

Tuesday – June 14, 2011 - 5:00 p.m.

Regular Meeting

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

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilwoman Manheimer gave the invocation.

**I. PROCLAMATIONS:**

**A. PRESENTATION OF THE AMERICAN PUBLIC WORKS ASSOCIATION HW KUEFFNER SERVICE AWARD FOR 2011**

Mayor Bellamy said that this award is presented annually by the American Public Works Association – North Carolina Chapter to recognize individuals who are employed in public works in a position below the supervisory level for outstanding achievement in local government service. She introduced Mr. Russell Byrd, Awards Chairman from the City of Winston-Salem, and Mr. Keith Pugh, Chapter President from the City of High Point, who were pleased to present the American Public Works Association HW Kueffner Service Award for 2011 to Ms. Liz Calloway.

**B. CAROLINA RECYCLING ASSOCIATION AWARD TO CITY OF ASHEVILLE**

Mayor Bellamy said that the City of Asheville is honored to receive the annual Carolina Recycling Association Award in the Local Government category. Through receiving this award, the City of Asheville is being recognized by the Carolina Recycling Association as having one of the most successful local municipality recycling programs where we rank highest in the state with 30% waste stream diverted. The City of Asheville also has highest community participation rate in the state of 80%. The City of Asheville government has increased recycling in City building by 19% increase since program began in 2000 thru 2010. She then introduced Ms. Holly Bullman, Past President of Carolina Recycling Association who presented the Carolina Recycling Association Award to Ms. Rachel Rogers, Sustainability Outreach Specialist.

**C. PROCLAMATION PROCLAIMING JUNE, 2011, AS "NATIONAL LESBIAN, GAY, BISEXUAL, AND TRANSGENDER HISTORY MONTH"**

Mayor Bellamy read the proclamation proclaiming June, 2011, as "National Lesbian, Gay, Bisexual, and Transgender History Month" in the City of Asheville. She presented the proclamation to Mr. James Dye, who briefed City Council on some activities taking place during the month.

**D. PROCLAMATION PROCLAIMING JUNE 27, 2011, AS "NATIONAL HIV TESTING DAY"**

Mayor Bellamy read the proclamation proclaiming June 27, 2011, as "National HIV Testing Day" in the City of Asheville. She presented the proclamation to Mr. Michael Harney and Ms. Jennifer Poore, who briefed City Council on some activities taking place during the day.

**II. CONSENT AGENDA:**

Mayor Bellamy requested that the Consent Agenda include an amendment to the minutes of the April 26, 2011, meeting to include specific comments regarding Fund Balance.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 24, 2011, AND THE COMMUNITY MEETING HELD ON MAY 31, 2011**

**B. RESOLUTION NO. 11-108 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE GRIZZLIES FOOTBALL GAME EVENTS ON JUNE 18, JULY 2, JULY 16 AND AUGUST 13, 2011**

**RESOLUTION NO. 11-109 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SAFARI ON JUNE 23, 2011**

**RESOLUTION NO. 11-110 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERFEST ON AUGUST 13, 2011**

**RESOLUTION NO. 11-111 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BEER CITY CUP ON SEPTEMBER 3-4, 2011**

**RESOLUTION NO. 11-112 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL ON SEPTEMBER 17, 2011**

**RESOLUTION NO. 11-113 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE ON OCTOBER 1, 2011**

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Grizzlies Football Game Event on June 18, July 2, July 16, and August 13, 2011; the Mountain Safari on June 23, 2011; Riverfest on August 13, 2011; the Beer City Cup on September 3 and September 4, 2011; the Brewgrass Festival on September 17, 2011; and Blue Ridge Pride on October 1, 2011.

- Asheville Grizzlies has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at the Asheville Grizzlies Football Game Event and allow for consumption at this event.

The Asheville Grizzlies Football Game Event will be held on Saturday, June 18, July 2, July 16, and August 13, 2011 from 5:30 p.m. – 11:00 p.m., within the boundaries of Memorial Stadium as per the event area limits referenced on a site map.

- Friends of the WNC Nature Center has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at the Mountain Safari and allow for consumption at this event.

The Mountain Safari will be held on Thursday, June 23, 2011 from 5:30 p.m. to 9:30 p.m. within the boundaries of the WNC Nature Center facility as per the event area limits referenced on a site map.

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

Riverfest will be held on Saturday, August 13, 2011 from 1:00 p.m. to 7:00 p.m. within the boundaries of French Broad River Park, as per the event area limits referenced on a accompanying site map.

- The Western North Carolina Soccer Foundation has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at the Beer City Cup and allow for consumption at this event.

The Beer City Cup will be held on Saturday, September 3, 2011 from 4:00 p.m. to 10:00 p.m. and Sunday, September 4, 2011 from 11:00 a.m. to 10:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on a site map.

- Big Brothers Big Sisters WNC has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

The Brewgrass Festival will be held on Saturday, September 17, 2011 from 12:00 p.m. to 7:00 p.m. within the boundaries of Martin Luther King Jr. Park, as per the event area limits referenced on a site map.

- Blue Ridge Pride, Inc. has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 1, 2011 from 12:00 p.m. to 6:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Reuter Terrace, the City-County Parking Lot and within a designated area of Spruce Street between the intersections of College Street & Court Plaza, as per the area limits referenced on a site map.

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

Pro:

- Allows fundraising opportunities for the Asheville Grizzlies, Friends of the WNC Nature Center, Riverlink, Western North Carolina Soccer Foundation, Big Brothers Big Sisters of WNC, and Blue Ridge Pride, Inc.

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt the resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Grizzlies Football Game Event, the Mountain Safari, Riverfest, the Beer City Cup, the Brewgrass Festival, and Blue Ridge Pride.

**RESOLUTION NO. 11-108 - RESOLUTION BOOK NO. 34 – PAGE 23**  
**RESOLUTION NO. 11-109 - RESOLUTION BOOK NO. 34 – PAGE 26**  
**RESOLUTION NO. 11-110 - RESOLUTION BOOK NO. 34 – PAGE 29**  
**RESOLUTION NO. 11-111 - RESOLUTION BOOK NO. 34 – PAGE 32**  
**RESOLUTION NO. 11-112 - RESOLUTION BOOK NO. 34 – PAGE 35**  
**RESOLUTION NO. 11-113 - RESOLUTION BOOK NO. 34 – PAGE 38**

**C. RESOLUTION NO. 11-114 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH STARBOARD CONSULTING FOR THE WATER RESOURCES SOFTWARE REPLACEMENT PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Starboard Consulting, in an amount not to exceed \$350,000, for the Water Resources software replacement.

Water Resources currently uses Maximo Version 6.1 as the department's Computerized Maintenance Management Software (CMMS). The CMMS is used primarily as a work order system to monitor and maintain the department's assets. This project will consist of: (1) upgrading Maximo from Version 6.1 to 7.1; and (2) improving and/or adding GIS mapping capabilities by upgrading Syclo Mobile Work Manager and implementing Maximo Spatial. The department's need to replace was due its life cycle being completed and to support requirements from IBM, who has been reluctant to provide support until Maximo is upgraded to the current version.

On May 2, 2011, Water Resources received three (3) proposals for the project in response to the Request for Proposals (RFP).

Vendors responding were:

1. Banetti – Miami, Florida
2. EMA, Inc. – Longwood, Florida
3. Starboard Consulting – Longwood, Florida

A review team comprised of Water Resources and Information Technology staff reviewed each proposal and rated them based on eight (8) categories (i.e. qualifications, software support, understanding of scope, cost, and project schedule).

The vendors' average scores were:

1. Banetti – 302.5
2. EMA, Inc. – 314.6
3. Starboard Consulting – 348.8

Starboard Consulting has been selected to implement the system or software replacement based on receiving the highest rating from the review team. It is their project team members' familiarity and knowledge of the department's system configuration that earns them the highest rating. The members of this team were the majority of the project members who installed the department's Maximo system in 2006.

Banetti, although the lowest bidder on the project, was not selected because: (1) of the lack of detail provided in their proposal; and (2) they are not listed as an IBM Tivoli Accredited Business Partner, which raises concern about their level of support and deployment.

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

Pro:

- Approval of the bid award will allow Water Resources to complete the necessary replacement of the work order system in order to ensure its functionality and support from IBM.

Cons:

- If the bid is not awarded, then Water Resources will risk losing product support from IBM.
- The vendor selected is not the lowest bidder, but they are the highest-rated vendor.

Water Resources has \$350,000.00 specifically reserved for this project. The proposal submitted by Starboard Consulting, which allows for optional services, is summarized as follows:

|                                       |                     |
|---------------------------------------|---------------------|
| <u>Project Budget</u>                 | <u>\$350,000.00</u> |
| Starboard Consulting, Base Bid        | \$283,808.00        |
| Optional Services                     | \$ 47,200.00        |
| <u>Starboard Consulting Total Bid</u> | <u>\$331,008.00</u> |
| Amount Remaining After Total Bid      | \$ 18,992.00        |

City staff recommends City Council approval of the City Manager to enter into an agreement with Starboard Consulting, in an amount not to exceed \$350,000, for the Water Resources software replacement project.

#### **RESOLUTION BOOK NO. 34 – PAGE 41**

#### **D. RESOLUTION NO. 11-114 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY THAT WILL ALLOW CONSTRUCTION AND MAINTENANCE OF A SIDEWALK ON NORTH LOUISIANA AVENUE IN THE EMMA COMMUNITY**

Summary: The consideration of a resolution authorizing the Mayor to sign an interlocal agreement with Buncombe County that will allow construction and maintenance of a sidewalk on North Louisiana Avenue in the Emma community.

Several years ago, a group of citizens formed a group known as A Safer Walk for Emma, and engaged the City, the county, and the N.C. Dept. of Transportation (NCDOT) in discussions about the need for sidewalks in the Emma community. From the outset, it was clear that partnerships would be needed to construct and maintain sidewalks in the city's extraterritorial jurisdiction (ETJ).

As a follow-up to these discussions, in February 2008 City Council authorized City staff to act as the lead agency to apply for and receive federal grants to construct a sidewalk on North Louisiana Ave. near Emma Elementary School. The City now has all of the grant funds necessary to construct the sidewalk. Planning and design are complete and the project is ready to bid.

Because the sidewalk is outside the City limits, Buncombe County has agreed to accept ownership of the sidewalk, which includes responsibility for maintenance. Buncombe County is scheduled to approve the interlocal agreement this month. At a future date, the County may choose to hire the city to perform the actual maintenance.

To summarize the interlocal agreement, the City will continue to act as lead agency to administer federal funds and oversee construction of the sidewalk. The county will sign the necessary agreements with the NCDOT to accept ownership of the sidewalk once it is complete.

This action complies with the City Council Strategic Operating Plan in that this is a project to improve pedestrian infrastructure in a low-income community using federal funds. North Louisiana Avenue is on the city's pedestrian thoroughfare plan. In addition, this project implements one of the Safe Routes to School projects.

Pros:

- This project serves as an example of effective interlocal cooperation to provide needed infrastructure improvements.
- This construction project is funded with 100% federal funds, with no local match required.

Con:

- Staff time is required to administer the project.

This project requires staff resources to administer the project, but the construction is fully funded by a federal grant and does not require any City funding.

City staff recommends City Council adopt a resolution authorizing the Mayor to sign an interlocal agreement with Buncombe County for maintenance of sidewalk in the Emma community.

**RESOLUTION BOOK NO. 34 – PAGE 43**

**E. RESOLUTION NO. 11 -116 - RESOLUTION ACCEPTING TOWN SQUARE BOULEVARD, THETFORD STREET, WALTERSTONE ROAD AND STAMFORD STREET AS CITY-MAINTAINED STREETS**

Summary: The consideration of a resolution to accept Town Square Boulevard, Thetford Street, Walterstone Road, and Stamford Street as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request on April 21, 2011 asking the City to accept the subject streets as city-maintained streets.

- Town Square Boulevard from Thetford Street to Schenck Parkway is a developer-constructed street that has an average street width of 42 feet (center median) with 24-inch curb and gutter, a length of 0.18 mile, and a variable right-of-way width of 19 feet to 32 feet.
- Thetford Street from Stamford Street to Schenck Parkway is a developer-constructed street that has an average street width of 23 feet with 24-inch curb and gutter, a length of 0.33 mile, and a variable right-of-way width of 23 feet to 45 feet.
- Walterstone Road from Thetford Street to Stamford Street is a developer-constructed street that has an average street width of 22 feet with 24-inch curb and gutter, a length of 0.14 mile, and a variable right-of-way width of 22 feet to 39 feet.
- Stamford Street from Thetford Street to Schenck Parkway is a developer-constructed street that has an average street width of 22 feet with 24-inch curb and gutter, a length of 0.17 mile, and a variable right-of-way width of 22 feet to 36 feet.

Typically a street right-of-way includes the entire street footprint including sidewalks (for example, in the central business district, the right-of-way would extend from back of sidewalk or building edge to back of sidewalk or building edge). In this case, the variable right-of-way for all four streets is essentially curb to curb and only includes the actual street footprint. The sidewalks will be privately-maintained. A 5-foot maintenance easement is provided along the frontage of the right-of-way boundaries for public utility purposes.

Transportation Department staff and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject streets were constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

This action complies with the City Council 2010-11 Strategic Operating Plan within the Sustainable Focus Area by accepting street infra-structure to help support the healthy growth of the City.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the streets.
- The streets provide access and connectivity in a residential/commercial community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the streets.

There will be no initial financial impact to the City, although the responsibility of maintenance belongs to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets. Based on current allocation rates, the City will receive approximately \$1,200 in Powell Bill Funds from these streets.

Staff recommends that City Council accept Town Square Boulevard, Thetford Street, Walterstone Road, and Stamford Street as city-maintained streets.

**RESOLUTION BOOK NO. 34 – PAGE 44**

**F. ORDINANCE NO. 3982 - BUDGET AMENDMENT TO REIMBURSE FIRE DEPARTMENT OVERTIME BUDGET**

Summary: The consideration of a budget amendment, in the amount of \$94,282, to receive reimbursement from the N.C. Dept. of Crime Control and Public Safety and Asheville Buncombe Technical Community College (AB Tech) for overtime expenditures, which are related to the Asheville Fire Department's Regional Hazardous Materials Team and our partnership with AB Tech's Fire Academy.

The Asheville Fire Department has received reimbursement funds from the North Carolina Department of Crime Control and Public Safety and AB Tech. These funds have been received in FY 2011. The department utilizes General Fund money to pay for overtime for hazardous materials training and emergency responses throughout the Western North Carolina region as well as for instructors in AB Tech's Fire Academy. The North Carolina Department of Crime Control and Public Safety reimburse the City of Asheville for these expenditures related to regional hazardous materials responses. AB Tech reimburses the City of Asheville for expenditures related to AFD instructors in their fire academy. These funds that have been

received will be used to reimburse the overtime expenditures that have come out of the General Fund.

This action complies with the City Council Strategic Operating Plan in that it helps to proactively pursue funding opportunities through state and federal economic stimulus packages.

Pro:

- This action allows for reimbursement of overtime expenditures without utilizing city tax funds.

Con:

- None identified

These funds, which have been obtained through reimbursement payments from the North Carolina Department of Crime Control and Public Safety and AB Tech will be used to offset Fire Department overtime expenses.

City staff recommends City Council approve the budget amendment to receive these reimbursement funds.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **G. ORDINANCE NO. 3983 - BUDGET AMENDMENT TO SUPPORT THE CAPACITY OF HOMELESS INITIATIVE PROJECT**

Summary: The consideration of a budget amendment, in the amount of \$12,000, from Buncombe County to support the capacity of Homeless Initiative project.

In order to accommodate for the growing needs of the Homeless Initiative, Buncombe County has offered the project \$12,000 to pay for AmeriCorps\*VISTA and other contracted services. The positions would be dedicated to increasing the capacity of the Homeless Initiative and strengthening projects of the Homeless Coalition and Homeless Initiative Advisory Group.

The following outcomes would need to be met if funding is accepted:

*Retain AmeriCorps workers (or other workers) for up to 1,200 hours to support the Asheville-Buncombe Homeless Initiative, providing services for projects such as the SOAR disability project, Homeless Coalition, etc.*

This project meets the affordability goal objective to support initiatives to end homelessness. Accepting this funding will help the Homeless Initiative support the 10-Year Plan to End Homelessness process and collect data that can be used by the City Council when evaluating initiatives designed to end homelessness.

Pro:

- In tight budget times, funds to further the work of the Homeless Initiative can enhance the services it offers to the community.

Con:

- No apparent cons.

This will add \$12,000 to the Homeless Initiative Budget. These additional funds will fully support the costs of the AmeriCorps or work-study personnel.

City staff recommends City Council adopt a budget amendment for, accepting the \$12,000 awarded to the Homeless Initiative by Buncombe County for capacity building.



### **ORDINANCE BOOK NO. 27 – PAGE**

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 Russell moved for the adoption of the Consent Agenda, along with the amendment to the April 26, 2011, minutes. This motion was seconded by Councilman Davis and carried unanimously.

### **III. PRESENTATIONS & REPORTS: None**

### **IV. PUBLIC HEARINGS:**

#### **A. CONTINUATION OF PUBLIC HEARING TO CONSIDER CLOSING SEVERAL PORTIONS OF UNOPENED RIGHTS-OF-WAY AND CITY STREETS WITHIN THE MONTFORD COMMONS DEVELOPMENT AREA**

Mayor Bellamy said that she has received a request from Mr. Kyle Evans, representing Montford Commons, LLC, requesting a continuance until August 9, 2011, as they are still waiting for their HUD funding commitment. Therefore, Councilman Russell moved to continue this public hearing until August 9, 2011. This motion was seconded by Councilman Davis and carried unanimously.

#### **B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING A MODIFICATION THAT WOULD ESTABLISH THE PLANNING & ZONING COMMISSION AS THE FINAL APPROVAL AUTHORITY FOR ANY LEVEL II PROJECT OR MAJOR SUBDIVISION**

#### **ORDINANCE NO. 3984 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING A MODIFICATION THAT WOULD ESTABLISH THE PLANNING & ZONING COMMISSION AS THE FINAL APPROVAL AUTHORITY FOR ANY LEVEL II PROJECT OR MAJOR SUBDIVISION**

Mayor Bellamy opened the public hearing at 5:24 p.m.

Planning & Development Director Judy Daniel said that this is the consideration of a wording amendment to Chapter 7, Articles 3 and 5 of the Unified Development Ordinance (UDO), changing the approval body for Level II Projects and Major Subdivisions from the Technical Review Committee to the Planning and Zoning Commission. This public hearing was advertised on June 3 and 10, 2011.

This report outlines the changes to the UDO that are required to change the final approval of Level II projects and Major Subdivisions from the Technical Review Committee (TRC) to the Planning and Zoning Commission (Commission). This change has been discussed for over a year, and complements a similar change implemented for Level II projects in the downtown Central Business District (CBD) in conjunction with the recommendations of the Downtown Master Plan.

The proposal has been presented to a range of community and business groups, affected city departments, and boards and committees. There has been general support for the change, given the pressure sometimes put on technical staff to reflect public concerns about moderately large development projects. There has also been acknowledgement that this is a substantially expanded role for the Commission.

With this change, the TRC would cease to be the location for public discussion, but would continue to provide the vital technical reviews and conditions to the Commission. The TRC would continue to be open to the public, but public comment would be reserved for the Commission hearings. The staff report to the Commission would include the staff recommendations from the various departments. In practice, staff from most of those departments would very rarely need to attend the Commission meetings. Generally, Planning, Transportation and Stormwater staff members are the most regularly questioned by developer or residents who have concerns about a project.

The Commission would hold the required public hearing where the developer or members of the public could question the staff recommendations. The Commission would then determine whether to approve the subdivision or project, approve it with conditions outlined in the TRC staff report, possibly add conditions, or deny approval. Appeals to decisions of the Commission for Level II projects would be to the Board of Adjustment while appeals of Major Subdivisions and Subdivision Modifications would go to Superior Court.

One modification has been made as a result of the discussion at the Planning and Zoning Commission. The language has been updated to specify that changes would apply only to applications received after adoption, not to pending applications. The specific changes include:

**Sec. 7-3-5(a). Technical Review Committee.**

The changes are to sections 2, 3, and 5. With these changes the TRC will:

- Review and provide recommendations for (no longer approve or deny) preliminary plats for major subdivisions; as that role is delegated to the Planning and Zoning Commission (see below Sec. 7-5-8);
- Review and provide recommendations for (no longer approve or deny) requests for modifications to the subdivision standards; as that role is delegated to the Planning and Zoning Commission (see below Sec. 7-5-8 (c));
- Review and provide recommendations for (no longer approve or deny) site plans for proposed developments subject to Level II site plan review; as that role is delegated to the Planning and Zoning Commission (see below Sec. 7-5-9(b)).

**Sec. 7-5-8 (a). Major Subdivision Approvals.**

In changes (to section “d”, “e”, and “f”) the role of the TRC is changed to a review for compliance with any applicable regulations and recommendation to the Planning and Zoning Commission. Appeals would be from the Commission to the Superior Court instead of from the TRC to the Commission. Permits approvals would be issued by the Commission (rather than the TRC) and still valid for two years from the date of approval.

**Sec. 7-5-8 (c). Subdivision Modifications.** In changes to sub-section “1” (approval authority) and “3” (conditions) requests for modifications to approved major subdivisions would continue to be reviewed by the TRC, but their recommendations would be forwarded to the Commission for action.

**Sec. 7-5-8(b). Plan approvals for Level II Site Plans.** In changes to section “4c” (action by TRC) the role of the TRC is changed to that of review for compliance, with forwarding to the Commission for action. In section “6” (formal review) a formal review of Level II site plans at the

Commission is established. In section "8" (appeals) the appeal of Level II decisions is made from the Commission to the Board of Adjustment, rather than from the TRC.

Pro:

- Moves the public comment element from technical staff review to a body of appointed officials, reducing the potential for political pressure on staff technical reviews.

Con:

- Adds a small amount of extra time to the approval process.

The Planning and Zoning Commission reviewed this modification at their May 4 meeting. After substantial discussion they voted 5-2 in support of the recommended changes. One general area of concern was the lack of a clause clarifying that the change would be applicable only to projects received after adoption of the change.

There is no discernable fiscal impact. Will result in a small decrease in work load for Development Services Center Planning staff, and add a small increase in work load for City Hall Planning staff (due to shift in the advertisement requirements for public hearings).

The staff recommends support for these changes to the zoning regulations.

Mr. Steve Rasmussen spoke in support of the amendment and urged Council to appoint a genuinely diverse range of people to the Planning & Zoning Commission.

Mayor Bellamy closed the public hearing at 5:32 p.m.

Councilman Bothwell noted that City Council will be holding an open interview process of Planning & Zoning Commission candidates.

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

Councilman Smith moved for the adoption of Ordinance No. 3984. This motion was seconded by Vice-Mayor Newman and carried unanimously.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **C. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF 36 MONTFORD AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY AND OFFICE DISTRICTS, WITH A HEAD OF MONTFORD OVERLAY, TO COMMUNITY BUSINESS I DISTRICT WITH NO OVERLAY**

#### **ORDINANCE NO. 3985 - ORDINANCE REZONING A PORTION OF 36 MONTFORD AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY AND OFFICE DISTRICTS, WITH A HEAD OF MONTFORD OVERLAY, TO COMMUNITY BUSINESS I DISTRICT WITH NO OVERLAY**

Mayor Bellamy opened the public hearing at 5:33 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone a portion of 36 Montford Avenue from RM-8 Residential Multi-Family Medium Density and Office Districts, with a Head of Montford Overlay, to Community Business I District with no Overlay. This public hearing was advertised on June 3 and 10, 2011.

The Chamber of Commerce moved to its new location on Montford Avenue in 2000 after assembling properties on Montford Avenue, Hill Street, and Gudger Street and constructing a

new office building and surface parking lot. The assembled parcels collectively included a variety of zoning districts including Residential Multi-family, Medium Density District (RM-8), Office, and Community Business I (CB-I). The differing zoning districts would not support a single office development that was envisioned for the Chamber and Conditional Use Rezoning was not widely used. The remedy at that time was to adopt and apply a special overlay limiting allowed uses, building size, building orientation, and site development, ensuring the community that the new Chamber development would be compatible with the rest of the historic Montford community. The site was developed using those Head of Montford Overlay District standards and the underlying zoning was not changed.

Recently the Chamber of Commerce has been approached by community members who would like to move an existing local farmer's market to this site in order to increase accessibility, size, and offerings at this more central location. The market currently operates on Wednesday afternoons at the French Broad Co-op parking lot and would retain the same operating schedule. The staff recognizes the merits of this opportunity and realized that the zoning should be consistent across the site to permit the farmer's market.

As a part of this proposal staff is recommending that the Head of Montford Overlay be removed from the parcel because it had a very specific purpose for the development of the new Chamber building. The overlay allows a much larger building in terms of square footage than would be allowed under CB-I. In addition, the overlay provides a limited list of land uses which is unusual because overlay districts typically describe the form and scale of buildings and not uses since that is covered in the underlying zoning district. Staff met with members of the Montford Neighborhood Association (MNA) who were initially concerned about removing the Head of Montford Overlay, and expressed their desire to bring the entire parcel under the Montford Historic District boundary. Currently only the portion of the parcel with the existing building is subject to the historic district standards. Due to the time constraints facing the Farm Market, the MNA determined to support the market, and pursue expansion of the Historic District separately. The neighborhood will be approaching the Chamber and the Historic Resources Commission about expanding the Montford Historic District as a part of a separate action. As an alternative to expanding the Historic District, revisions to the existing overlay could also be considered separately.

The proposed zoning change to CB-I for the entire site matches the zoning in place for the portion of the parcel where the Chamber of Commerce building is located. The intent of that zoning district is to provide areas for medium density business and service uses serving several residential neighborhoods. The zoning area may serve as a workplace for nearby residents and be sensitive to significant pedestrian activity.

The CB-I district is recommended over the two other existing districts which are more restrictive and allow fewer uses. Additionally, neither the Office, nor the RM-8 district allows farmer's markets. The Office District was developed to provide areas for small-scale office uses adjacent to residential uses; and may serve as a transition when residential areas convert to other uses or between residential and commercial areas. The Residential Multi-family, Medium Density District (RM-8) was set aside for a wide variety of medium density residential uses and limited non-residential development such as institutional uses normally found in residential areas.

Based on the above findings and the analysis provided, the staff finds this request to be reasonable because the area supports this type of zoning and development pattern.

This rezoning request was recommended for approval by a 5-0 vote by the Planning and Zoning Commission meeting on June 1, 2011. Four people spoke at the P&Z meeting; most speakers were supportive of the zoning change.

Pros:

- Provides consistent zoning for this single parcel.

- Proposed zoning will be compatible with trends and changes to zoning on nearby parcels.
- The zoning change is consistent with the goals of the neighborhood which by a future and separate action may include the Montford Historic District overlay.

Con:

- (Temporarily) removes a limited number of design standards from the property.

Staff supports the request to rezone the property to CB-I because the area supports this zoning pattern.

Mayor Bellamy closed the public hearing at 5:37 p.m.

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

Vice-Mayor Newman moved for the adoption of Ordinance No. 3985. This motion was seconded by Councilman Bothwell and carried unanimously.

## **ORDINANCE BOOK NO. 27 – PAGE**

### **V. UNFINISHED BUSINESS:**

#### **A. STATE LEGISLATIVE UPDATE**

City Attorney Oast said that since his last legislative update to Council (May 24), the following developments have occurred with respect to legislation that affects Asheville:

**1. House Bill 925: Merger of water and sewer systems.** As reported earlier, a bill was introduced on May 5 that would have required the City to convey its water system to MSD. While written as a general law, Asheville is the only City in the State as far as we know to which the bill applied. At Council's request, a letter was prepared and sent to Representative Moffitt, who introduced the bill, expressing the City's concerns with it. We learned later that the bill had been converted to a "study bill" and passed out of the house. If passed by the Senate, the issue will be referred to the Legislative Research Commission to study the issue specified in the study bill.

**2. House Bill 552: Establishing Greater Asheville Regional Airport Authority.** As covered in previous reports, this bill was introduced on March 30. The City did not request introduction of this bill. In essence, the bill would establish the Greater Asheville Regional Airport Authority as an independent authority, with certain governmental powers and duties. The current Asheville Regional Airport Authority is an agency formed by an interlocal agreement between Asheville and Buncombe County. HB 552 would reduce the City and County seats on the Authority from three to two, and would give Henderson County two seats, with a seventh member of the board to be elected by the other six. Currently, Henderson County has no dedicated seat, but does have representation on the board by appointment as the seventh member.

The property on which the airport is located is substantially, if not entirely, owned by the City and leased to the Authority. The initial acquisition in 1958 consisted of 780 acres, acquired by the City with funds from its general fund, and a 50 percent federal match. Subsequent property acquisitions over the years have been much smaller in size; most if not all of them were with airport funds and a larger (usually 90 percent) FAA match. The bill that has been introduced would also require the City, Buncombe County, and Henderson County to convey to the new authority "all of its right, title, and interest to the property known as the Asheville Regional Airport." This also applies to Buncombe County and Henderson County, but any interest those entities have in property at the airport is far smaller than the City's.

By letter dated May 15, 2011, the City expressed its strong objections and concerns about this bill, and those concerns have also been expressed in individual conversations with members of the local delegation. Those concerns include the reduction in the City's representation on the board, the eligibility requirements for appointment to the board, and the legality of the forced conveyance of property to the Authority, apparently without consideration.

Although the bill has been amended, those amendments have done little to address the City's concerns. The bill was passed out of the House on June 6, and is in the Senate where it has been passed on first reading and referred to the Senate Committee on State and Local Government.

**3. House Bill 562: Woodfin/Asheville Boundary Adjustment.** The survey work undertaken to clarify the precise location of a proposed common boundary between Asheville and Woodfin has been substantially completed. The description of the new line has been incorporated into the proposed legislation, and has been submitted to the legislative bill drafting office. This bill affects only State-owned properties; private properties in the area would have the option of remaining in their current jurisdiction, or voluntarily annexing into the other jurisdiction, with approval by both governments. Though not a perfect solution, this should help with jurisdictional and service issues in the UNC-A area, the US 19-23/Broadway interchange, and the proposed roundabout at the entrance to Reynolds Mountain. The surveyor was not able to complete the work in time for us to include it in the bill; therefore, Representative Fisher felt that it might be better to wait until the Short Session next year to get it done properly.

#### **4. Other Bills:**

- **House Bill 845: Annexation.** Of the several annexation reform bills introduced in this year's session of the General Assembly, this is the one that has gotten the most traction. It is a comprehensive bill, affecting practically every aspect of annexation law. Some key features of the bill are the requirement for cities to connect individual properties to water and sewer, and the establishment of a process whereby property owners in the annexed area could defeat or undo the annexation by a petition. This bill was passed out of the House, and is now in the Senate. Action on other bills to "undo" individual annexations are awaiting the final outcome of House Bill 845. The bill to appeal the Biltmore Lake annexation, House Bill 236, was passed out of the House on April 4, and is in the Senate where it has passed first reading and been referred to the Senate Committee on Rules and Operations.
- **House Bill 307: Electronic Notices.** This bill would permit local governments to use electronic means for certain required legal advertisement, such as public hearing notices. This is a local bill, but applies to 14 counties and the municipalities in those counties. Buncombe County asked to be included among the counties to which this bill applies, and Asheville has agreed.
- **House Bill 308: An Act to Reform the Process of Ticketing, Selling, and Reselling Admission Tickets.** This bill affects venues which accommodate more than 1,000 persons such as the Civic Center and as proposed, could have serious, negative financial consequences for the Civic Center. The bill imposes new public notice requirements regarding the availability of tickets for each event, as well as a requirement to establish a special toll-free number to answer inquiries regarding ticket sales, which could be costly as well as demanding of staff time. The bill also requires that in the case of a cancellation, the venue would be responsible for the refund of not only the face value of the ticket sold, but also any fees charged in connection with the purchase such as processing fees, shipping and handling charges, convenience fees charged by online ticketing process such as Ticketmaster. This would mean that the Civic Center would have to refund money that it had not actually received since most of these types of charges are paid by purchasers to Ticketmaster for the ability to purchase online tickets.

Moreover, the bill has stringent penalties (\$100 per ticket sold at the event up to \$100,000) for failure to comply with any of the requirements. HB 308 has been formally opposed by The NC Travel & Tourism Coalition as well as performance venues around the State. He said this bill failed to meet the cross-over deadline and is not eligible for consideration in this session.

**5. Developments on other matters of interest to municipalities:** He provided Council with the newsletter from the North Carolina League of Municipalities. As always, information on the bills noted above, or on any other matters of interest, is available.

Councilman Russell asked City Attorney Oast for list of members, with contact information, on the Senate Committee on State and Local Government so that Council members can contact them individually regarding House Bill 552.

Councilman Bothwell said that Senate Bill 108 (unique to Asheville and two other cities in North Carolina) has a provision for a referendum in the state on marriage. Included in bill is a provision that would remove the ability for Asheville to provide domestic partner benefits to our employees. When he asked if Council would be interested in taking a position on that, Vice-Mayor Newman noted that he did strongly oppose to that legislation; however, there are a lot of commendable and horrible bills to voice our opinion on but was unsure how many positions we should take on state-wide bills. In addition, if there was a reference on the issue, there would be a chance for people to weigh on what they agree with or what they don't agree with.

Councilman Davis felt that because we did implement domestic partner benefits, we should express our feelings. On the other hand, the Civic Center Commission adopted a resolution expressing their discontent of House Bill 308. At the Civic Center Commission meeting, City Attorney Oast advised the Commission that with the velocity of items we are making known our unhappiness or pleasure with, once it gets to a certain amount, it diminishes itself. If Senate Bill 108 or House Bill 308 are not being considered at this time, we might not be doing ourselves a favor.

Councilman Bothwell agreed that if Senate Bill 108 makes the cross-over deadline we may be able to raise the issue next year.

Regarding House Bill 552, Mayor Bellamy said we received an update from Rep. Moffitt regarding our official position. He said a couple of amendments had been made but after our review, they did not affect the provisions that Council was most concerned with. In order to keep an open communication with him, she asked for Council's concurrence that we have staff draft a letter for her signature stating that we still have the same concerns expressed in our letter dated May 15. Personally, she would not support the bill even if amendments were made. She was concerned about state government telling us that we must give our property over to an authority and then diminishing our representation on the board from 3 City of Asheville appointees to two appointees. She has contacted the Secretary of Transportation to voice her concern with the FAA ruling provided to her to say that they could not compensate us. She also called the White House to state her discontent with the FAA in this process because she didn't feel it is satisfactory for us to be told by the state that we can't get any compensation at current market value for the investment City taxpayers made into the Airport.

Vice-Mayor Newman agreed that none of the concerns addressed during the City's discussion were addressed in the amendment to the bill. He felt we need to continue to express our concerns via letter and Council communication individually.

It was the consensus of Council to have staff draft another letter to Rep. Moffitt reaffirming Council's strong objections and concerns regarding House Bill 552 and to also copy our state senate side of the legislature.

Councilwoman Manheimer reiterated her concern regarding the method of communicating with our legislators about our concerns about House Bill 552. Having worked at the legislature four years, she can tell you that it's not effective to just send a letter. We need to communicate with our legislators. It seems to be something of an inevitability that House Bill 552 requiring Asheville to transfer the property it owns to the Airport Authority will get passed and she felt we are missing our opportunity to have a seat at the table to have a discussion about how that works. We have voiced our opposition and disappointment with the requirement to transfer the property, but there might be an opportunity to negotiate some compensation. Otherwise all we are left with is a bill that is enacted that leaves us in a position of having to file a lawsuit to make a takings claim. That is a gray area of the law and she would be concerned about paying an attorney to get involved in for some extended litigation that may or may not pan out. She suggested meeting with Senator Apodoca and Rep. Moffitt to see if we can build into the bill some way to provide us compensation if they insist on including this provision that requires us to transfer the property.

Mayor Bellamy said that was fine but we also have to take into consideration that the Airport Authority is saying the FAA is not permitting them to do that. That is why she feels it's important to go to the FAA and demand that they pay us the fair market value of what the investment that the City of Asheville taxpayers put in for the Airport. Even if our legislators say we can be compensated, and the FAA says no, we are at a standstill. She felt we need to also contact the FAA to say we want our compensation.

Councilwoman Manheimer agreed with Mayor Bellamy, noting that the bill is silent as to compensation to the City. The state can do their part and put in a provision that keeps the door open for some fair compensation for the property. She felt that going forward we need to think about our methodology in terms of interacting with the legislature.

Mayor Bellamy hoped all of Council is contacting our legislators to not only talk about House Bill 552 but other legislation as well.

Councilman Davis felt we have made it clear that we are not happy with House Bill 552. He wondered if there has been any contact by anyone to us responding to our opposition and it might be appropriate to arrange a meeting with Senator Apodoca and Sen. Moffitt, as well as those others who have been in support of Asheville. Mayor Bellamy responded that she has received verbal communication from Rep. Fisher and Rep. Keever who said they were taking their names off the bill as co-sponsors. She also heard from Charles Thomas from Rep. Tillis' office about other ways the City can address this issue. She has also talked to Senator Apodoca who said he would see it in the Senate side before he could make changes.

Councilwoman Manheimer e-mailed Rep. Moffitt with the idea of compensation and provided some numbers based on Asheville's investment. He responded that he would look into the issue. She felt we have an opportunity to try to negotiate some language in there about compensation. The Mayor has raised an issue about the FAA's position about compensation for the land. We need that investigated to see they would compensate the City for some legal reason.

City Attorney Oast said that the bill does provide for any conveyance from the City to the Airport Authority to be with the FAA's approval. He did not know what their position is on compensation.

Vice-Mayor Newman felt this is not just a debate between us and our legislatures, since there are very large national policies around investments in aviation facilities where the FAA is



involved. A completely different solution might be instead of requiring transfer of the title, the legislation could simply say that the Airport has a long-term lease for \$1 a year. There is another way to effect the creation of an independent Authority that would simply set aside the issue of the title transfer property. If Senator Apodaca wanted to address our concerns, they could pull the title transfer piece out of the bill and let some other parts of it move forward.

In response to Councilman Bothwell, City Manager Jackson said there is no financial compensation regarding the Airport property being leased to the Airport Authority.

Mayor Bellamy said that House Bill 925 is now a study bill directing the Legislative Research Committee to study the merger of water and sewer systems. She said that Rep. Moffitt has also suggested that a local group look at this issue from Asheville's prospective. City Attorney Oast said that Council can suggest the Legislative Research Commission seek input from local sources. Mayor Bellamy felt it would also behoove us to look at the 12 issues outlined in the bill from Asheville's standpoint. We should not leave it to a Raleigh commission to determine the fate of our water system.

Councilman Bill reviewed the 12 issues from the bill to be examined and felt there would have to be members of the City Water Department and members of the Metropolitan Sewerage District on this research committee or least for them to be contacted to provide the information. He would prefer we have individuals from the City and MSD on this study commission.

In response to Councilwoman Manheimer, City Attorney Oast felt the Legislative Research Committee is a fixed group. He did feel that a mechanism could be incorporated into the bill to structure some input from a local study group.

Mayor Bellamy felt it would be more appropriate to have a local group review the issues in depth and report their findings. Regardless of what happens in Raleigh it is our water system. She would support the local study group including representatives from MSD to look at the 12 issues from our eyes, not just a group from Raleigh and their staff. This will impact the future of our water system.

Vice-Mayor Newman suggested that if House Bill 925 is enacted, then we would ask the staff to prepare some information for Council to consider about how this process will work and how we can be constructively engaged in responding to it to make sure Asheville's prospective is presented as part of this discussion.

City Manager Jackson said that in Mayor Bellamy's letter to Rep. Moffitt, we posed several questions about the structure, the scope, how they will get professional advice, how it will be performing it's analysis, etc. To add to our understanding, hopefully we will get some response back from the author of the bill.

## **B. SIX-MONTH UPDATE ON HILLCREST PEDESTRIAN BRIDGE RE-OPENING**

Interim Police Chief Wade Wood said that City Council requested a six-month update on the re-opening of the Hillcrest Pedestrian Bridge.

This report details a six-month time frame from the re-opening of the Hillcrest Pedestrian Bridge crossing I-240 from both the Hillcrest Apartments and the Westgate Shopping Center. City Council directed the bridge opening following traffic fatalities as persons crossed I-240 on foot.

- The N.C. Dept. of Transportation (NC DOT) completed their initial required work and the bridge opened in December 2010.
- Crime prevention efforts, through increased police presence were implemented immediately.

- Increased presence included on duty officers from all three Police Districts, Community Resource Officers as well as the Drug Suppression Unit. The Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO), working secondary through the Asheville Housing Authority, were also involved.
- Charts show high police activity from December 2010 through March 2011.
- A rash of vandalism occurred as cabling and infrastructure were being installed at Hillcrest for improved exterior lighting and cameras.
- Vandalism prompted the housing authority to increase secondary employment of APD and BCSO for April, May and June of 2011 for security of this installation.
- The Drug Suppression Unit partnered with Criminal Investigations to determine those responsible for the vandalism. Total damage and repair costs were in excess of \$5000.
- Vandalism prompted the housing authority to close the Hillcrest Gate access to the bridge for a short period of time. The gate has since re-opened.
- Two suspects have been charged with the acts of vandalism.
- Extra checks by Patrol Personnel were not conducted during the time of the increased secondary employment of off duty officers by the Asheville Housing Authority (AHA).
- City applied for a COPS grant for five officers, three of which would be dedicated to Drug and Gang Suppression efforts with some focus on Hillcrest.

Partnering with City of Asheville Transportation and Public Works Departments and NC DOT has produced the following work:

- In April, tore out the fence at the end of the Westgate walkover and replaced it with a ten foot fence. Done to greatly reduce or eliminate the pedestrian traffic that was crossing the interstate that could simply step on the railing and climb over the small fence. Even after the bridge was open, pedestrian traffic was noted crossing I-240.
- Raised the sidewalk that was completely under mud and added an additional small section of fence just outside of the Hillcrest entrance to prevent further trespassing on NC DOT property.
- No trespass signs were erected under the I-240 bridge.
- Installation of two gates one at the corner of the pedestrian bridge at the top closest to Hillcrest and one on the other side under the bridge next to the end of the Smoky Park Bridge. The NC DOT is fabricating iron gates similar to the one on the Hillcrest side, as soon as they are completed they will be installed.
- Plans are for clearing the wooded area on the west side of the walkover. This will be conducted by City of Asheville Public Works, based on Crime Prevention Through Environmental Design (CPTED) evaluation and community input.
- City staff are working with Progress Energy for the installation of street lights to illuminate the sidewalk.
- The City plans to coordinate a community event towards the end of August 2011 to recognize the work our partnerships have accomplished and to reconnect the neighborhoods on either side of the bridge. This will be handled by the Neighborhood Coordinator Marsha Stickford.

This action ties in with the Strategic Operating Plan for safer communities within Asheville.

Pros:

- No Pedestrian Traffic Deaths or Crashes with Pedestrians during this 6 month period on or near I-240.
- Calls for Police Service within Hillcrest have decreased while police presence has increased.
- APD has not seen an increase in calls for service related to the opening of the walkover bridge.

Cons:

- Increased police presence has created increase tension with some residents of Hillcrest.
- Damage to infrastructure which supports higher levels of security through lighting and cameras.

The majority of the increased police presence has been conducted by on duty personnel or through housing authority secondary employment resulting in minimal fiscal impact.

City staff recommends City Council continue to support the re-opening of the Hillcrest Pedestrian Bridge. Additional requests for crime prevention and suppression will come in future staff reports.

Interim Chief Wood responded to some questions raised by Councilman Smith.

**C. RESOLUTION NO. 11-117 - RESOLUTION TO ASSIGN FEDERAL FAIR HOUSING INVESTIGATION SERVICES TO THE NORTH CAROLINA HUMAN RIGHTS COMMISSION**

Community Development Director Jeff Staudinger said that this is the consideration of a recommendation to have the North Carolina Human Rights Commission conduct all US Department of Housing and Urban Development (HUD) Fair Housing Compliance Investigations in the City of Asheville.

Every HUD grantee, as part of their responsibility to affirmatively further fair housing, needs to ensure that possible violations of the federal fair housing law are properly investigated and resolved. Such services are typically performed by governmental agencies at local and state levels that have been determined by HUD to have investigative capacity and fair housing regulations “substantially equivalent” to HUD.

These services have historically been provided to residents of Asheville and Buncombe County by the Asheville Buncombe Community Relations Council. HUD has provided Fair Housing Assistance Program (FHAP) funding to the City for this purpose. The City has passed through 100% of this funding to ABCRC to support staff and other costs of providing this service. Additionally, for many years the City has provided CDBG funding to ABCRC annually as additional support for these HUD-required services. It should be noted that CDBG program funding nationally has now been cut substantially, resulting in substantial reductions to funds available for distribution to local organizations.

This spring, in response to reorganization issues at ABCRC, the City staff investigated the options available to the City for conducting these investigations. Research revealed that most communities in the state have this service performed by the NC Human Rights Commission (NCHRC). When the Commission performs this service, the HUD Fair Housing Assistance Program (FHAP) funding is paid directly to that agency. The Commission does not require that its services be supported with other local funding.

If the City switches these reviews to the NCHRC the change in service would affect fair housing investigation of federal fair housing violations only. Local fair housing concerns would still need to be addressed locally. ABCRC is preparing a revised proposal for City Outside Agency funding to support this local service.

This proposal would support the City Council Strategic Goal of Affordable, by supporting access for safe, sufficient and affordable housing for Asheville residents.

Pros:

- The provision of this service by the NC Human Rights Commission will ensure that federal fair housing laws are enforced in the City;

- HUD has assured the City that no loss in the quality of the investigations would result from this change;
- The change would enable the CDBG funds formerly allocated for this service to be used for other community development purposes.

Con:

- Marketing and other provisions to ensure that Asheville residents are aware of and can easily access these services will need to be made.

The service has been supported in the past with Community Development Block Grant funding and with HUD FHAP funding passed through the City to ABCRC. If the service is provided through NCHRC, those CDBG funds will be distributed for other eligible uses. The City will no longer have the responsibility for administering the FHAP pass-through process; the City received no funding for that service.

The Housing and Community Development Committee has positively reviewed the proposal to transfer the FHAP program responsibilities and funding to the North Carolina Human Rights Commission. Staff recommends that City Council approve the proposal.

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.

Vice-Mayor Newman moved for the adoption of Resolution No. 11-117. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Mayor Bellamy voting “no.”

#### **RESOLUTION BOOK NO. 34 – PAGE 46**

#### **D. RESOLUTION NO. 11-118 - RESOLUTION ESTABLISHING AN AFFORDABLE HOUSING ADVISORY COMMITTEE**

Community Development Director Jeff Staudinger said that this is the consideration of a resolution establishing an Affordable Housing Advisory Committee.

In 2007, the Mayor gathered a broad community study group to address the issues of housing affordability in Asheville. The group met for several months and submitted a comprehensive Affordable Housing Plan for the City of Asheville, which was accepted by the Asheville City Council on June 24, 2008. A working group continued to meet with City staff to develop specific implementation steps, including amendments to the Unified Development Ordinance, Housing Trust Fund, and other key strategies. Last fall this working group proposed to the Housing and Community Development Committee that an Affordable Housing Advisory Committee be established, with specific duties to advise the Mayor, the City Council, the Housing and Community Development Committee, and City staff. The HCD Committee has completed their evaluation of that request and now proposes the formation of the Committee.

#### *Purpose of the Advisory Committee:*

Through a public-private partnership, the Affordable Housing Advisory Committee will work in conjunction with City leadership and staff to implement the 2008 Affordable Housing Plan. The specific functions will be –

- To consider affordable housing policy issues and advise City leadership about those policies;

- To develop concrete action steps to implement the highest priorities of the Affordable Housing Plan, and to update that plan as appropriate over time.
- To advise City leadership and staff regarding affordable housing priorities for the investment of City-controlled funds.

*Membership:*

The Affordable Housing Advisory Committee should not exceed 9 members and ideally will have as members Asheville residents who have housing experience, including:

- A non-profit developer of affordable housing
- A for-profit housing developer
- An affordable housing advocate
- An architect
- A real estate agent
- A neighborhood association representative
- A resident of affordable housing
- A representative of the housing authority
- A representative of the private philanthropic community

This project directly meets the affordability goal of the 2011-2012 Council Strategic Plan which has the objective to “create an affordable housing standing group or commission to advise City Council on matters related to affordable housing consisting of a diverse stakeholder group.”

*Pro:*

- Formal citizen consideration of affordable housing issues will bring renewed effort to addressing Asheville’s affordable housing needs;

*Con:*

- It may be difficult to maintain a good balance of interests on such a committee between affordable housing advocates and those representing broader interests.

There will be no direct fiscal impact of establishing an Advisory Committee. The Committee will require staffing resources, provided by the Community Development Division.

City staff, supported by the Housing and Community Development Committee, recommends City Council establish an Affordable Housing Advisory Committee.

Upon request of Mayor Bellamy, it was the consensus of Council to include a person from the disabled community.

In response to Councilman Bothwell, Vice-Mayor Newman said that the Committee will not specifically be made up of each one of those representatives, but that Council will be committed to try to recruit those specific people to the Committee.

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 Davis moved for the adoption of Resolution No. 11-118, with the amendment to the membership to include a person from the disability community. This motion was seconded by Councilman Smith and carried unanimously.

## **VI. NEW BUSINESS:**

### **A. RESOLUTION NO. 11-119 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A UTILITY CUT ENTERPRISE FUND REPAIR AGREEMENT WITH METROPOLITAN SEWERAGE DISTRICT**

Public Works Director Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to enter into a Utility Cut Enterprise Fund Repair Agreement with Metropolitan Sewerage District (MSD).

Several utility companies have requested that the City repair all street and sidewalk cuts they make within the City limits. City staff have 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. Currently the City Water Department, Stormwater Enterprise Fund and MSD participate in the program. MSD would like to begin their participation effective July 1, 2011. Progress Energy has also indicated some interest participating in the program.

Under this agreement, the City would make all asphalt or concrete repairs to trenches cut and backfilled by MSD. MSD will not be required to obtain permits but will be required to 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 repair. MSD will no longer have a warrant period for the cut.

The MSD Board unanimously approved this agreement at their May Board meeting.

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.
- MSD 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:

- Contractors that have been performing this work for MSD will no longer be contracted to perform these repairs inside the City limits. We have met with the contractor and have asked him to submit bids on other work for the City. While we cannot guarantee his company the work, we will make sure he gets 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, MSD 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 MSD 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 Enterprise Fund Repair Agreement with MSD.

Councilman Russell said that the Finance Committee reviewed this last year and recommended approval.

When Councilman Russell asked if we are working with other utilities, Ms. Ball said that Progress Energy is interested and we are working to come up with a proposal for them. At this point AT&T has shown no interest in the program, but they are open to including more utilities.

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

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

Councilman Russell moved for the adoption of Resolution No. 11-119. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 49**

#### **B. RESOLUTION NO. 11-120 - RESOLUTION AUTHORIZING APPROVAL OF THE 2012 OUTSIDE AGENCY GRANTS**

Community Development Director Jeff Staudinger said that this is the consideration of a resolution approving of the recommendations of the Housing & Community Development (HCD) Committee for the 2012 Outside Agency Program.

The HCD Committee received applications from 12 eligible organizations for Outside Agency funding for 2012. The Committee considered these applications at their meeting of May 19, 2011, and now recommends 11 applications for funding. The recommendations are:

| <b>Agency</b>                          | <b>Funding Support Purpose</b>  | <b>2011 Recommended Funding</b> |
|--|---|---------------------------------|
| Child Abuse Prevention Services, Inc.  | General operating support targeted to parenting education and outreach                | \$ 5,000                        |
| Children First /Communities in Schools | Project MARCH: after-school safe-haven program at three housing complexes in the City | \$17,800                        |

|  |  |           |
|--|--|-----------|
| Design Center                            | Small Business Assessment Pilot Program in cooperation with COA's Community Development, Economic Development and Development Services Departments.                        | \$ 4,000  |
| Homeward Bound of Asheville-AHOPE        | A HOPE Day Center outreach, intake and support for homeless persons, support for weekend operations.   | \$20,000  |
| One Youth at a Time                      | Provides mentoring, job training and placement assistance to at-risk students  | \$ 5,600  |
| YWCA of Asheville and WNC                | Future Vision daily afterschool program and summer camp program.   | \$ 8,000  |
| Housing Authority- Youthful HAND         | The Youthful HAND (YH) Afterschool Program serving children in grades K-8 who reside in the Lee Walker Heights (LWH) housing development.                                  | \$ 4,000  |
| Kids Voting Buncombe County              | Kids Voting provides a K-12 civics curriculum to area educators, offers students a voting experience, and offers a community service opportunity for High School Students. | \$ 1,000  |
| Governor's Western Residence Association | GWR requests one-time funding to replace or refurbish old and worn out furniture, drapes, bedding and rugs.  | \$ 5,000  |
| Economic Development Coalition           | EDC seeks operation funding to market economic development assets and services which will lead to job creation in the City.  | \$40,000  |
| Asheville Greenworks                     | Enhance the environment and quality of life through awareness building, community activities and partnerships.   | \$ 8,000  |
| Total                                    |  | \$118,400 |

Additionally, Council heard a report from and conceptually approved funding for the Asheville-Buncombe Regional Sports Commission on May 10, 2011. The Outside Agency budget has been increased by \$45,000 to support this agency; future requests will be addressed through the annual Outside Agency program funding process.

This action complies with the City Council Strategic Operating Plan in (1) Fiscal responsibility, by identifying resources for strategic partnerships and creating meaningful performance measures for programs and services; (2) Job Growth and Community development, by participating in effective partnerships to achieve goals in health and wellness, workforce development and sustainable economic development; and (3) Safe, by supporting recreation and employment alternatives for youth at risk of gang exposure.

Pros:



- Approval of Outside Agency Grants provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support.

Outside Agency Grants are funded from the City's general fund. The funding recommendations are within the fiscal limits developed by Council during the budget working sessions. No increase in organizational funding is recommended. One-time funding for the Western Carolina Governors Residence is recommended this year. First-time funding for the Asheville-Buncombe Regional Sports Commission is also included.

The HCD recommends approval of the 2012 Outside Agency Program grants as presented.

Mr. Staudinger responded to Mayor Bellamy's question of the Design Center's function. This would help inexperienced entrepreneurs in the community who are seeking to renovate space and who are finding the permit process difficult to navigate. Entrepreneurs can receive levels of assistance in their permit needs and when they need professional assistance. Staff will not make recommendation on professionals to use, but just help them understand what the technical requirements are. The Design Center has proposed to develop a comprehensive checklist of permits needed in collaboration with the Building Services Department and then to pilot a technical assistance program, as permit applicants come into the City, to help them understand what their needs are.

Councilman Davis misunderstood the pilot program and could not be supportive of allocating \$4,000 for this function.

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 Smith moved for the adoption of Resolution No. 11-120. This motion was seconded by Vice-Mayor Newman and carried on a 6-1 vote with Councilman Davis voting "no."

#### **RESOLUTION BOOK NO. 34 – PAGE 51**

#### **C. ORDINANCE NO. 3986 - BUDGET AMENDMENT TRANSFERRING RESOURCES FROM THE GENERAL FUND TO THE FESTIVAL FUND**

Administrative Services Director Lauren Bradley said that this is the consideration of a budget amendment, in the amount of \$1,550,000, from the General Fund for the purpose of transferring resources to the Festival Fund to close the fund out as recommended by the City's external auditors.

The Festival Fund was established in 1990. For the majority of that decade, portions of the programs' expenditures were recorded in both the General Fund and the Festival Fund with the majority of the revenues accounted for in the Festival Fund. Beginning in 2002, in an effort to improve transparency and provide for greater cost accounting of the festival activities, the General Fund program expenditures were realigned over a period of several years to the Festival Fund.

As the City Council is aware, the Festival Fund has been classified as an enterprise fund on the City's financial statements. The external auditors have commented previously on the appropriateness of that classification given that the activities accounted for in the Festival Fund generally do not have the characteristics associated with enterprise activities (such as, fees charged to users, self-supporting, State laws requiring separate funds, pricing policies designed to recover operating and capital costs). As a result of the auditor's comments in connection with the 2010 audit, City staff prepared the 2012 budget by folding the operations of the Festival Fund in the General Fund. The City will still be able to track festival revenues and expenditures separately; but will simply do so within the General Fund.

The City combines or pools a majority of its cash and investments of the various accounting funds to improve investment performance and to limit the need to transfer funds among separate bank accounts. Each accounting fund's position in the combined pool is reflected as an asset (cash and investments) on the balance sheet. Sometimes an individual accounting fund overdraws its share of pool cash and investments – as with the Festival Fund due to its negative net asset position. When this situation occurs, the overdraft is reflected as an interfund liability (due to another fund) rather than a negative cash amount in the pool. Likewise, an equivalent amount of some other accounting fund's position in the pool is then reclassified as an interfund receivable – in this case the General Fund. These accounting transactions are, in essence, a form of temporary cash loan to cover the negative cash position.

Over the years, the Festival Fund's negative cash and investment position has grown due to expenses exceeding revenues and formal transfers in from the General Fund. As previously mentioned and reflected in the table below, the growing negative net asset position arose as a result of an effort to reflect the costs of the festival program in the enterprise fund and revenues falling short of budget estimates. While there have been several formal General Fund transfers made since 2002, those transfers were generally not sufficient to cover the loss for the year. Additionally, beginning in 2002 when there was an increased effort to reflect all the festival program costs in the Festival Fund, there were no transfers which resulted in a rapid increase in the negative financial position of the Festival Fund.

| Fiscal Year | Budget    | Expenses    | Revenues  | Transfer In | Net Income (Loss) | Cumulative Net Assets |
|-------------|-----------|-------------|-----------|-------------|-------------------|-----------------------|
| 2010        | \$796,449 | \$(757,766) | \$637,965 | \$184,726   | \$64,925          | \$(1,556,517)         |
| 2009        | 1,121,064 | (1,106,424) | 770,903   | 162,675     | (172,846)         | (1,621,442)           |
| 2008        | 1,230,544 | (1,169,695) | 860,135   | 253,922     | (55,638)          | (1,448,596)           |
| 2007        | 1,346,878 | (1,314,846) | 868,327   | -           | (446,519)         | (1,392,958)           |
| 2006        | 1,249,413 | (1,269,793) | 1,032,524 | 100,000     | (137,269)         | (946,439)             |
| 2005        | 1,100,360 | (1,067,019) | 701,097   | -           | (365,922)         | (809,170)             |
| 2004        | 1,533,026 | (1,121,437) | 787,812   | -           | (333,625)         | (443,248)             |
| 2003        | 913,727   | (801,385)   | 725,855   | -           | (75,530)          | (109,623)             |
| 2002        | 823,740   | (786,762)   | 694,351   | -           | (92,411)          | (34,093)              |
| 2001        | 976,907   | (574,469)   | 574,473   | -           | 4                 | 58,318                |

Because the accounting and financial reporting regulations require negative cash and investment positions to be offset in other funds, the General Fund's cash and investment position has been reduced in a like amount. The amount is reflected on the General Fund balance sheet as "due from other funds" and in fund balance as "reserved by State Statute". Because cash and investments represent the beginning point for the calculation of available fund balance, the General Fund's undesignated fund balance position already reflects the impact of the negative cash position in the Festival Fund. Therefore, the financial impact of the Festival Fund closeout on the General Fund's undesignated fund balance has already been reflected in the City's financial statements. The closeout will impact the "State statute" reservation which is not part of the City's 15% fund balance policy objective.

In connection with the 2011 audit and the current fiscal year, the City will be closing down the Festival Fund. Because the Festival Fund has not been self-supporting over the years, the net assets of the fund were a negative \$1,556,517 at June 30, 2010. City staff believes that the financial performance of the Festival Fund in 2011 will be break even; so the cumulative net asset amount of negative \$1.556 million will likely be unchanged.

In order to closeout the Festival Fund, the City must formally transfer resources to the Festivals Fund through a budget amendment to eliminate the interfund liability described previously.

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

Pro:

- Conforms the City's financial statements with generally accepted accounting and reporting standards.

Con:

- None noted.

General Fund undesignated fund balance at June 30, 2010, already reflected the financial impact of the interfund receivable from the Festival Fund, therefore this amendment has no impact on the General Fund's available fund balance. The transfer in 2011 permits the City to close out the Festival Fund. Staff adjusted the festivals expenditure budget in FY 2010 to more closely align with anticipated revenues. As a result, the Festivals Fund has shown improved financial performance over the last two years. Net income totaled \$64,925 in FY 2010, and the Festivals Fund is expected to break even in FY 2011. As noted earlier in the report, festivals expenses and revenues are budgeted in the General Fund in FY 2012.

City staff recommends City Council approve the budget amendment appropriating \$1,550,000 from the General Fund for the purpose of formally transferring resources to the Festival Fund to eliminate the interfund liability.

Ms. Bradley clarified several points raised by Mayor Bellamy.

Mayor Bellamy wanted to make sure that Council can still easily identify festival revenues and expenses, and how much taxpayer dollars are subsidizing festivals.

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

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

Councilman Russell moved for the adoption of Ordinance No. 3986. This motion was seconded by Councilman Smith and carried unanimously.

**ORDINANCE BOOK NO. 27 - PAGE****D. BOARDS & COMMISSIONS****CIVIC CENTER COMMISSION**

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

The terms of John West, Carol Ann McLendon and James Richards will expire on June 30, 2011.

The following individuals have applied for vacancies: Saul Chase, Christopher James Bradford, Flora Marr, Heather Hunter, Elizabeth Franks and Karl R. Katterjohn.

It was the consensus of Boards & Commissions Committee to (1) reappoint Mr. West and Ms. McLendon to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; and (2) recommend interviewing Ms. Flora Marr and Ms. Elizabeth Franks.

Vice-Mayor Newman moved to (1) reappoint John West and Carol Ann McLendon to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; and (2) instruct the City Clerk to arrange interviews for Ms. Flora Marr and Ms. Elizabeth Franks. This motion was seconded by Councilman Russell and carried unanimously.

**PUBLIC ART BOARD**

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

The terms of Kenn Kotara, Jaan Ferree, Julie Calhoun-Roepnack and Barry Pate will expire on June 30, 2011.

The following individuals have applied for vacancies: William F. Meller, Richard G. Lee, Susanne Hackett, Leslie Shaw, Ami Worthen, Gwynn Rukenbrod, Jessica McCuan, Leslie Klingner and Jennifer Gordon.

It was the consensus of Boards & Commissions Committee to (1) reappoint Ms. Ferree and Ms. Calhoun-Roepnack to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; (2) appoint Ms. Suzanne Hackett to serve a three-year term, term to expire June 30, 2014, or until her successor has been appointed; and (3) recommend interviewing Ms. Jennifer Gordon and Ms. Leslie Klingner.

After a brief discussion, Vice-Mayor Newman moved to (1) reappoint Jaan Ferree and Julia Calhoun-Roepnack to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; and (2) instruct the City Clerk to arrange interviews for Ms. Susanne Hackett, Ms. Ami Worthen, Ms. Gwynne Rukenbrod, Ms. Jessica McCuan, Ms. Jennifer Gordon and Ms. Leslie Klingner. This motion was seconded by Councilman Smith and carried unanimously.

Councilman Russell noted that there is a Finance Committee scheduled at 3:30 p.m. on June 28, but due to the number of board/commission interviews taking place on that date, he would contact staff to re-schedule the Finance Committee meeting.

**RESOLUTION NO. 11-121 - RESOLUTION APPOINTING MEMBERS TO THE  
CITIZENS-POLICE ADVISORY COMMITTEE**

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

The terms of Carol Rogoff Hallstrom (North representative), Bob Smith (Central representative), Allen Brailsford (West representative) and Charlie Hume (South representative) will expire on June 30, 2011.

The following individuals have applied for vacancies: Gabriela Volkomer, Sarah Nunez (who is currently serving as an ad hoc voting member), Nancy M. Baker, Jay Lively, and Marie-Line Germain.

The Boards & Commission Committee recommended (1) reappointing Ms. Hallstrom, Mr. Brailsford and Mr. Hume; and (2) appointing Marie-Line Germain.

Vice-Mayor Newman moved to reappoint Carol Hallstrom (North), Allen Brailsford (West) and Charlie Hume (South), as members of the Citizens-Police Advisory Committee to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

Vice-Mayor Newman moved to appoint Marie-Line Germain (Central) to serve a three-year term, term to expire June 30, 2014, or until her successor has been appointed. This motion was seconded by Councilman Russell and carried unanimously.

**RESOLUTION BOOK NO. 34 – PAGE 53**

**RESOLUTION NO. 11-122 - RESOLUTION APPOINTING A MEMBER TO THE  
CRIME-STOPPERS BOARD OF DIRECTORS**

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Crime-Stoppers Board of Directors. .

The terms of David Herbert and Michele McClure will expire on June 30, 2011.

No individuals have applied for the vacancies.

The Boards & Commissions Commission recommended reappointing Mr. Herbert and re-advertising for the other seat.

Vice-Mayor Newman moved to (1) reappoint David Herbert to serve an additional three-year term, term to expire June 30, 2014, or until his successor has been appointed; and (2) re-advertise for the other seat. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 34 – PAGE 54**

**RESOLUTION NO. 11-123- RESOLUTION APPOINTING MEMBERS TO THE  
RECREATION BOARD**

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

The terms of Mildred Nance-Carson, Lonnie Gilliam, Geoffrey Ferland and Will Callaway will expire on June 30, 2011. In addition there currently exists a vacancy left by Sara Manual until June 30, 2012.

The following individuals have applied for vacancies: Todd M. Dunnuck and Josh O'Conner.

The Boards & Commission Committee recommended (1) reappointing Ms. Nance-Carson and Mr. Gilliam to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; (2) appointing Todd Dunnuck and Josh O'Conner; and (3) re-advertising for the vacancy left by Ms. Manual.

Vice-Mayor Newman moved to (1) reappoint Ms. Nance-Carson and Mr. Gilliam to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed; and (2) re-advertise for the vacancy left by Ms. Manual. This motion was seconded by Councilman Bothwell and carried unanimously.

Vice-Mayor Newman moved to appoint Todd Dunnuck and Josh O'Conner to each serve a three-year term respectively, terms to expire June 30, 2014, or until their successors have been appointed. This motion was seconded by Councilwoman Manheimer and carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 55**

#### **RESOLUTION NO. 11-124 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that Ms. Sasha Vrtunski, member on the Sustainable Advisory Committee on Energy & the Environment (SACEE) has resigned, thus leaving an unexpired term until December 31, 2012.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Torin Kexel due to a recently advertised vacancy.

Councilman Bothwell moved to appoint Torin Kexel to serve the unexpired term of Ms. Vrtunski, term to expire December 31, 2012, or until his successor has been appointed. This motion was seconded by Councilman Russell and carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 56**

#### **PLANNING & ZONING COMMISSION**

Vice-Mayor Newman said that the Boards & Commissions Committee recommends that five-six candidates be interviewed for the upcoming Planning & Zoning Commission vacancies. Each candidate will have a 20-minute televised interview in the Council Chamber. At the August 9 meeting, the Boards & Commissions will make recommendations to the Council for the interviews.

Council's existing policy is that if any one member of Council who wants to interview a candidate for a given board, that candidate is interviewed. In light of the fact that we are allocating 20 minutes for each interview, the Boards & Commissions Committee suggested that if there are additional candidates Council wants to interview, that it would require 2 members of Council to request that person go through the full interview process.

Because this is similar to School Board appointments, Mayor Bellamy asked when the City Council questions would be due. City Clerk Burleson she said that the request for Council

questions would be sent out on July 1, with all questions to be returned one week from them. The Boards & Commissions Committee, at their July 26 meeting, would then narrow down the questions to five.

Mayor Bellamy recalled from prior School Board appointments that the entire City Council narrowed the questions down. Due to the elevated process of these appointments, she felt all of Council should have the opportunity to narrow the questions down.

Vice-Mayor said that Council can choose to have more than five essay questions so that each member of Council has at least one of their most top priority questions responded to in an essay fashion.

Councilman Davis said that the Boards & Commissions Committee recommended requesting three questions from each Council member and then the Committee would narrow the questions to five. Because there would be 21 questions, Vice-Mayor Newman felt there would be helpful that the Committee narrow the questions and on July 26 Council could confirm those would be the ones for essay responses. Councilman Smith noted that Council will still have the opportunity to ask any individual or follow-up questions in the 20-minute open interviews.

Councilman Russell and Councilwoman Manheimer would like for the Boards & Commissions Committee to recommend five questions and then Council can review them at their July 26 meeting.

At the request of the majority of Council, City Clerk Burleson would provide City Council with all questions received on July 22, noting that the Boards & Commissions Committee would narrow them down to five at their July 26 meeting. At the formal meeting on July 26, the Committee will provide Council with their five recommended questions.

## **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Dr. Milton Byrd offered his service to work with the City of Asheville in mediating in moving forward with public access regarding television, as well as addressing some of the URTV issues. Councilman Russell noted that the Finance Committee will be meeting on this issue and the matter will be coming back to Council in the very near future. Because Dr. Byrd would be requesting a meeting with the Mayor, Mayor Bellamy suggested he first attend the Finance Committee and the Council meeting where this will be discussed, as she does not have any information to share. Mayor Bellamy asked City staff provide Council and Dr. Byrd with information from the Finance Committee that outlines the broad details for an Request for Proposals process (which is scheduled before Council on June 28), staff recommendations which were approved by the Finance Committee, and a timeline of URTV funding and management decisions. Mayor Bellamy also noted that the City had a management contract with URTV that they have been adhering to all along, while addressing the issue with URTV leadership.

Rev. Lisa Landis felt didn't feel that someone from the outside that has never been to URTV, viewed the studios and operations to see how it works, or to see the programming will have the best ideas on how to fix it.

Rev. Christopher Chiaromonte felt that Buncombe County should pay URTV the money owed to it.

Mr. John Kleckner explained that he has been keeping the streets clean to help raise money for a film project he would like to do, noting that the community is supportive of his efforts.

At the request of Councilman Bothwell, City Manager Jackson said that he would provide Council with information on the last evaluation of the performance and effectiveness of the Council sound system.

Councilman Davis said that concern has been expressed about comments made by Councilman Bothwell regarding the Conservancy's work on Pack Square Park. Asheville has received a wonderful gift from the Conservancy, even though the financing by the Conservancy did not happen like we wanted. The process to construct restrooms in the Park was a long process and the Buncombe County Tourism Development Authority has provided the funding; however, merchants nearby the Park requested the construction be delayed until after the summer season. Personally, he is appreciative of the Park and even though the financing didn't work out the way we all wanted it to, he was glad of those things that did work out.

Councilman Bothwell said that the Conservancy's failure to start the restrooms in March, as announced, being delayed until November was what concerned him. The felt Pack Square Park represents a major calamity in the City and requested an accounting of the money. He pointed out several design failures. He is very disappointed in the Park as it has turned out, especially in the amount of money spent, including taxpayer money which they were told initially would never be spent.

Councilman Russell respected everyone's opinion; however, he requested that any future correspondence by an individual member of Council be signed by them only and not titled as Asheville City Council.

Mayor Bellamy said that officials from other cities around North Carolina have commented on how they wish they had this Park in their respective city. Beauty is in the eye of the beholder and she sees a beautiful Park. She acknowledging mistakes were made, but we can continue to fight over what is wrong with it, or work together to fix it and make it better for our community. It is a wonderful City asset.

Mayor Bellamy requested City Clerk Bureson provide Council with the audits of the Pack Square Conservancy, along with the Buncombe County audit.

### **Claims**

The following claims were received by the City of Asheville during the period of May 13 – June 9, 2011: Walter Goggans (Transit), Sandra Griffin (Police), Aaron Pienta (Water), John Houser (Transit), Marjorie Coleman (Streets), Craig/is Ltd (Streets), Carol Keleher (Streets), Robert Miller (Streets), Debra Penland (Water), AT&T (Sanitation), AT&T (Water), Progress Energy (Water), Donnie McCaslin (Water) and Eastwood Village Apts (Water). These claims have been referred to Asheville Claims Corporation for investigation.

### **VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 7:42 p.m.

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CITY CLERK

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MAYOR