Plan by promoting sustainable, high-density, in-fill growth that makes efficient use of resources and by making environmentally efficient capital improvements. In addition, this action complies with the Parking Action Plan adopted by City Council.

Pros:

- According to the findings of the downtown parking study, this area has a deficit of public parking. This parking garage would address this need.
- Capitalize on relationship with mixed use developer who is willing to partner with the City and make private property available for public use.
- Offer the opportunity to leverage public parking as an economic development tool.
- Offers community benefits such as additional jobs and tax base for the City created by the mixed use elements.
- Public parking helps sustain existing investments and future growth of retail and office uses in the area.
- Public parking is critical for downtown office job expansion.
- Project allows for the opportunity to develop workforce housing more feasibly due to reduced capital requirements for constructing private parking, which in turn supports lower priced housing units.

Cons:

- Public-private partnerships tend to be complicated and require additional coordination between the City and the private sector than traditional stand-alone projects.
- Specific performance guarantees must be made by the City to third parties. Corresponding grantees are required of the developer to the City regarding the quality and sustainability of the mixed use components.
- The cost of the land is higher than the appraised value. Originally the owner did not want to sell the property but rather lease the property to the City for sixty years. After the City determined that it was a better financial decision for the City to purchase the property, the owner agreed to sell but with the restriction that they recoup the capital gains taxes.

Total project cost for the parking garage is projected to be \$14,792,436, which will be financed over a period of 20-25 years. It is anticipated that repayment of the lease payments associated with the 51 Biltmore parking garage would come from parking revenues of the financed facility as well as the favorable cash flows from the operating activities of the Parking Services Enterprise Fund.

Staff recommends that City Council:

- Approve the Resolution authorizing the negotiation of an installment financing contract for the 51 Biltmore Avenue parking garage, and;
- Approve the Resolution authorizing a two-year lease agreement with Public Interest Projects for property located at 86 South Lexington Street for temporary public parking.

In response to Councilman Bothwell, Director of Transportation Ken Putnam said that the City did not look at any other methods of transportation downtown, e.g., a trolley system. He said the updated parking study was to validate the previous study and to update the model it had created so as to use it as a tool in the future.

Throughout discussion, Mr. Putnam, Public Works Director Cathy Ball and Kimley-Horn representative Fred Burchett responded to various questions/comments from Council, some being, but are not limited to: what is the rationale for the price of the land and has there been any renegotiation of that price; how were the study dates selected; how do the projections take into account how other convenience and mobile options would affect parking needs; at what point does surplus parking encourage people to use an automobile over another alternative form of transportation; are there other examples of cities that have utilized more balanced approaches; and how does parking fit into the context of smart growth.

Councilman Bothwell felt we are proceeding with plans made in a different economic climate. He was concerned about putting all our parking money into this one project for the next several years. The parking study didn't take into consideration the changing automobile use, with gasoline almost \$3 a gallon. He felt that transit is changing. Transit using shuttles and trolleys is flexible, whereas, transit using concrete parking garages is not.

Councilman Smith appreciated McKibbin for their willingness to invest in our downtown. He spoke to the need of convenience and mobility for all downtown. He said that parking is a solution to a convenience and mobility problem. The fact is that there is more than one solution to the convenience and mobility program. He addressed the need for a multi-tiered approach to the future of convenience and mobility downtown. Parking is only one piece of the solution but we need the other pieces as well. He reviewed the 2025 Plan and noted that this site was identified as a place for a public/private partnership parking garage. He was surprised to see that in that Plan they identified "*Downtown parking is a complex issue that requires a multi-tiered solution.*" The Plan included a solution of looking at creating a downtown shuttle to facilitate internal circulation – link with parking facilities, major activity centers and City transit system. He would like to find a way to reduce the pollution for people walking downtown and to improve the street level experience. He pointed out that if we spend \$15 Million on a parking deck, we won't have that money to be used for sidewalks somewhere else in the City.

In response to Councilman Smith, Vice-Mayor Newman said that Council has never commissioned, not during the Downtown Master Plan process nor the Transit Master Plan process, an official study to look at developing a downtown circulator in terms of a detailed route structure, the cost and expected ridership. Mr. Putnam said there are only conceptual routing and rough ideas of cost shared with Council earlier. Councilman Smith wondered if this conversation was better suited for a Council retreat as far as being able to have a multi-faceted approach to downtown transportation.

Councilman Davis pointed out that there are some parking needs downtown that we may not recognize, e.g., First Presbyterian Church has a need for approximately 100 parking spaces in that area.

Vice-Mayor Newman does acknowledge this is committing our resources for a long time, but this is one area of downtown that needs parking. He agrees with Councilman Smith in that parking is not the only solution and would be interested in looking at other solutions.

In response to Mayor Bellamy, Economic Development Director/Civic Center Director Sam Powers updated Council on the offer from McKibbon for the parking lot across from the Civic Center. Mayor Bellamy suggested staff update the Planning & Economic Development Committee to see if there are other opportunities for partnership to meet Council's goals in that area, should the McKibbon proposal not proceed.

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

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

Councilman Davis moved for the adoption of Resolution No. 10-263. This motion was seconded by Vice-Mayor Newman and carried 4-2 with Councilman Bothwell and Councilman Smith voting "no."

RESOLUTION BOOK NO. 33 – PAGE 290

Vice-Mayor Newman moved for the adoption of Resolution No. 10-264. This motion was seconded by Councilman Davis and carried 4-2 with Councilman Bothwell and Councilman Smith voting "no."

RESOLUTION BOOK NO. 33 – PAGE 291

D. CONSIDERATION OF THE CITY'S STATE LEGISLATIVE AGENDA FOR THE 2011 SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY

City Attorney Oast said that this is the consideration of a resolution approving the City's State Legislative Agenda for the 2011 Session of the North Carolina General Assembly.

At its meeting of November 9, 2010, Council initiated discussion of the State Legislative Agenda for 2010. He provided Council with the report in three major areas, but would only address two major areas due to Council's desire to see more information on the State Municipal Policy Matters.

I. Continuing Local Issues. Based on direction received at the November 9 meeting, and on information received since then, a resolution has been prepared requesting legislative action with respect to several issues, some of which are carried over from previous years, and some of which are of persistent local concern.

- A. Adjustment of Woodfin/Asheville boundary and UNC-A area and Merrimon Avenue. This is a renewal of the request developed last year. We have identified with more particularity the location of the boundary, and have reviewed the matter with the affected governmental and educational agencies. Of particular importance is that a method was developed for allowing privately owned properties currently located in Woodfin to remain subject to Woodfin's jurisdiction, at their option.
- B. Clarification of the Video Service Competition Act of 2006. This was also carried over from last year. We sought introduction of a bill to preserve the status quo with respect to features of local cable television franchises (such as intranets) that were not addressed by the Video Service Competition Act. The bill that was introduced was referred to a study committee.

- C. Authorization for Asheville to condition provision of water service on annexation for developments of a certain size. This request has been made in the past, and has taken several forms. This was last considered in 2009.
- D. Clarify authority to use property assessment process to finance certain energy efficiency projects. This continues efforts begun in 2009. While legislation has been adopted that implements parts of this authorization, questions remain as to the effect of such assessments on home mortgage financing, and restrictions on the sources of revenue available for such programs. The School of Government has been working with stakeholder parties on clarification of these issues.

II. New Matters. Since the November 9 meeting, we have received several other items for potential inclusion on the legislative agenda:

- A. Structure of State ABC system. In recent years, there have been discussions regarding changes to the structure of the State ABC system. These discussions have centered on privatizing parts of the system, which would have the affect of diminishing local control and local revenue. The local ABC Board has asked Council to consider a resolution supporting the current structure.
- B. School system consolidation. There have been indications that the topic of school system consolidation may come up in this legislative session, particularly in view of the State economic situation. Asheville and Buncombe County currently operate separate school systems, so the impact of potential legislation on this subject is of particular interest on a local level.

III. State Municipal Policy Matters. We have now received the North Carolina League of Municipalities Proposed Advocacy Goals. The League has scheduled a conference for January 20, 2011, at which the agenda will be narrowed down and prioritized. Each member municipality is entitled to one vote in this process.

If Council desires for Asheville to participate in this process, Council should select a delegate, and should provide voting direction on the major issues. Council's attention is directed to the following items of particular interest.

- A. Page 1, Item 1B. Municipal broadband authorization. With the termination of local cable television franchises by operation of the Video Service Competition Act (VSCA), the ability of local governments to build and operate fiber-optic systems has been a matter of interest across the State.
- B. Page 3, Item 2A. Local control over ABC operations. This is consistent with the local ABC Board's request, summarized above.
- C. Page 3, Item 2B. More influence for cities in ABC permitting decisions. This has been an issue over the years for Asheville and other municipalities. Currently, local involvement is advisory only, which can lead to repeated permitting of problem locations.
- D. Page 4, Item 3A. Sales tax distribution process. The method of sales tax distribution has been a matter of interest to the City for several years.
- E. Page 5, Item 3D. Prepared meals and beverage tax. This has been considered by Council in the past. The proposal would be for a State-wide local option authorization.

F. Page 7, Item 5A-E. Transportation infrastructure. This proposal is highlighted because of consistent local interest in transportation issues in general, including:

- Passenger rail service
- Alternative nodes of transportation
- Sidewalks.

He also provided Council the NCLM information package which contains a description of the policy development process, along with a form and method for submission of new items for legislative consideration. The deadline for doing this is January 14, 2011. In lieu of or in addition to participating in the NCLM Advocacy Goals Conference, Council may by resolution support individual proposals.

He also provided the Council with the N.C. Metro Mayors legislative agenda.

He recommended Council give him direction to proceed with the four continuing local issues at this time. On January 11, he will come back asking Council's consideration on adopting the State Legislative Agenda with more information regarding new matters and State Municipal Policy Issues for Council consideration.

In response to Mayor Bellamy, City Attorney Oast said that this is the beginning conversation about our legislative agenda and he assumes Council is okay with giving him direction to proceed with the four continuing local items.

Vice-Mayor Newman moved to adopt the four continuing local issues as part of the legislative agenda. This motion was seconded by Councilman Bothwell. However, after Mayor Bellamy noted that she could not support the motion as she felt the public was not aware that we would be voting on our legislative agenda, Vice-Mayor Newman withdrew his motion.

City Attorney Oast said that he will be seeking Council's approval of the state legislative agenda on January 11, 2011.

E. CONSIDERATION OF SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT'S RECOMMENDATION REGARDING THE TRANSFORMATIONAL DEVELOPMENT PROJECTS INCENTIVE POLICY FOR THE CITY OF ASHEVILLE

Vice-Mayor Newman said that the Sustainable Advisory Committee on Energy & the Environment (SACEE) reviewed the Transformational Development Policy at their November meeting as per Council's directive. The Committee discussed the policy's structure and design in relation to green/sustainable development practices, consistency with other development incentives, and incentivization thresholds for influencing development decisions. When City Council approved the Transformational Development Policy, the ordinance states the incentive will go into affect December 30, 2010. The SACEE Committee believes the timeframe before implementation does not allow them to adequately provide the policy support Council requested.

SACEE recommends that the City Council delay implementation of this ordinance until February 1, 2011, or later so staff and appropriate committees (including the Affordable Housing Working Group) can effectively perform the due diligence necessary in review of this policy. SACEE would bring forward their recommendations in January for Council consideration. This was a unanimous vote by the committee.

Vice-Mayor Newman moved to delay implementation of this ordinance no later than February 1, 2011. This motion was seconded by Councilman Bothwell and carried unanimously,

with the understanding that SACEE will report back to Council with specific recommendations before February 1 or the policy will be effective February 1, 2011.

VI. NEW BUSINESS:

A. RESOLUTION NO. 10-265 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE SCHOOL BOARD

Vice-Mayor Newman, Chairman to the City Council Boards & Commissions Committee, said that the terms of Jacquelyn Hallum and Precious Folston, as members on the Asheville School Board, will expire on April 1, 2011.

At the November 9, 2010, Boards & Commissions Committee meeting, it was the consensus of the Committee to instruct the City Clerk to contact Ms. Hallum and Ms. Folston to see if they were interested in reappointment and if so, to obtain their attendance records.

Both have served one term and both have expressed interest in reappointment.

Due to the extensive appointment process regarding the School Board with advertising to begin immediately and the significance of the board, the Committee requested City Council's direction on whether to proceed with advertising and interviewing for the School Board vacancies or to reappoint Ms. Hallum and/or Ms. Folston.

In response to Councilman Smith, Mayor Bellamy, as School Board liaison, said that the current School Board members are already in the process of discussing school consolidation. She supported reappointing Ms. Hallum and Ms. Folston as they are experienced and have served the citizens well. Having continuity on the Board will help move the community through the process.

Councilman Bothwell suggested the issue of an elected school board vs. an appointed school board be discussed if school board consolidation does not occur.

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

Councilman Davis moved for the adoption of Resolution No. 10-265 to reappoint Jacquelyn Hallum and Precious Folston to each serve an additional four-year term respectively, terms to expire on April 1, 2015, or until their successors have been appointed. This motion was seconded by Mayor Bellamy and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Bellamy announced the following vacancies: Board of Adjustment; Community Relations Council; Sustainable Advisory Committee on Energy & the Environment; Fair Housing Commission, Firemen's Relief Fund; Greenway Commission; Metropolitan Sewerage District Board; Riverfront Area Redevelopment Commission; Transit Commission and Tree Commission. The deadline for applications is Thursday, January 5, 2011, at 5:00 p.m.

Ms. Kyle Ross researched some concerns over the past five years relating to the criminal justice system – in particular the Asheville Police Department and the District Attorney's Office. Her first concern was fairness regarding an investigation of a fired police officer. Mayor Bellamy advised Ms. Ross that City Council cannot consider personnel matters in open session; and (1) suggested she meet with City Manager Jackson; and/or (2) meet with the Citizens-Police Advisory Committee. City Attorney Oast noted that the particular investigation Ms. Ross was speaking about is in litigation and cannot be discussed.

Claims

The following claims were received by the City of Asheville during the period of October 22 – December 2, 2010: Rachel Evans (Sanitation), Brunk Auctions (Parks & Recreation), Charles and Nancy Long (Water), Jessica Toan (Water), Donald Gundry (Water), Lynn Ansley (Streets), Leigh W. Jones (Police), Iveth Ahumada (Water), David West (Sanitation), Progress Energy (Water), Paul Lorenzo (Police), Wendy Fletcher (Water), Quantarian Garnett (Sanitation), AT&T (Water) and Eric Bryant (Police). These claims have been referred to Asheville Claims Corporation for investigation.

Closed Session

At 7:29 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 litigation involving the following parties: John Robert Follett and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Davis and carried unanimously.

At 7:45 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:45 p.m.

CITY CLERK

MAYOR