

Tuesday – July 26, 2011 - 5:00 p.m.

Regular Meeting

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

Absent: Mayor Terry M. Bellamy

Due to the absence of Mayor Bellamy, Councilman Russell moved for Vice-Mayor Newman to preside over the meeting. This motion was seconded by Councilwoman Manheimer and carried unanimously.

PLEDGE OF ALLEGIANCE

Vice-Mayor Newman led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Newman gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JULY 27, 2011, AS “NATIONAL KOREAN WAR VETERANS ARMISTICE DAY”

Vice-Mayor Newman proclaimed July 27, 2011, as “National Korean War Veterans Armistice Day” in the City of Asheville.

B. ANNOUNCEMENT OF STRIVE NOT TO DRIVE WINNERS

Vice-Mayor Newman recognized Keith Bamberger who explained the Strive Not To Drive Program. He then was pleased to recognize the following award winners: (1) Wendy Hendl has been selected by the Strive Not To Drive Committee to receive the Strive Not To Drive Golden Wheel Award. The Golden Wheel Award recognizes individuals who make a choice be multi-modal by commuting by bus, bike, and shoe. Wendy Hendl has a car and a young child. Even though her car would be the more convenient and easy way to save time, she chooses to be multi-modal – taking the bus, walking, and biking. Ms. Hendl shows how to get things done without using a car, and that is why she is receiving the 2011 Strive Not To Drive Golden Wheel Award; (2) Mr. Anders Joura has been selected by the Strive Not To Drive Committee to receive the Strive Not To Drive Golden Sneaker Award. He has impressed his co-workers with his humble dedication to walking as his chosen mode of transportation. As a student at UNCA, he commutes on foot from the Haw Creek Neighborhood every day – a round trip of ten miles. He also has walked to work every day; (3) Gary Cummings has been selected by the Strive Not To Drive Committee to receive the Strive Not To Drive Golden Spoke Award. The Golden Spoke Award recognizes individuals who make a choice commute by bike. Even though Gary Cummings has been committed to riding a bike to and from work for decades, it was not until 2008 he choose to rid himself of a car. He now makes every trip out of the house into an adventure. The most important equipment he rides with is for safety. Both his bike and his riding attire are equipped with high visibility reflectors and lights, and he diligently follows all the rules of the road; and (4) David Tindall has been selected by the Strive Not To Drive Committee to receive the Strive Not To Drive Leadership Award. The Leadership Award recognizes individuals who make it possible for others to commute without being alone in a car. The Mellow Mushroom provides lockers for employees who Strive Not To Drive. The lockers give the employees with

peace of mind about their commuting gear while working. Mr. Tindall provides inspiration and guidance for those who want to live car free, by sharing his knowledge about how to commute, his hints about where to get gear and equipment for those on a budget, advice on how to be prepared to commute in all types of weather, and most importantly encouragement and support for those who choose to Strive Not To Drive.

He then announced the winners of the Strive Not To Drive Workplace Challenge Winners: 2-10 employees - Western North Carolina Alliance; 11-30 employees - Liberty Bikes; 31-50 employees – REI; and 50+ employees - Evergreen Community Charter School. Buncombe County was the winner of the Passport Program.

II. CONSENT AGENDA:

At the request of Councilman Davis, Consent Agenda Items “C” and “H” were removed from the Consent Agenda for discussion and/or individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 28 2011**
- B. RESOLUTION NO. 11-136 - RESOLUTION RATIFYING THE SALE AND DISPOSAL OF SURPLUS WATER METERS TO BILTMORE IRON AND METAL COMPANY**

Summary: The consideration of a resolution ratifying the sale and disposal of surplus water meters to Biltmore Iron and Metal Company (herein “Biltmore Iron”).

Water Maintenance identified water meters removed from service as obsolete and has requested the disposal of these meters. Per N.C.G.S. 160A-266, Sale and Disposal of Property, and Resolution 07-118, the City’s Purchasing office has authority to dispose of personal property valued at less than \$30,000 by private negotiation and sale. The value for this lot of meters was estimated at less than \$30,000; bids were solicited and received from several potential purchasers, in accordance with Resolution No. 07-118. Due to higher market pricing, the high bid came in at \$32,000, and the meters were sold to the high bidder, Biltmore Iron. It is not clear whether Purchasing has the authority to dispose of personal property under these circumstances (estimate below \$30,000 threshold; bid above) without Council action, so ratification of this action by Council is requested.

Pros:

- Promotes City of Asheville fiscal responsibility by disposing of surplus property which generates revenue
- Space utilization eliminates the need to store large, bulky, unused equipment
- Competitive process yielded market price, as statute contemplates
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Con:

- None

The fiscal impact is \$32,000 in revenue in the Water Resources Fund.

City staff recommends City Council adopt a resolution approving the sale and disposal of surplus water meters to Biltmore Iron, and ratifying previous staff action to award the contract as described.

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH BELL SOUTH TELECOMMUNICATIONS, INC., d/b/a AT&T NORTH CAROLINA FOR PART OF THE SURFACE PARKING LOT LOCATED AT 25 O. HENRY AVENUE

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

D. RESOLUTION NO. 11-138 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES FROM JULY 1, 2011 – JUNE 30, 2012

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asheville Humane Society for animal shelter services within territorial limits of the City of Asheville.

Buncombe County has required the City of Asheville pay for animal shelter services through the Asheville Humane Society who has contracted with the County to run the animal shelter. The cost for the shelter to the City for FY 2011-2012 will be \$11,116.88 per month for animal shelter services by AHS for a FY year total of \$133,402.56. This not an increase from the cost of last years' service. This cost is included in the Asheville Police Department's budget. The City and the Humane Society need to enter into this agreement for the shelter services for the term of July 1, 2011 through June 30, 2012.

The City of Asheville continuing its animal shelter contract through the Asheville Humane Society ties directly back through the City Council's Strategic Operating Plan, specifically the focus area of safe by actively enforcing animal control laws.

Pro:

- The City will not have to pay for construction and operation of its own animal shelter to take care of its animal sheltering needs and the Humane Society will be responsible for the care of all animals brought to the shelter.

Con:

- The City has to pay out of its general fund for shelter services where Buncombe County provides the same services to all other non-incorporated county residents at no additional costs except through county taxes.

The 2011-2012 contract amount remains the same as the 2010-2011 contract of \$133,402.56. Funding for the contract is budgeted in the Police Department's FY 2011-12 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society for Animal Shelter Services for the term of July 1, 2011, through June 30, 2012.

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E. RESOLUTION NO. 11-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE RENEWAL AGREEMENT WITH ONTARIO INVESTMENTS, INC. FOR GOLD CARTS AND MAINTENANCE EQUIPMENT AT THE ASHEVILLE MUNICIPAL GOLF COURSE

Summary: The consideration of a resolution authorizing the City Manager to enter into a lease renewal agreement with Ontario Investments, Inc. for golf carts and maintenance equipment at the Asheville Municipal Golf Course.

In 2009, the City of Asheville entered into a one-year lease agreement with an option to renew for one additional year with Ontario Investments at a cost of \$123,158 for golf carts and maintenance equipment at the Asheville Municipal Golf Course. In 2010, the City entered in a one-year renewal of the lease at a cost of \$92,369. The City wishes to renew the lease an additional ten months at a cost of \$57,150 while the option to outsource golf course operations is explored.

This action complies with the City's Strategic Operating Plan in that it supports enhancing the city's commitment to infrastructure maintenance and public facilities. It is also consistent with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it provides ongoing maintenance and care for the City's park system.

Pros:

- Investment to maintain and care for the Asheville Municipal Golf Course, a City-owned asset.
- Provide quality service for ongoing, core facility maintenance services.
- Fulfill commitment for maintenance of the golf course.

Cons:

- None

The 2011 ten-month lease renewal will cost \$57,150. The funds to support the lease renewal is budgeted in the FY 2011-2012 operating budget in the Parks, Recreation and Cultural Arts Department in the Golf Course Fund for the leased golf carts and maintenance equipment.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a lease renewal agreement with Ontario Investments Inc. for golf course carts and maintenance equipment at the Asheville Municipal Golf Course not to exceed \$57,150.

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F. RESOLUTION NO. 11-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH IRWIN TELESCOPIC SEATING COMPANY FOR THE INSTALLATION OF NEW SEATING RISERS IN THE ASHEVILLE CIVIC CENTER ARENA

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Irwin Telescopic Seating Co., located in Altamont, Illinois, in the amount of \$ 775,746 for the installation of new seating risers in the Asheville Civic Center arena.

The replacement and reconfiguration of the arena lower bowl seating is one of the most integral elements of the Civic Center renovation plans. The new risers will allow for placement of new seats and allow patrons to have an improved view of the arena floor during concerts and sporting events. The design of the risers on the West side of the Arena will allow additional points of access/egress to and from the arena floor from the concourse area.

The Seating Risers are part of the overall renovations in preparation to host the Southern Conference Basketball Tournament beginning in March 2012 and through 2015.

This action complies with the City Council Strategic Operating Plan's Fiscal Responsibility goal of developing strategic partnerships to leverage resources for infrastructure and Capital Improvement Plan projects. This action also complies with the Civic Center

Commission Master Plan that encourages continuing renovations for the facility, and supports the goal of developing new partnerships.

This action has been reviewed and recommended by the Civic Center Commission.

Pros:

- Project allows new seating configuration and improved sight lines for patrons.
- Risers will be less maintenance intensive.
- Project bid is below budget.

Cons:

- None noted.

Funding for this contract is included in the Civic Center Capital Fund as part of the budget for the Southern Conference renovations.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Irwin Telescopic Seating Co. for \$ 775,746 for the installation of new seating risers in the Asheville Civic Center arena.

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G. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JUNE 28, 2011

Summary: Recent changes in Commission rules require ABC Boards across the state to adopt a travel policy that mirrors the travel policy of their appointing authority effective this year. The rule change mandates that the appointing authority "approve" the ABC Board's travel policy and then the appointing authority must send a copy of that approval to them within 30 days of the approval action.

The Asheville Board of Alcoholic Beverage Control adopted and approved policies modeled after the City's policies at their meeting on June 28, 2011. The Asheville Board of Alcoholic Beverage Control respectfully requests City Council formally approve the policies for the Asheville ABC Board and their employees.

H. RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON AUGUST 9, 2011, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR CORPORATION VIA INTER-LOCAL GOVERNMENT AGREEMENT WITH BUNCOMBE COUNTY

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

I. ORDINANCE NO. 3991 - ORDINANCE ENACTING OR CHANGING SPEED LIMITS TO 25 MPH ON PROVIDENCE ROAD, WILSHIRE DRIVE, WILBURN ROAD, WILBURN PLACE, CARLTON PLACE, AND LUTHER STREET IN THE WILSHIRE PARK NEIGHBORHOOD IN WEST ASHEVILLE

Summary: The consideration of an ordinance to enact and/or change a speed limit on Providence Road, Wilshire Drive, Wilburn Road, Wilburn Place, Carlton Place, and Luther Street in the Wilshire Park neighborhood in West Asheville.

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

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

City staff recently completed an engineering and traffic investigation and determined that a 25 mph speed limit would be reasonable and safe on Providence Road from Johnston Boulevard to Wilburn Place. In addition, since the Wilshire Park neighborhood is also served by Wilshire Drive, Wilburn Road, Wilburn Place, Carlton Place, and Luther Street and the entire neighborhood only has three access points, it is reasonable to place a 25 mph speed limit within the entire neighborhood. The subject streets primarily serve residential properties in a well established neighborhood as well as Emmanuel Lutheran School, a private Christian school serving infants through the eighth grade. Daily traffic volumes are less than 500 vehicles per day and the 85th percentile speed ranges from 23.3 mph to 29.6 mph.

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

Pros:

- City staff has been able to respond favorably to a neighborhood request.
- Based on the 85th percentile speed, most drivers would adhere to a 25 mph posted speed limit.

Cons:

- The initial cost to install the appropriate speed limit signs is about \$1,500.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about \$1,500 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting and/or changing a 25 mph speed limit on Providence Road, Wilshire Drive, Wilburn Road, Wilburn Place, Carlton Place, and Luther Street in the Wilshire Park neighborhood in West Asheville.

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J. RESOLUTION NO. 11-142 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CAROLINA MANAGEMENT TEAM FOR THE WATER RESOURCES WATER STORAGE TANK AND PIPE COATING AND MAINTENANCE PROJECT

ORDINANCE NO. 3992 - BUDGET AMENDMENT FOR THE WATER RESOURCES WATER STORAGE TANK AND PIPE COATING AND MAINTENANCE PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into an agreement with Carolina Management Team in an amount not to exceed \$400,000 for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project; and a budget amendment in the amount of \$200,000 from existing capital improvement funds.

On May 11, 2011, the Water Resources Department issued a Request for Proposals (RFP) for the Water Storage Tank and Pipe Coating and Maintenance Project. The scope of the project is for the maintenance, rehabilitation, repair, and repainting of water storage tanks and

pump station piping at various sites in the water distribution system. The project locations include: Spivey Mountain Tank and Pump Station Piping, West Asheville / Candler Knob Tanks 1 and 2, Beaverdam Tank & Pump Station Piping, South Buncombe Tank, and Ridgeview Tank.

On June 8, 2011, Water Resources received three (3) proposals for the project in response to the RFP. Companies responding were:

1. Carolina Management Team – Enka, NC; \$389,857.50 total bid
2. Southern Corrosion Incorporated – Roanoke Rapids, NC; \$441,347.75 total bid
3. Superior Industrial Maintenance – Concord, NC; \$552,470.00 total bid

The total bid includes: the base work to rehabilitate, repair, and repaint the aforementioned project locations; the cost to add three (3) additional sites; and crack / spall repair. A review team comprised of Water Resources staff reviewed each proposal and rated them based on seven categories (i.e. qualifications, understanding of project scope, cost, and project schedule).

The total scores for each company are:

1. Carolina Management Team – 478.0
2. Southern Corrosion Incorporated – 419.5
3. Superior Industrial Maintenance – 348.5

Carolina Management Team (CMT) has been selected for the project based on receiving the highest rating from the review team. It is CMT's qualifications and cost that earns them the highest rating. In order to stay within the \$400,000.00 budget, the three additional sites quoted in the proposal will not be included in the project scope.

This project is part of City Council's strategic plan to maintain and improve city infrastructure and provide local companies with labor opportunities.

Pros:

- Approval of the project will allow Water Resources to complete necessary maintenance on various water storage tanks and pump station piping in need of rehabilitation and repair. The project will also make these sites more aesthetically pleasing.
- The project will provide a local company with work for at least the next year.

Con:

- If the project is not approved, the water storage tanks and pump station piping on the list to be rehabilitated and repaired will continue to degrade, which may eventually jeopardize the system's water quality.

Water Resources has a Water Storage Tank Maintenance capital project in which \$200,000 is currently budgeted for this project. The contract with Carolina Management Team will be for a not to exceed amount of \$400,000. A budget amendment in the amount of \$200,000 is needed to increase the project budget in order to cover the additional funds needed. The additional funds needed for the project will be reallocated from the Hendersonville Road Capital Improvement Project, which was completed under budget.

<u>Current Tank Maintenance Budget</u>	<u>\$200,000.00</u>
Carolina Management Team Bid (excludes add'l sites)	\$346,957.50
<u>Contingency (~15%)</u>	<u>\$ 53,042.50</u>
<u>Revised Project Budget (Not to Exceed)</u>	<u>\$400,000.00</u>

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with Carolina Management Team in an amount not to exceed \$400,000

for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project; and a budget amendment in the amount of \$200,000 from existing capital improvement funds.

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K. RESOLUTION NO. 11-143 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PRAXAIR, INC. FOR THE PURCHASE OF LIQUID OXYGEN AND THE CONTINUED LEASE OF TWO STORAGE TANKS FOR THE MILLS RIVER WATER TREATMENT PLANT

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Praxair, Inc. for the purchase of liquid oxygen and the continued lease of two storage tanks for the Mills River Water Treatment Plant.

There are a limited number of vendors who supply liquid oxygen. Since the Mills River Water Treatment Plant went online in 1999, Water Resources has used Praxair, Inc. to supply liquid oxygen to generate ozone for destruction of organics and the disinfection process. Due to legal and insurance requirements and restrictions on the use, storage, and transport of liquid oxygen, Praxair also leases two storage tanks to Water Resources that are specifically designed to safely contain the liquid oxygen. It would be costly, cumbersome, and potentially hazardous to remove Praxair's existing tanks and change to another vendor, who would have to install their company's own storage tanks. Mills River may need to be offline in order to switch over to another vendor's tanks since the generation of ozone can not be completed without the liquid oxygen.

Water Resources is recommending that the purchase of liquid oxygen and lease of the storage tanks continue through Praxair since standardization or compatibility is the overriding consideration per G.S. 143-129 (e) (6). In addition, Praxair has agreed to lower the cost of liquid oxygen and the lease of the tanks for the next two fiscal years. At the current rate, it will cost Water Resources a total of \$75,057.18 for the first year and \$80,311.18 for the second year. Praxair is proposing a 15.74% reduction in the total cost for the next two years, which equates to a savings of \$24,446.65 should Water Resources continue with Praxair as the supplier. Water Resources is considering an 8-year agreement with Praxair with the option to renew on an annual basis after the initial agreement. Department staff will continue to work with the Purchasing Division to use a pricing index to ensure Praxair maintains competitive pricing.

This project is part of City Council's strategic plan to maintain city infrastructure and to operate the City of Asheville to the highest levels of fiscal responsibility.

Pros:

- Liquid oxygen is needed for the ozone generation process at the Mills River Water Treatment Plant. Praxair has the apparatus, equipment, and storage tanks already in place.
- The City will save \$24,446.65 in a 2-year period by the continuation of Praxair as the supplier.

Con:

- If Water Resources changes vendors, the current storage tanks would have to be removed and replacement tanks installed by the new vendor. That would be costly, difficult, and possibly hazardous due to the volatile nature of liquid oxygen.

Liquid oxygen is budgeted in Water Resource's annual operating budget. Entering into an agreement with Praxair, Inc., for the liquid oxygen and lease of the storage tanks will save Water Resources \$24,446.65 in a 2-year period.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with Praxair, Inc. for the purchase of liquid oxygen and lease of storage tanks for the Mills River Water Treatment Plant.

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L. RESOLUTION NO. 11-144 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF VARIOUS CAPITAL PROJECTS AND THE ACQUISITION OF VEHICLES AND EQUIPMENT FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2012

Summary: The consideration of a Resolution declaring the intent of the City to reimburse itself for capital expenditures incurred in connection with the acquisition, construction and improvement of various capital projects and the acquisition of vehicles and equipment from the proceeds of an Installment Financing Contract to be executed and delivered in Fiscal Year (FY) 2012.

Several debt issuances are currently being planned for FY 2012: (1) the issuance of “new money” for Council approved capital projects authorized as part of the FY 2012 and FY 2011 Budgets, (2) the takeout of the interim note on the 51 Biltmore Parking Deck project and (3) the refinancing of some existing debt to achieve financial savings. Each category is further described below.

(1) FY 2011 and FY 2012 Capital Projects

City Council adopted the FY2012 Budget in June 2011. The FY2012 Budget contains several capital projects, vehicles and equipment that are to be funded from the proceeds of the issuance of tax-exempt debt. The FY2011 Budget contains two projects (Sardis and Airport Roads sewer) and a fire aerial ladder apparatus that will also be funded from the proceeds of debt issuance. These capital projects, vehicles and equipment total approximately \$17.8 million for the two fiscal years with \$15.3 million relating to the FY2012 Budget and \$2.5 million relating to the FY2011 Budget.

(2) Permanent Financing for 51 Biltmore Parking Deck

Several months ago, City Council authorized the issuance of an interim credit facility (a short term borrowing somewhat similar to a temporary construction loan) for the 51 Biltmore Parking Deck project. As this project continues to progress through the coming months, City staff anticipates securing the permanent financing for this project in the January – March 2012 timeframe.

(3) Refinancing of existing debt

A portion of the City’s outstanding debt (1997 COPs and 2006 installment financing contract) presently bears interest at the rates of 3.92% and 5.10%. The collateral for these projects are, in part, the Municipal Buildings and two fire stations. A refunding of this debt, at current market rates, could potentially produce about \$1 million in cash flow savings through 2021.

There are significant advantages in ‘pooling’ these three, disparate project financings into a single transaction and include minimizing separate issuance cost transaction fees (banks, bond counsel, corporation counsel), consolidating financing calendars and review by the Local Government Commission and improving the efficiency of the collateral pledge.

Because of later timing of the 51 Biltmore project takeout, a consolidated, single financing will not occur until the January – March 2012 time period. In the interim, City staff anticipates proceeding with the design, construction and purchase of some or all of the 2012 and 2011

capital projects, vehicles and equipment. The purpose of the Reimbursement Resolution is to provide the City with the ability to move forward with the projects and reimburse its accounts upon the issuance of the debt.

The Resolution does not specifically authorize the issuance of the debt. Those resolutions will be drafted in connection with the debt issuance in early 2012. Additionally, as a number of the projects, vehicles and equipment are bid, the actual size of the new money financing can be further refined.

Pro:

- Enables the City to begin spending money on the Council's approved capital projects, vehicles and equipment that were to be financed from debt proceeds.
- Proceeding with the construction projects now, in a 'soft market' may result more aggressive bidding and lower costs.

Con:

- Lost opportunity to earn interest (although at very low interest rates in the range of 1/10 of 1% to 1/4 of 1%) on the City's unrestricted cash and investments which are temporarily diverted to pay for the capital projects pending reimbursement from the debt issuance.

The Reimbursement Resolution will result in some minimal loss of interest income. Bidding and proceeding with the authorized capital projects may result in better pricing thus lower the actual amount of the debt financing. The repayment of the "new money" debt issuance is incorporated in the debt management plan through the capacity being generated by the retirement of existing debt.

Staff recommends City Council adopt the resolution declaring the intent of the City to reimburse itself for capital expenditures incurred in connection with the acquisition, construction and improvement of various capital projects and the acquisition of vehicles and equipment from the proceeds of an Installment Financing Contract to be executed and delivered in FY 2012.

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M. RESOLUTION NO. 11-145 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICES CONTRACT WITH BUNCOMBE COUNTY FOR THE PROVISION OF PARATRANSIT SERVICES

Summary: The consideration of a resolution authorizing the City Manager to enter into a services contract with Buncombe County for the provision of paratransit services.

The American with Disabilities Act of 1990 (ADA) and Federal Transit Administration (FTA) require fixed route transit systems such as the Asheville Transit System to provide paratransit services. Paratransit services are special public transportation options for senior citizens and persons with disabilities. Buncombe County Mountain Mobility has provided these services to Asheville Transit System since the 1990's when the American with Disabilities Act was created.

Buncombe County Mountain Mobility also provides service at the county level, mainly towards the rural areas. Mountain Mobility works cooperatively with Asheville Transit to provide fixed route service in Black Mountain and Candler extending transit accessibility into the county. They also provide public transportation for a large number of non-profit and governmental agencies such as the Council on Aging, Industries for the Blind, and the Buncombe County Health Department.

Mountain Mobility has recently contracted administrative and planning services with Land of Sky Regional Council and operation of transportation services with McDonald Transit

Associates. In order to help cover the costs of fuel and other expenses, the Buncombe County Board of Commissioners approved a contract rate increase for Mountain Mobility services from \$1.25 to \$1.30 per service mile plus 10% of the gross cost for administration, effective July 1, 2011. The contract rate does not cover the fully allocated costs of providing services; costs are significantly subsidized by county, grant, and other local funding sources. Fares for general public transportation services will not increase at this time. Each party may cancel the contract with 30 days advance notice.

This action complies with the City Council Strategic Operating Plan by supporting the affordable and fiscal responsibility focus areas, specifically by offering a standard of living that is affordable and attainable for people of all incomes, life stages and abilities and making smart investments that produce tangible results.

Pros:

- Enables the City to provide required paratransit service without a large capital investment.
- Provides a comparable standard of transportation services for all persons.
- Furthers intergovernmental cooperation in achieving a common goal of increasing mobility for all persons.
- Complies with the Americans with Disabilities Act of 1990.

Con:

- The City is responsible for the local match of \$150,000.

The total cost of the subject project to the City of Asheville for FY 2011-12 is about \$350,000. The City will be reimbursed about \$200,000 of the project cost from the Federal Transit Administration which equates to 10% of the annual Federal allocation under Section 5307. The remaining balance of \$150,000 represents the local match and is provided by the City. These funds are budgeted in the current fiscal year in the Transit Services Fund.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a services contract with Buncombe County for the provision of paratransit services.

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N. RESOLUTION NO. 11-146 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT FROM HOLY TRINITY GREEK ORTHODOX CHURCH THROUGH 227 CUMBERLAND AVENUE FOR THE PURPOSE OF CONSTRUCTING STORM DRAINAGE AS PART OF REED CREEK GREENWAY, PHASE II

Summary: The consideration of a resolution to accept an easement from Holy Trinity Greek Orthodox Church through 227 Cumberland Avenue (PIN # 9649141078) for the purpose of constructing storm drainage as part of Reed Creek Greenway, Phase II.

In 2002 City Council authorized the acceptance of a donation of 0.49 acres of land from Holy Trinity Greek Orthodox Church for use as a portion of the Reed Creek Greenway. As part of the donation agreement, the City agreed to correct erosion issues on church property adjacent to the greenway caused by storm water discharge from a City storm drain, which also impacts the Reed Creek Greenway. The agreement authorizes the City to remedy the erosion problems using whatever engineering means necessary. Staff determined a storm water pipe is needed which will be installed as part of Reed Creek Greenway, Phase II construction. Per the storm water policy, a permanent drainage easement is required where the new pipe will be installed for maintenance purposes.

The Holy Trinity Greek Orthodox Church has agreed to donate a .051-acre easement to the City for the purpose of storm water drainage. The permanent easement will allow the City to meet its obligations to the church as stated in the donation agreement dated September 11th, 2002; and will benefit the infrastructure of the Reed Creek Greenway. The storm water issues will be corrected immediately and construction on Reed Creek Greenway Phase II has already begun with completion expected by the end of November 2011.

This action complies with the City of Asheville Strategic Plan 2011-2012 Multimodal Transportation goal in that it will promote multimodal transportation by investing in greenway infrastructure and leveraging a private partnership. This action also complies with the Parks, Recreation, Cultural Arts, and Greenways Master Plan in that it will enable the development of a new greenway.

Pros:

- Acquisition of the easement will allow the city to meet its obligations to the Holy Trinity Greek Orthodox Church as stated in the donation agreement dated September 11th, 2002.
- The subsequent storm water drainage will benefit the Reed Creek Greenway infrastructure.

Con: None

No fiscal impact since the easement will be donated to the City at no cost.

City staff recommends City Council adopt a resolution authorizing the Mayor to accept an easement from Holy Trinity Greek Orthodox Church at 227 Cumberland Avenue for the purposes of constructing storm water drainage in association with the Reed Creek Greenway, Phase II.

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O. RESOLUTION NO. 11-147 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2011 BELE CHERE FESTIVAL

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2011 Bele Chere Festival.

The following organizations: Asheville Ski Club, Benevolent Patriotic Order of the Does, Phi Beta Lambda –AB Tech, Cataloochee Ski Patrol, Wild South, St. Johns Episcopal Church, Asheville Area Paralegal Association, Green Opportunities, Asheville Biltmore Rotary Club, and The Mediation Center have requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at 2011 Bele Chere Festival and allow for consumption at this event.

The 2011 Bele Chere Festival area will be open on Friday, July 29, 2011 from 12:00 p.m. to 10:00 p.m.; Saturday, July 30, 2011 from 10:00 a.m. to 10:00 p.m.; and Sunday, July 31, 2011 from 12:00 p.m. to 6:00 p.m.

The sale of malt beverages and/or unfortified wine will end at 9:45 p.m. in all instances; however, the possession of open containers of malt beverages and/or unfortified wine or consumption of malt beverages and/or unfortified wine will only be allowed during the periods as follows:

Friday, July 29, 2011, from 12:00 p.m. to 10:00 p.m.
Saturday, July 30, 2011, from 10:00 a.m. to 10:00 p.m.

There will be no sales and/or consumption of malt beverages and/or unfortified wine permitted on Sunday July 31, 2011.

Pros:

- Allows for fundraising opportunities

Cons:

- Potential for public safety issues

The fiscal impact would be staffing of City of Asheville police officers as required.

City staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2011 Bele Chere Festival.

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P. RESOLUTION NO. 11-148 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO PURCHASE OUTDOOR RECYCLING RECEPTACLES

ORDINANCE NO. 3993 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO PURCHASE OUTDOOR RECYCLING RECEPTACLES

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a grant from the N.C. Dept. of Environmental and Natural Resources (DENR) to purchase outdoor recycling receptacles made from recycled materials to be installed in city parks and (2) a budget amendment, in the amount of \$30,000, accepting the funds.

The City of Asheville has been awarded a second Community Waste Reduction and Recycling Grant from DENR to install permanent recycling receptacles at city parks to support community solid waste reduction efforts. In 2010, temporary recycling receptacles were installed in all city parks and collection services were contracted with Waste Pro through the Parks, Recreation and Cultural Arts. These grant funds will pay for the purchase of permanent recycling receptacles. The receptacles will be installed by staff and collected under the existing contract between PRCA and Waste Prot. Through this grant the recycling infrastructure in parks will be upgraded from temporary plastic bins to durable, long term receptacles made from recycled materials. Staff anticipates this long term investment made possible through this grant will divert 35% of the waste collected in city parks from the landfill.

This action complies with City Council's Strategic Operating Plan in that it implements ways to reduce city-wide solid waste

Pro:

- Reduce landfill waste by 35% or 5,500 tons through recycling

Con:

- Requires \$6,000 in matching funds from the City

The \$6,000 in matching funds are already budgeted in the approved FY 2011-12 General Operating Budget of the Parks, Recreation and Cultural Arts Department.

City staff recommends City Council (1) adopt a resolution authorizing the City Manager to enter an agreement with the North Carolina Department of Environment and Natural Resources

to purchase recycling receptacles; and (2) adopt the budget amendment in the amount of \$30,000.

**RESOLUTION BOOK NO. 34 – PAGE 88
ORDINANCE BOOK NO. 27 – PAGE**

Q. ORDINANCE NO. 3994 - BUDGET AMENDMENT TO PURCHASE A STREET MILLING MACHINE

Summary: The consideration of a budget amendment in the General Capital Projects Fund, in the amount of \$120,000, from debt service proceeds to purchase a street milling machine.

As part of its annual street maintenance program, Public Works has typically contracted out milling services. The milling services contract is a significant part of the overall cost of the street resurfacing program. Based on the current Capital Improvement Program, Public Works staff estimates that it would spend approximately \$1.6 million over the next five years for milling contracts. Rather than spend this amount on contracting, Public Works and Finance staff have determined that it would be more cost effective to purchase the milling equipment and hire an operator. Based on our analysis, purchasing the equipment and hiring an operator would save around \$900,000 over the next five years when compared to contracting out for the services.

In order to be able to purchase the milling equipment, which will cost \$320,000, in the current fiscal year, staff is requesting that Council amend the adopted General Capital Projects Fund budget by \$120,000. This \$120,000 amendment represents the difference between the amount that was going to be contracted for milling in that fund (\$200,000) and the purchase price (\$320,000) of the milling equipment. The purchase of the milling equipment will be funded with debt proceeds with a likely repayment schedule of five years.

This action complies with the City Council Strategic Operating Plan by allowing consistent levels of service at a more efficient cost, implements a more fiscally responsible program, and creates an additional job within the City.

The program also has the potential to create more collaborative and effective working partnerships between the City of Asheville and other key organizations, particularly other municipalities and utilities, as this service is proportionately even more expensive for smaller entities to offer. Specifically, the program can be sublet to other municipalities and utilities for a minimal fee, which can even further maximize the return on this investment.

Pros:

- Savings of \$900,000 over the next five years
- Creates an additional job
- Provide significant operational flexibility advantages regarding scheduling and applications of the service
- Can be used to support smaller allied entities

Cons:

- Realized savings would come at the expense of formerly contracted services
- Procuring equipment would require acquiring additional debt

As noted above, the expected savings over the next five years is approximately \$900,000. The budget amendment is needed in the current fiscal year because the purchase price of the milling equipment will exceed the amount budgeted in the General Capital Project Fund for the milling contract. The purchase will be funded with debt proceeds, with an estimated annual debt service of \$73,000 over five years.

City staff recommends City Council adopt a budget amendment in the General Capital Projects Fund, in the amount of \$120,000, from debt service proceeds to purchase a street milling machine.

Councilman Smith was pleased to note the expected savings of \$900,000 over the next five years.

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

Vice-Mayor Newman 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. This motion was seconded by Councilman Bothwell and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 11-137 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC., d/b/a AT&T NORTH CAROLINA FOR PART OF THE SURFACE PARKING LOT LOCATED AT 25 O.HENRY AVENUE

Summary: The consideration of a resolution authorizing the Mayor to execute a lease agreement between Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina and the City of Asheville for part of the surface parking lot located at 24 O.Henry Avenue.

The 2008 City of Asheville Comprehensive Parking Plan identified a deficit of available public parking during a typical weekday in downtown Asheville. In order to supply additional parking in Zone B, one of the deficit zones, the City has offered to enter into a lease with AT&T North Carolina for part of the surface parking lot located at the corner of O.Henry Avenue and Haywood Street (identified as PIN # 9649-20-5843-00000). The proposed lease area would provide 47 public parking spaces in proximity to the Asheville Civic Center, Grove Arcade, and 2the Haywood Street retail and business corridor.

The proposed term for the subject lease is five years, at an annual rental rate of \$31,020 (\$55 per parking space per month times 47 parking spaces times 12 months). City staff has performed analysis of monthly parking rates in downtown and found this price point to be consistent with those numbers. The City will also be responsible for paying for improvements to the parking lot to modify it for public parking including a pay-by-space machine, at an anticipated cost of \$57,000. Assuming the up-front costs are annualized over the 5-year lease term and anticipating a conservative revenue stream, City staff believes that revenues will exceed expenses by \$41,000 per year.

Given the responsibilities of a public utility, AT&T North Carolina has requested to reserve the right to use 20 of the 47 spaces in the event of an emergency, with rent to be abated if the use by AT&T exceeds 7 days.

This action complies with the City Council Strategic Operating Plan by supporting the Council goals: (1.) Establish relationships with outside partners in order to leverage community assets for public benefit; in this instance, partnering with AT&T North Carolina allows for the supply of much needed parking in a high demand area of downtown and (2.) Fiscal responsibility - incorporating public parking into existing private surface lots is an effective and efficient use of Parking Fund dollars. This action also complies with the 2008 City of Asheville Comprehensive

Parking Study by supplying an additional 47 spaces in one of the deficit zones in downtown Asheville.

Pros:

- Optimum location for downtown public parking
- Secured area with fencing
- Utilizing existing private un-used surface parking for public benefit
- Annual revenues should exceed annual expenses by \$41,000

Con:

- Up-front costs of \$57,000 and annual lease payment of \$31,020.

The subject lease agreement includes up-front costs of about \$57,000 and an annual lease payment of \$31,020. The up-front costs can initially be absorbed in the current operating budget of the Parking Enterprises Fund and city staff anticipates that the annual revenues would exceed annual expenses including the annualized up-front costs by \$41,000 per year.

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the lease agreement with Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina on behalf of the City of Asheville.

Councilman Davis was pleased to recognize this important step for parking in the downtown area.

Director of Transportation Ken Putnam said that in approximately 90 days, we will have about 40-45 parking spaces available in what will be a pay by space lot.

Councilman Davis moved for the adoption of Resolution No. 11-137. This motion was seconded by Councilman Russell and carried unanimously.

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H. RESOLUTION NO. 11-141 - RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON AUGUST 9, 2011, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR CORPORATION VIA INTER-LOCAL GOVERNMENT AGREEMENT WITH BUNCOMBE COUNTY

Summary: The consideration of a resolution authorizing a public hearing to be held on August 9, 2011, to consider an economic development incentive grant for Linamar Corporation via inter-local government agreement with Buncombe County.

Linamar Corporation is a world-class designer and diversified manufacturer of precision metallic components and systems for the automotive industry, energy and mobile industrial markets. The company is proposing new, taxable, capital investment of \$125,000,000 for location of a manufacturing facility to be located in the former Volvo facility in the City of Asheville. Linamar has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. Further, the company has agreed that the incentive should be paid to Buncombe County through an inter-local agreement, to assist the County's purchase the Volvo property for use by Linamar. The City of Asheville is considering offering a performance-based grant totaling \$2,200,000.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;

- Supports job creation and capital investment in manufacturing in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Cons:

- Grant is formulated based on use of 90% of value of new incremental machinery and equipment tax revenue for a 5 year period.

The project has a positive fiscal impact on property tax revenues received by the city. Initially (during the grant period), the City will receive approximately 10% of the new incremental M/E property tax revenues from the project. After 5 years, the City will henceforth receive 100% of the new city M/E taxes.

The economic development incentive grant for Linamar through the inter-local agreement with Buncombe County supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on August 9, 2011, on an economic development incentive grant and inter-local government agreement with Buncombe County to support the location of Linamar Corporation.

Councilman Davis was pleased to recognize this important opportunity and partnership with the Economic Development Coalition and Buncombe County in bringing good jobs to our community.

Councilman Davis moved for the adoption of Resolution No. 141. This motion was seconded by Councilman Russell and carried unanimously.

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III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

- A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF A PORTION THE TRINITY UNITED METHODIST CHURCH (EXCLUDING THE STAND-ALONE PARKING LOT ON THE WEST SIDE OF THE PLACE OF WORSHIP), LOCATED AT 587 HAYWOOD ROAD, FROM COMMUNITY BUSINESS II DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT/ CONDITIONAL ZONING**

ORDINANCE NO. 3995 - ORDINANCE TO CONDITIONALLY ZONE A PORTION THE TRINITY UNITED METHODIST CHURCH (EXCLUDING THE STAND-ALONE PARKING LOT ON THE WEST SIDE OF THE PLACE OF WORSHIP), LOCATED AT 587 HAYWOOD ROAD, FROM COMMUNITY BUSINESS II DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT/ CONDITIONAL ZONING

Vice-Mayor Newman opened the public hearing at 5:20 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone a portion of the Trinity United Methodist Church (excluding the stand-alone parking lot on the west side of the place of worship), located at 587 Haywood Road, from Community Business II District and RM-8 Residential Multi-Family Medium Density District to Community Business II District/Conditional Zoning for the purpose of using the existing education building as a school. This public hearing was advertised on July 15 and 22, 2011.

Ms. Fields said that the Trinity United Methodist Church, located at 587 Haywood Road in West Asheville, is seeking conditional zoning approval for a portion of the parcel identified as PIN 9643.35-4182 (excludes the stand-alone parking lot on the west side of the place of worship) from CBII (Community Business II) and RM-8 (Residential Multi-Family Medium Density District) to CBII CZ (Conditional Zoning) to allow for the use of the existing church education building for a K-8 school.

The current educational building for the church, located to the rear (north) of the principal church building, is proposed to be utilized for the school. This building contains approximately 17, 220 square feet of space in a two-story building with a basement. Sixteen (16) classroom are in the building which, when combined with the needs of the church itself, per the City's Unified Development Ordinance, would require a minimum of 127 parking spaces (32 for the school and 95 for the church). 103 total spaces are available on site and in the adjoining church parking lot to the west. Planning Department Staff has determined that the existing parking is adequate as shared parking (per Section 7-11-2(e) of the UDO) due to the offset schedule of usage for the school and church.

As the buildings and parking areas are existing site features and due to the space limitations on the site, modifications for landscaping are being requested. These modifications are as follows:

1. Modifications for the intrusions of the existing educational and church buildings into the required property line buffer to the east (20 foot buffer). At the northeast corner of the educational building, the building is 18.93' from the boundary so a 1.07' modification is being requested. At the northeast corner of the principal church structure, the building is 8' from the boundary so a 12' modification is being requested. The applicant is proposing to move a storage shed that sits beside the church structure and put in plantings and a privacy fence to provide a buffer between the property and the adjacent residents.
2. A modification is sought for the required buffer plantings along the northern end of the site where the property is adjacent to RM-8 zoning. That end of the site contains over 50 large to medium sized trees with a credit value (per the UDO) of 83 trees. There is also a fence and other undergrowth in an undisturbed condition. Because of the density of the existing vegetation and existing visual screening, the applicant is requesting that this satisfy the property line buffer requirements in this area.
3. A modification is similarly being sought for the required buffer along the eastern border of the property where the property is adjacent to three homes zoned RM-8. The property (along that border) has a mix of fencing, leyland cypress, evergreen trees, and other existing smaller vegetation. The applicant is proposing to plant as many of the required plantings as is possible along that border, along with adding a 6' wooden privacy fence that will connect to the existing wooden fence in place along a portion of that property line. Due to the physical constraints in this area, the applicant is requesting a modification to allow the proposed and existing plantings and the privacy fence to satisfy the property line buffer requirements in this area.
4. Along Martin Avenue, street trees and street parking buffer would be required per the UDO if this were a site without existing constraints. Along the northeast property line the property slopes between the existing open space and Martin Avenue and contains a vegetative cover and along the parking area a small change in street buffer would be

required to meet the standards set forth in the UDO. At both property line areas there are existing trees and shrubs; they not fully compliant with all requirements of the UDO.

Staff is supportive of these modifications as the site conditions are existing ones and the applicant is proposing to plant as many of the required additional plantings as is practicable. Schools are permitted in both the CBII and RM8 Districts but this application is being submitted due to the needed modifications. The applicant is maintaining significant existing vegetation already on site.

The applicant is also seeking approval for phasing on this project related to cost and time constraints. They are proposing to complete all site improvements within a three year period (from permit issuance) as follows:

- Year 1 – All fencing and landscaping along property lines adjacent to residentially-zoned properties will be in place. The storage shed will be moved. Handicapped parking and walkways from the fire escape will be provided.
- Year 2 – New street trees and street buffer will be put in along Balm Grove Avenue.
- Year 3 – New building impact and vehicular use area landscaping will be planted.

Staff and the Planning and Zoning Commission are supportive of this phasing plan.

The Technical Review Committee reviewed this proposal on June 20, 2011, and recommended approval with conditions. The applicant has already submitted revised plans addressing these conditions.

At their meeting on July 6, 2011, the Asheville Planning and Zoning Commission reviewed and recommended approval of this rezoning 7-0. Only one person, other than the applicant, commented on this matter, to support the adaptive reuse of the church building and others along Haywood Road. The use of underutilized church buildings and parking has been discussed at recent meetings of the Haywood Road Vision Plan Committee.

The applicant has held meetings with the neighboring property owners and staff has not been contacted concerning this rezoning proposal.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.
The applicant is proposing to use the current church educational building on weekdays for a K-8 school. The project, if approved, must meet the technical standards set forth in the City's Unified Development Ordinance and all other applicable standards.
2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
Existing vegetation on the site is being maintained and no grading (except associated with additional landscaping) is required. While modifications are being sought for landscaping, the applicant is proposing to plant as many of the required plantings as is practicable.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.
Schools are a permitted use in the CBII and RM8 districts. Another K-8 school is located across Haywood Road.
4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.
No new construction is occurring as a result of this application. The application is to allow for additional use of a currently underutilized structure. The building in which the school would be housed is located behind the principal church structure which is located on Haywood Road, a major street in West Asheville on which a number of different uses are located.
5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.
The proposed use of the church building for educational purposes supports the statement found in the comprehensive plan that appropriately scaled non-residential uses that serve residents of an area should be permitted in appropriate locations.
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
The proposed use is located off of Haywood Road in West Asheville. Haywood Road is serviced by Transit Route 1 of the City's Transit System. The project has received approval from the City's Technical Review Committee concerning issues of water, fire, and police protection.
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.
The City's Transportation Department has reviewed the plans for the traffic expected with this proposal and feels that it will not cause undue traffic congestion or create a traffic hazard.

Pro:

- The proposed use supports the City's goal that appropriately scaled non-residential uses that serve residents of an area should be permitted in appropriate locations.
- The proposal provides for more complete use of an existing building.

Con:

- None noted.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modifications concerning landscaping as requested and with the conditions set forth in the TRC report and the standards conditions listed below. At their meeting on July 6, 2011, the Asheville Planning and Zoning Commission unanimously (7-0) recommended approval of this conditional zoning.

Mr. Russell Davis, Civil Engineer representing the applicant, felt that this action zoning should have happened a long time ago and urged Council for their support. He said they have met with neighbors who are all supportive of this change.

The Pastor of Trinity United Methodist Church read a letter of support from a neighborhood representative Ms. Leigh E. Hillard.

Vice-Mayor Newman closed the public hearing at 5:32 p.m.

City Attorney Oast noted that even though the Church doesn't plan to use all 16 classrooms, there is nothing in the ordinance that would prohibit them from doing that. In addition, he reminded the Council that this rezoning is not limited to the current owner of the property and if it is rezoned it will be available for that use for anyone who might own it subsequently.

Vice-Mayor Newman 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. 3995, to conditionally zone a portion of the Trinity United Methodist Church (excluding the stand-alone parking lot on the west side of the place of worship), located at 587 Haywood Road, from Community Business II District and RM-8 Residential Multi-Family Medium Density District to Community Business II District/Conditional Zoning subject to the modifications and phasing plan as recommended, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 27 - PAGE

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL USE PERMIT FOR SUNSET PARK, LOCATED AT 2 SUNSET DRIVE

Due to a legal advertising error this public hearing would be held on August 23, 2011.

V. UNFINISHED BUSINESS:

A. CONFIRMATION OF QUESTIONS TO BE SUBMITTED TO ALL PLANNING & ZONING COMMISSION CANDIDATES

Vice-Mayor Newman said that each Council member had the opportunity of submitting three questions they wanted the Planning & Zoning Commission candidates to respond to in writing. The Boards & Commissions Committee narrowed all questions to arrive at a recommended five.

After a short discussion, Councilman Russell moved to send all candidates the following questions: (1) What is your vision for growth and development in Asheville; (2) Do you believe Asheville has taken an approach that is too "pro-growth" or "anti-growth" over the past 5-6 years? Please share your reasons; (3) How strictly should interpretation and application of the Unified Development Ordinance be applied?; (4) Name one Planning & Zoning Commission decision in the last 18 months you've agreed with and one you've disagreed with or would have struggled with. Please explain your rationale for each.; and (5) What are some of the positive or negative effects of Asheville's zoning regulations. This motion was seconded by Councilman Bothwell and carried unanimously.

VI. NEW BUSINESS:

A. RESOLUTION NO. 11-149 - RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE IN A HUD CHOICE NEIGHBORHOODS PLANNING GRANT APPLICATION

Community Development Director Jeff Staudinger said that this is the consideration of resolution to enter into a Memorandum of Understanding with Housing Authority of the City of Asheville in a HUD Choice Neighborhoods Planning Grant application.

The Housing Authority has been exploring for some time the possibilities of using US Department of Housing and Urban Development (HUD) HOPE VI funds to transform its public housing communities. The HOPE VI program (and earlier iterations) has awarded significant grants to housing authorities resulting in the restructuring of some of the most economically distressed public housing in the country. Program hallmarks have included creating mixed income housing where there was none, creating new opportunities for homeownership, revitalizing neighborhoods and reducing the concentration of lowest income households living in isolation and deteriorated physical and social conditions. The current administration has renamed this program "Choice Neighborhoods," and has broadened the scope beyond housing replacement to programmatically address neighborhood and social issues up front, with a focus on education, neighborhood stability and housing choice.

The Asheville Housing Authority performed a study in 2007-2008 to assess the physical condition of each of its public housing developments and determine which was the most physically distressed. The criteria of age, overall appearance, vacancy rates and police calls for service were used to rank the public housing developments in terms of HOPE VI threshold requirements. The report was released in October, 2008, and concluded that Aston Park Towers and Garden Apartments, Lee-Walker Heights and Pisgah View Apartments were candidates for HOPE VI funding. Since that time, HACA has invested significantly in the Aston Park development and has determined that Aston Park will not qualify for HOPE VI or Choice Neighborhoods funding under current guidelines for these programs. Lee-Walker Heights and Pisgah remain candidates for HOPE VI/Choice Neighborhoods funding, and they are the oldest and next-to-oldest public housing developments in the City, respectively.

HUD announced funding availability this summer for Choice Neighborhoods planning funding, with an application deadline of August 8, 2011. Approximately 20 Planning Grants of \$300,000 each will be awarded. This planning grant would enable housing authorities to take the next steps in HOPE VI/Choice Neighborhood development by moving beyond assessment to development planning. These activities include resident and neighborhood engagement, architectural and engineering site and facility planning. The result of that planning activity would result in a proposed redevelopment of the public housing community and funding proposals for implementation.

Threshold criteria for grant consideration include the completed physical assessment, neighborhood crime rates, and vacancy rates. HACA has determined that Lee-Walker Heights and surrounding neighborhood appears to best meet the current criteria for consideration for Choice Neighborhood funding, and intends to submit an application for the planning grant. The selection of Lee Walker Heights is based on a neighborhood poverty rate that exceeds 40% and the highest per capita violent crime rate of any public housing development in the City, both of which are key factors in the HUD competition. He provided Council with a map of the proposed Choice Neighborhoods planning area. The grant program requires that a leadership team be identified, with the capacity to undertake the planning activities, oversee the work of consultants, and move the project to implementation. After consideration of the criteria, HACA believes that a team of Housing Authority and City staff meet the leadership team requirements. In support of the application, HACA is requesting that the City enter into a Memorandum of Understanding with

the Housing Authority to support the grant application, and if the application is successful, team with HACA in the Choice Neighborhood planning process.

The City has already made a financial commitment to this process. Council approved a CDBG grant of \$40,038 in this year's annual action plan to support the anticipated planning process.

This project directly addresses the Strategic Plan objective to collaborate with the Housing Authority on HOPE VI or other strategies to revitalize public housing.

Pros:

- This opportunity continues the work of HACA towards public housing revitalization
- City partnership will enhance HACA's application

Con:

- City staff level of effort in support of the project will need to be assessed.

There is no immediate fiscal impact. CDBG funding has been allocated to the planning project. If the planning work leads to a HOPE VI (or similar) redevelopment project, significant resources for development will be needed. Funding available through the City, such as CDBG and HOME funding, and Housing Trust funds, would likely be requested. It is also possible that the proposed development/redevelopment would require assistance with infrastructure (roads, water, storm drainage). However, until the pre-development work is completed, it is impossible to know what those requests will look like. The planning period will be at least two years from grant award, probably commencing around the first of the year.

Staff recommends entering into a Memorandum of Understanding with the Housing Authority to participate in the HUD Choice Neighborhoods Planning Grant process.

Mr. David Nash, representing the HACA, noted the major investment in Aston Park Towers is yet to come and they are very close to completing the design. The grants are expected to be awarded in November or December and there would be a two-year planning period. He explained how they have looked at the three aspects of planning required by HUD – housing development that is the target of the application; people and neighborhood. He said that the map around Lee Walker Heights might be slightly modified as a result of meeting with the residents – the line on the east side would be at Biltmore Avenue (instead of going across Biltmore Avenue). In bringing the neighborhood component into the planning makes it essential that the City Planning Department be a part of this process. He asked that the resolution be amended slightly to say that the City of Asheville will participate as a co-applicant with the Housing Authority. That will allow HUD to consider the expertise of the City Planning Department in that neighborhood planning process.

In response to Councilman Bothwell, Mr. Nash said that the component of home ownership is not necessarily included, but it would be considered in the planning process.

Rev. Christopher Chiaromonte commented about Aston Park Towers being sold to the rich.

Mr. Staudinger responded that this project is not for Aston Park Towers. Mr. Nash also responded that Aston Park Towers will continue to be available to low income residents in our community.

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

Councilman Bothwell moved for the adoption of Resolution No. 11-149, as amended to have the City be a co-applicant with the HACA, and that the map be slightly amended to reflect the east side line being Biltmore Avenue. This motion was seconded by Councilman Davis and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte spoke the Asheville's treatment of the homeless.

Rev. Lisa Landis questioned the reasoning why the City issued a Request for Proposals for running a public access channel as she felt the URTV model was already in use and was a pilot for other public access stations.

Dr. Milton Byrd spoke about leadership and management.

Claims

The following claims were received by the City of Asheville during the period of June 20-30, 2011: Evelyn Oswell (Water), Nancy Cole (Streets), AT&T (Water), AT&T (Water), Kyle English (Parking Services) and Lisa May (Streets). These claims have been referred to Asheville Claims Corporation for investigation.

The following claims were received by the City of Asheville during the period of July 1 – 21, 2011: Enrique Romero (Sanitation), Anne F. Kaufman (Sanitation), Eddie Miller (Sanitation), The Bayshore Co. (Water), Alta Foster (Streets), Antonio Ripley (Transit), James Honey (Sanitation), Wilbur Neely Thomas (Police), Cythia Whatley (Transit), Jailateef Williams (Streets) and Eric Hutzler (Water). These claims have been referred to Asheville Claims Corporation for investigation.

Closed Session

At 6:06 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11 (a) (4); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville; J. Jerome Jensen, et al (Biltmore Lake Annexation). The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a) (3); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Russell and carried unanimously.

At 6:44 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Newman adjourned the meeting at 6:44 p.m.

CITY CLERK

MAYOR