

Tuesday – February 28, 2012 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burseson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 14, 2012**
- B. RESOLUTION NO. 12-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FISCAL YEAR 2012-13 URBAN ADVANCED TECHNOLOGY GRANT, AND IF APPROVED, TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT OF TRANSPORTATION FOR SAID GRANT**

Summary: The consideration of a resolution authorizing the City Manager to apply for the FY 2012-13 Urban Advanced Technology Grant, and if approved, to enter into an agreement with the N.C. Dept. of Transportation (NCDOT), Public Transportation Division and executing all the documents related to the subject grant.

The NCDOT released the FY 2012-13 Urban Advanced Technology Grant application package during December 2011 to all North Carolina Urban and Regional Transit Systems. The focus areas of the grant include vehicle safety and security, completion of existing projects, and integration of fixed route automatic vehicle location (AVL) data with the 511 traveler information system. The total current funds available for the grant are \$1.7 million and funding for the approved projects would be available July 1, 2012.

Staff would like to pursue the subject grant to be able to procure an automated vehicle location (AVL) system that focuses on real time passenger information. The system would produce operational information in real time including vehicle location, speed, fuel usage, on-time performance, and historical records. This information would be a powerful tool to help staff manage the overall transit system and to identify areas needing improvement. It would also enhance the customer experience by providing next bus arrival information in real time, via personal cell phones, Smartphones, and through the system's website. This type of technology is identified in the Transit Master Plan capital investment scenario as a vital project to improve the system's operation in the short-term.

The total estimated cost for the subject project is about \$450,000. The grant would provide 90% of the funds (\$405,000) and the City would provide the remaining 10% (\$45,000) as the local match. The local match is already programmed in the Transit Enterprise Fund Capital Improvement Program in a project identified as T1202. Staff has been pursuing Federal grants for the subject project and this grant opportunity enables staff to leverage other funding sources.

This action complies with the current City Council 2011-12 Strategic Operating Plan within the multi-modal transportation and fiscal responsibility areas by funding system improvements that are in the long-term Capital Improvement Program and exploring alternatives for enhancing the city's long-term financial commitment to master plan implementation.

The Transit Commission supports the subject action.

Pros:

- Satisfies one of the recommendations in the approved Transit Master Plan.
- The AVL system would improve the transit system's overall efficiency and it would enhance the customer experience.
- The grant would fund up to 90% of the total project cost.
- The City's local match is already budgeted.

Con:

- The 10% local match equates to \$45,000.

The total estimated project cost is \$450,000. The local match would be \$45,000 and it is currently budgeted in the Transit Enterprise Fund Capital Improvement Program in a project identified as T1202.

City staff recommends that City Council adopt a resolution authorizing the City Manager to apply for the FY 2012-13 Urban Advanced Technology Grant, and if approved, to enter into an agreement with the N.C. Dept. of Transportation, Public Transportation Division and executing all the documents related to the subject grant.

Councilman Smith spoke in support of this grant for a more informed ridership.

RESOLUTION BOOK NO. 34 – PAGE 279

C. RESOLUTION NO. 12-47 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH T & K UTILITIES INC. FOR THE PROJECT KNOWN AS SARDIS ROAD ANNEXATION AREA SEWER SYSTEM IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$599,610 plus a contingency of 20% (\$120,000) with T & K Utilities, Inc. for the project known as Sardis Road Annexation Area Sewer System Improvements, City of Asheville Project # SC-08-09-001.

City Council had approved the Annexation Services Plan for the Sardis Road area on May 22, 2007, which indicates that approximately 6,800 linear feet of 8 inch sewer line be installed to bring the service to substantially the same level as other parts of the City. The project was advertised and on February 15, 2012, bids were opened with T & K Utilities, Inc., a local company, being the lowest responsible bidder with a bid of \$599,610. This was well below the Engineer's Estimate of \$757,800 and below the \$1,400,000 construction budget set aside for the project. A 20% contingency (\$120,000) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from contract would help to fulfill the City's obligation as outlined in the 2007 Annexation Services Plan for the Sardis Road area.

This action complies with the City Council Strategic Operating Plan in that it will enhance the infrastructure within our municipal limits, and fulfill the City's obligation outlined in the 2007 annexation of the Sardis Road area.

Pros:

- Will allow for the construction of approximately 6,800 linear feet of new sanitary sewer within the Asheville City limits.
- Will fulfill the City's obligation of the 2007 annexation of the Sardis Road area.
- Will be the first project to receive funds from MSD's new Revenue Sharing program.
- Once turned over to MSD, the City will not be responsible for future maintenance of the sanitary sewer system.

Con:

- The project will cost the City approximately \$600,000.

This project will cost approximately \$600,000. The budget for this project is already included in the City's adopted Capital Improvement Program. Once the sewer system improvements are completed, MSD's Revenue Sharing Program should provide the City with 50% of all collected fees from the use of this sewer system for the next ten years.

City staff recommends City Council adopt the attached resolution awarding the contract to T & K Utilities, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$599,610 plus a contingency of 20% (\$120,000) with T & K Utilities, Inc. for the project known as Sardis Road Annexation Area Sewer System Improvements, City of Asheville Project # SC-08-09-001.

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D. ORDINANCE NO. 4059 - ORDINANCE AMENDING THE MEMBERSHIP OF THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The consideration of an amendment to the City Code regarding membership on Downtown Commission.

City Code Sec. 2-76 establishes the Downtown Commission, and provides for the appointment of members and allocation of seats. One of the seats is allocated to "The president of the Asheville Downtown Association." Sec. 2-76(b)(4).

In response to a recent request, the attached amendment provides that the seat allocated to the Downtown Association may be filled by "a member of the Board of Directors" of the Association.

This action supports Downtown Commission, and relationship with external organizations.

Pros:

- Provides for greater flexibility in filling a seat on an important board.
- Facilitates functioning of Downtown Commission.

Con:

- None noted.

Adoption of the ordinance is recommended.

ORDINANCE BOOK NO. 27 - PAGE

E. RESOLUTION NO. 12-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY REGARDING RECOMBINATION OF COURTHOUSE PROPERTY

Summary: The consideration of a resolution authorizing execution of an agreement with Buncombe County regarding the Courthouse property.

As Council knows, Buncombe County is undertaking a major renovation of the Buncombe County Courthouse. The project spans several separate parcels of land. Applicable codes (building safety and zoning) contemplate that buildings will occupy a single lot, and will not cross property lines. Usually, recombination of separate lots into one is the most efficient way to address this issue, and is little trouble for the owner/developer.

In this case, however, the parcels have historically been used for separate purposes, and the County has pledged them as security for different public financing issuances. For this reason, recombination in the usual sense would be difficult. We have worked out an agreement with the County wherein the County agrees not to transfer or sell any of the parcels for as long as the Courthouse remains on them. Out-conveyance of any of the parcels is a practical impossibility in any event. This has been reviewed by the Building Safety and Planning Departments, and they do not object.

This action supports City Council's Strategic Operating Plan in that it supports major improvements to Courthouse, already approved by Downtown Commission and Council.

Pros:

- Facilitates construction of Courthouse improvements.
- Accomplishes same purpose as complicated recombination.

Cons:

- None noted.

There is no fiscal impact.

Adoption of the resolution is recommended.

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F. ORDINANCE NO. 4060 - BUDGET AMENDMENT FROM THE ASHEVILLE PARKS & GREENWAYS FOUNDATION TO SUPPORT THE HANGING FLOWER BASKET PROGRAM

Summary: The consideration of a budget amendment, in the amount of \$2,353, for support of the Hanging Basket program.

The City of Asheville in the Parks, Recreation and Cultural Arts Department has received a contribution from the Asheville Parks and Greenways Foundation to support the Hanging Basket program. Each year, hanging flower baskets are installed in the Downtown Business District which has been supported by the Asheville Parks and Greenways Foundation for several years. The contribution provides funding for approximately 39% of the program cost, and the City provides the remaining 61% in the Parks, Recreation and Cultural Arts Department operating budget.

The Asheville Parks and Greenways Foundation, a 501c3 non-profit charity, is a community group of individuals, businesses and grantors who together support the Asheville Parks, Recreation & Cultural Arts Department with funding to enhance selected programs and capital projects.

The action complies with the City Council 2011-2012 Strategic Plan Goal of fiscal responsibility of exploring alternative for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. This action also complies with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it increases department funding with alternative funding and ensuring a high level of service in parks and facilities by addressing ongoing maintenance of parks to meet community expectations.

Pro:

- Provides additional funds to support the Hanging Baskets program.

Con:

- None

The total cost of the Hanging Basket program is \$6,100, of which this donation of \$2,353 will cover approximately 39% of that cost. The remaining \$3,747 or approximately 61% of the cost will be funded by the Parks, Recreation and Cultural Arts Department General Fund budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the donation from the Asheville Parks and Greenways Foundation in the amount of \$2,353 to support the Hanging Basket program.

Mayor Bellamy thanked the Asheville Parks and Greenways Foundation for funding this program.

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G. ORDINANCE NO. 4061 - BUDGET AMENDMENT FOR CIVIC CENTER RENOVATIONS

Summary: The consideration a budget amendment in the amount of \$194,296 to increase the Civic Center renovations project budget with revenue coming from the civic center's fund balance

City Council previously approved various contracts to renovate the Civic Center for the Southern Conference Basketball Tournament. These contracts include a general contractor as well as specialized contractors for the sound system, seating risers, and scoreboard/electronics. The project is substantially on track for completion in accordance with the plans and specifications within the time specified in the contract. However, factors related to existing building conditions such as the height of corridor light fixtures, and the need to include non-structural renovations such as removal of walls for a media area on the exhibition level, have resulted in the need for an increase in some of the original contracts. These change directives and change orders are necessary to insure that the project is completed to the level expected by the SoCon and the funding partners. These changes require approval of a project budget amendment. There is available fund balance in the Civic Center enterprise fund. As noted in the November 2011 budget amendment approval, the Civic Center fund balance exceeded its 16% target amount by \$194,296, which has been held in fund balance to meet cash requirements at the Civic Center box office. A review of monthly box office balances by finance department staff indicated that a sufficient cash flow balance has been maintained without the \$194,296, thus staff is recommending the transfer to the Project Capital budget. This Civic Center fund balance transfer has no impact on General Fund balance.

This action complies with the City Council Strategic Operating Plan's Fiscal Responsibility goal of developing strategic partnerships to leverage resources for infrastructure and CIP 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 request supports Council's strategic plan allowing for timely renovations to the Civic Center for the Southern Conference.

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

Pros:

- Allows for timely renovations to the Civic Center for the Southern Conference Basketball Tournament.

Con:

- None.

The budget amendment will increase the total Civic Center renovation project budget by \$194,296, to a total of \$7,526,296. As noted above, the Civic Center will maintain its target 16% fund balance, and this budget amendment has no impact on the General Fund balance. It also has a positive effect of allowing current equity to be utilized on the project.

Staff recommends City Council authorize a budget amendment in the amount of \$194,296 to increase the Civic Center renovations project budget with revenue coming from Civic Center box office fund balance.

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

III. PRESENTATIONS & REPORTS:

A. UPDATE ON THE RECYCLING SERVICE UPGRADES

Energy Coordinator Maggie Ullman provided Council with the Recycling Program update. Council's objective is to implement ways to reduce city-wide solid waste. She explained the pilot program that ran through September-November 2010 of the big blue roll carts piloted in four neighborhoods: Burton Street, Park Avenue, Norwood and Parkway Forest. Out of the 721 households in the pilot, the average increase in diversion was 54%. Ninety-three percent of respondents surveyed "agreed or strongly agree the new recycling service with a roll cart is more convenient than the old program." In the spring of 2011, City Council decided to expand the pilot city-wide. Zero Waste AVL's goals are (1) to upgrade recycling service to make it easier to recycle more; (2) to increase community education to reduce, reuse and recycle; and (3) to lead by example through collecting brush and leaf collection for composting.

When staff begins the cart delivery on March 5 through March 30, there will be (1) no sorting required; (2) cleaner collection – no more overflowing materials; and (3) no heavy lifting, simply roll cart to curbside.

New materials collected will be all plastics #1 through #7; milks and OJ cartons; juice

The top ten items not accepted in Big Blue is plastic bags, paper towels, aluminum foil, black microwaveable trays, frying pans/pots, hard cover books, Styrofoam/packing peanuts, dishes, motor oil bottles, and metal items that are not cans.

She then outlined the next steps (1) March 5 – launch event in West Asheville Park at 10:00 a.m.; (2) March 5-30 – carts delivered city-wide; (3) research expansion options for downtown recycling, public housing and composting; and (4) early summer 2012 – program performance update.

In response to Mayor Bellamy, Ms. Ullman said that residents can either keep their old carts or put them into Big Blue to be recycled. Residents can begin to recycle the new materials on March 5.

In response to Councilman Pelly, Mayor Bellamy said that because the City does not want to compete with the private market, business owners and commercial properties have the option of contracting with private commercial haulers, as there are several companies that provide that service.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF SOUTH PACK SQUARE

RESOLUTION NO. 12-49 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF SOUTH PACK SQUARE

Director of Public Works Cathy Ball said that this is the consideration of a resolution to permanently close a portion of a right-of-way on College Street. This public hearing was advertised on January 27, February 3, 10 and 17, 2012.

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

Pursuant to this statute, the City of Asheville, being the only abutting property owner desires to permanently close a portion of S. Pack Square. The portion used to serve as the right-of-way for College Street before the roads were re-aligned. Part of this portion of right-of-way is where the new pavilion is being built.

The Greenway Commission met on January 12, 2012, and approved the closure unanimously.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of S. Pack Square.

Mayor Bellamy opened the public hearing at 5:22 p.m. and when no one spoke, she closed the public hearing at 5:22 p.m.

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

Councilman Hunt moved for the adoption of Resolution No. 12-49. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER A PROPOSED AMENDMENT TO THE 2011-12 CONSOLIDATED ACTION PLAN FOR CDBG AND HOME PARTNERSHIP ACT FUNDS TO FUND PARTNERS UNLIMITED INC. FOR THEIR AT-RISK STUDENT PROGRAM

RESOLUTION NO. 12-50 - RESOLUTION AMNDING THE 2011-12 CONSOLIDATED ACTION PLAN FOR CDBG AND HOME PARTNERSHIP ACT FUNDS TO FUND PARTNERS UNLIMITED INC. FOR THEIR AT-RISK STUDENT PROGRAM

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing a substantial amendment to the 2011-2012 Consolidated Annual Action Plan for CDBG and HOME to fund Partners Unlimited, Inc. for their At-Risk Student program in the amount of \$11,000. This public hearing was advertised on February 17 and 24, 2012.

Partners Unlimited is a 501(c)(3) non-profit organization that provides academic enhancement services to help keep high school students in school and moving towards graduation. The organization receives about 100 referrals annually from Asheville City and Buncombe County schools. The organization serves suspended students seeking to keep up with school work while serving suspensions, and other students who need to recover lost credits and graduate on time. The organization is based at the Reid Center, and is part of the continuum of education and jobs training services there.

The specific request comes because of a cut in state funding for the Partners Unlimited program. This cut seriously affects the organization's ability to provide its basic service. If their request is granted, Partners Unlimited would use the funds to renew eight NOVA Net site licenses (\$9,200), and have their financial records reviewed and 990 annual tax report filed (\$1,800). The organization has no prior experience with CDBG funds, and a condition of the proposed funding was that a fiscal agent be identified to insure proper record-keeping and documentation. Green Opportunities has agreed to serve as fiscal agent.

Funding is available from the 2011-2012 CDBG pool. \$11,000 was set aside for "fair housing" in the 2011 Action Plan, but no proposal was funded. The City has received fair housing funding from HUD, and can address fair housing needs from that pool. The proposed activity is a public service activity, as was the fair housing activity, so there would be no effect on the public service cap. The request is made out of the normal funding cycle, because of the immediate funding need.

This action complies with City Council's Strategic Goal of "Job Growth and Community Development."

Pro:

- The activity is an eligible activity under the CDBG program rules. This proposed amendment enables the continuation of a public service activity serving primarily low

income persons, and will assist in meeting overall program goals. The funds will also assist the sponsoring organization's viability and ability to meet community needs.

Con:

- There are none.

The proposed amendment uses funds already available through the CDBG and HOME programs. There is no increase in administrative responsibility for the City. No City General Funds are allocated for this program.

Staff agrees with the Housing and Community Development Committee in recommending that Council approve the proposed amendment to the 2011-2012 Consolidated Annual Action Plan.

Mayor Bellamy opened the public hearing at 5:25 p.m., and when no one spoke, she closed the public hearing at 5:25 p.m.

In response to Councilman Bothwell, Mr. Staudinger said that Partners Unlimited has provided a matrix on past performance, noting they do have a record of success.

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

Councilman Smith moved for the adoption of Resolution No. 12-50. This motion was seconded by Councilman Davis and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 36 MONTFORD AVENUE FROM COMMUNITY BUSINESS I DISTRICT TO INSTITUTIONAL DISTRICT/CONDITONAL ZONING TO ALLOW FOR A SATELLITE GRADUATE SCHOOL CAMPUS

ORDINANCE NO. 4062 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 36 MONTFORD AVENUE FROM COMMUNITY BUSINESS I DISTRICT TO INSTITUTIONAL DISTRICT/CONDITONAL ZONING TO ALLOW FOR A SATELLITE GRADUATE SCHOOL CAMPUS

Urban Planner Alan Glines said that this is the consideration of an ordinance to conditionally zone property located on 36 Montford Avenue from Community Business I District to Institutional District/Conditional Zoning to allow for a satellite graduate school campus. This public hearing was advertised on February 17 and 24, 2012.

In 2011, Lenoir-Rhyne University approached the Asheville Area Chamber of Commerce about using the third floor (comprising approximately 9,100 square feet) of the existing Chamber of Commerce Building to allow the University to offer graduate-level classes to the Asheville community. The Chamber is experiencing excess capacity in the building and agreed to sell the space. Lenoir-Rhyne University (LRU) plans to offer classes through a creative mix of on-site, distance/ on-line learning, operating in the evenings and on weekends. The operations plan includes:

- The University estimates that on most evenings up to about 25% of the enrolled students (about 50) are expected to be on campus with fewer students expected during summer sessions.
- Weekday evening classes begin at 5:30 p.m. and end around 8:30 or 9:30 p.m.

- A variety of weekend classes will be offered including Saturdays and Sundays as part of an accelerated course on weekends.
- Occasionally there may be a special seminar or lecture with attendance of 100 or so participants using existing space in the Chamber building.
- Two hundred is the projected student enrollment for at least the first three years of operation but that number could be larger or smaller depending on the interest and growth of the programs offered.

The Chamber of Commerce moved to its current 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 building totals about 33,000 square feet on three levels and is oriented to face Montford Avenue.

Because the building site is located within the boundary of the Montford Historic District, the building was reviewed and approved by the Historic Resources Commission when it was built. The all-brick building has a pedestrian orientation from Montford Avenue with windows and door facing the neighborhood.

The building is non-conforming in the CB I zone standards because of its size as buildings in the CB I zone are not allowed to exceed 12,000 square feet (or 6,000 square feet on two floors). This is because when the project was originally constructed, the Head of Montford Overlay applied to the site and this overlay allowed larger structures.

Parking and additional entrances are located at the rear of the building. The site has two access points, one directly from Montford Avenue and the other from Hill Street. There are 146 parking spaces as indicated on the site plans that have accompanied this conditional zoning proposal. According to submitted information the University use of these parking spaces will not overlap the primary daytime use and will not interfere with the recently authorized seasonal Wednesday Farm Market that serves the community in the lower area of this parking lot. The site is fully landscaped and meets the requirements for landscaping found in Article 11 of the UDO.

Existing Zoning: Community Business One (CB I) zone is intended 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. Although the list of allowed uses in the CB I district is quite varied, institutional uses like universities are not permitted. Under the existing zoning the building is non-conforming based on scale of the structure which is not a particular concern but worthy of a mention.

Proposed Zoning: Institutional (Inst) zone is intended for the development of major educational, medical and complimentary uses such as support offices and related services. While there are not maximum building size limitations or design related requirements, new construction follows normal review procedures which are dependent on the scale of the project.

The existing site development and building would both be conforming to the proposed Institutional Zone. Changing the zoning to *Institutional Conditional Zone* using the existing site plan and described uses and operation of the site as conditions for approval can protect the character of the community and provide specified limits on the use of the site.

The site is built out and no further site changes are proposed. No changes are proposed to the 146 space parking area located at the rear of the site. The existing 3-story building was built to accommodate a mix of uses, so the addition of the university activities on the third floor will fit well into the existing layout and operation of the building.

The Chamber of Commerce will continue its normal business development and meeting functions and the activities of the Asheville Visitor Center. The Chamber currently has 45 employees staffing both the Chamber operations and the Visitor Center. The Chamber offices are open from 8:00 a.m. until 5:00 p.m. Monday through Friday and the Visitor Center operates from 8:30 a.m. until 5:30 p.m. Monday through Friday. On weekends the Visitor Center hours vary slightly opening at 9:00 a.m. and closing at 5:00 p.m. The Visitor Center has special hours on weekends in October and closes at 7:00 p.m. instead of the usual 5:00 p.m.

Weekend staff coverage at the Visitor Center includes five people (made up of staff and volunteers). Across the year the bulk of the visits to the Visitor Center occur between the hours of 10:00 am and 3:30 pm and the typical visitor stays for 15 minutes. In addition to the described Chamber uses, the seasonal Wednesday Farmer's Market which is popular with the neighborhood and visitors from other parts of the city also plans to stay and use the site. The market operates only on Wednesday afternoons and closes at 6:00 p.m. and generally operates between April and November.

The current uses of the site are most active during the middle parts of the day with visits to the Visitor Center tapering off after 3:30 p.m. which accounts for most of the visitor traffic to the property. There will be a brief time when there will be an overlap with Visitor Center patrons in the evenings after 5:00 p.m. as students arrive for the on-site classes which will start at 5:30 p.m. According to University officials, however, newer delivery methods for graduate-level classes require less 'face-to-face' time in the classroom and it is estimated that no more than 50 students or 25% of the enrolled student population (based on the LRU enrollment estimate of 200 students) are anticipated to be on campus on any given weekday evening.

As was noted before, the Visitor Center workers and visitors leave at 5:30 so there will be limited overlap with arrivals and departures and the existing 146 parking spaces on site will be enough to accommodate both user groups. Even if for example, there were 30 Visitor Center patrons parked in the parking lot and 20 Chamber staff still in the building at closing time at 5:30 p.m., there would be 96 available spaces for students arriving at the site for their classes.

On weekends the Visitor Center is also open with five staff and volunteers and LRU will offer weekend courses to students. Again if 50 students were on-site for weekend classes and if the Visitor Center with 5 staff and volunteers and an additional 65 parking spaces were in use all day long by visitors there would still be 26 available parking spaces. In summary, the existing parking will accommodate the daily Chamber of Commerce needs and Visitor Center activity even with the students coming for evening and weekend classes because of the large number of existing parking spaces.

To ensure that University related traffic does not exceed intended levels of service for this location, staff recommends that if the University wishes to have enrollment exceed 300 students (which would mean around 75 students at the campus on weekday evenings based on the estimate of 25% being present on-site) that the parking again be reviewed. We believe the university can expand to a certain extent without additional review as the parking analysis showed adequate parking for up to 300 students. If enrollment exceeds this amount, staff believes it important to set a threshold for review to ensure that the shared uses are successfully functioning together on the site. If that review warrants changes, staff will proceed accordingly which may include amending the conditional zoning permit to accommodate the additional impacts.

This proposal was recommended for approval with conditions by the Technical Review Committee on January 3, 2012. There were very few comments with the exception from the Transportation Department that a bus shelter be constructed along Montford Avenue adjacent to the property. The recommendation derives from the Transit Master Plan which recommends a

bus shelter at the upper end of Montford Avenue. Staff recommendations may be considered in approving the proposal because it is conditional rezoning.

At the Planning and Zoning meeting, the Chamber director stated a desire that they should not be required to add the bus shelter along Montford Avenue due to the estimated cost and because they feel that very few students will arrive at the site using the transit system. The director also commented that no staff or visitors arrive at the Visitor's Center by transit either.

Staff noted that when a use expands it adds neighborhood impacts and should comply with City adopted goals and plans. The bus shelter recommendation is a standard recommendation for such an expansion of uses. After resistance to this recommendation was registered, staff reviewed project files for a number of other proposals where a bus shelter was recommended during Conditional Zoning and Level III approvals. The staff believes that the request is reasonable as these recommendations were confirmed by the Council in all of these instances.

Public comment on the topic centered on potential traffic activity at Hill Street and Montford Avenue and the safety of that intersection. The Traffic Engineering Department has reviewed the existing roadway alignment and has not noted any needed changes to this intersection.

Members of the Montford Neighborhood Association have also expressed interest in having the entire property included in the Montford Historic District boundary. The association feels that any future development on the site should be coordinated with the design standards of the district. This request to study the site for potential district expansion was considered and approved by the Planning and Zoning Commission during their meeting as a separate action from the conditional zoning request. It will now be taken up with the Historic Resources Commission who will review the map amendment request and vote to recommend approval or disapproval of the expansion based on the merits of the site and application.

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 proposed project has been reviewed by City staff and appears to meet all public health and safety related use and activity on the property.
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.** The project is using an existing site and no physical changes are proposed for the project site.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.** The proposed uses and the site are positive additions to the Asheville community and the immediate surrounding neighborhood. No negative impacts from the expanded use are expected.
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.** The site is already developed and the current building is in-scale with the surrounding neighborhood and area. The building was originally reviewed by the Historic Resources Commission to ensure compatibility with the goals of the neighborhood.

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 site is already developed and the form of the building, which is multi-story with full access at street-level is designed to have a variety of possible uses ensuring its adaptability over time. The conditional zoning request is a successful example of a form-type of building adapting to a major change of use from its original purpose. By definition this is sustainable development.

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 site is located at the intersection of Montford Avenue and Hill Street is well positioned for convenient access to transportation options. I-240 is immediately adjacent to the property and both Montford Avenue and Hill Street are served by Asheville Transit System Route 11 and a bus shelter has been requested for Montford Avenue as a part of the Technical Review Committee review. All other aspects of site infrastructure are in place to handle the existing and proposed uses.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard. The subject project will not adversely impact the surrounding street network from a traffic engineering perspective. The proposed new use is primarily an evening and weekend use that is not expected to create undue traffic congestion for the surrounding area.

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

Pros:

- Allows a new educational partner to expand opportunities for the local work force.
- Permits an existing site to be more fully utilized without creating undue impacts on the surrounding community.
- Ensures the future relevance of an existing underutilized structure by permitting a new activity with minimal changes to the interior of the building.

Con:

- Brings more activity to the site and neighborhood than has been there especially during the evenings and on weekends (a potential pro).

The Planning and Zoning Commission reviewed the proposal at their meeting on February 1, 2012. The discussion focused on mitigating the impacts of the proposal by having a student enrollment cap. The Commission also discussed the recommended condition that a bus shelter be provided along Montford Avenue and a bus pad be added along Hill Street as noted in the TRC report. After consideration of the issues they agreed to keep this recommendation in the motion to approve. The Commission voted 7-0 to approve the described graduate program expansion with a student enrollment of up to 300 students (maximum on-site attendance of not more than 75 students at any given time), subject to the operation standards submitted by the applicant and the requirements of the TRC report. Staff also supports this recommendation as amended during the review process.

Mayor Bellamy opened the public hearing at 5:31 p.m.

Mr. Paul Knott, Director of the Center for Graduate Studies of Asheville at Lenoir-Rhyne University, was excited about their partnership with the Chamber of Commerce on this initiative. He explained how they are committed to be a part of the community and that they plan to open in August of 2012. He then spoke about the programs offered and urged Council for their support.

Mayor Bellamy closed the public hearing at 5:34 p.m.

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. 4062, to conditionally zone property located on 36 Montford Avenue from Community Business I District to Institutional District/Conditional Zoning to allow for a satellite graduate school campus, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) Changes to the site that expand the uses may require review by appropriate bodies; (3) Any alterations to the interior of the building and additional signage may require permits by separate application; and (4) If the University wishes to expand enrollment potential above 300 a traffic analysis will be required. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 27 - PAGE

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING FOR WEIRBRIDGE VILLAGE LOCATED AT 1709 HENDERSONVILLE ROAD FOR THE ADDITION OF A RIGHT-IN, RIGHT-OUT ENTRANCE DRIVE FOR A COMMERCIAL OUTPARCEL

ORDINANCE NO. 4063 - ORDINANCE TO AMEND THE CONDITIONAL ZONING FOR WEIRBRIDGE VILLAGE LOCATED AT 1709 HENDERSONVILLE ROAD FOR THE ADDITION OF A RIGHT-IN, RIGHT-OUT ENTRANCE DRIVE FOR A COMMERCIAL OUTPARCEL

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the conditional zoning for Weirbridge Village located at 1709 Hendersonville Road, for the addition of a right-in, right-out entrance drive for a commercial outparcel. This public hearing was advertised on February 17 and 24, 2012.

In 2006, 20.66 acres of property located at the corner of Hendersonville Road and Racquet Club Road was conditionally zoned from RM-6 (Residential Multi-Family Low Density) District to HBCZ (Highway Business Conditional Zoning) District to allow for the development of a major multi-family housing development (originally proposed for 336 units) with commercial outparcels along Hendersonville Road. As proposed, the commercial portion of the development was shown as suburban commercial outparcels abutting Hendersonville Road. However, as opposed to traditional suburban commercial outparcels where there are separate curb cuts for each outparcel, the developer proposed to access all commercial parcels off of a single road (Weirbridge Drive) running parallel to Hendersonville Road.

The commercial development was restricted under this approval to no more than five commercial parcels with no commercial parcel being greater than 3 ½ acres in size. No big box stores, night clubs, bars, adult uses or dance clubs are allowed and commercial uses are limited to: financial institutions, pharmacies, restaurants, professional offices, retail sales, bakeries, barber shops and salons, bookstores, medical clinics, delicatessens, florist, gift shops, grocery stores, and health and fitness facilities. No 24-hour uses are permitted other than bank ATMs and pharmacies. Architectural standards were required to be placed on the commercial buildings so that they would complement the materials and design in the architecture of the residential buildings. No commercial building can be greater than 25,000 square feet GFA in size or greater than 30 feet in height. Outdoor storage is not permitted.

Since the initial conditional zoning approval, two amendments have been approved for the project. One reduced the number of dwelling units from the originally approved 336 to 280 and reconfigured the location and reduced the number of the buildings housing the dwelling units. A second amendment approved a comprehensive sign package for the development.

Subsequently, two outparcels (financial institutions) have been developed with access off of Weirbridge Drive.

The applicant is now proposing a third amendment to allow for a right-turn in/right turn-out access point to the 2.07 acre parcel just north of the parcel on which the Wells Fargo bank is located. This access point has been initially approved by NCDOT who controls Hendersonville Road but must be approved by the City Council as such an access amends the original conditional zoning approval for the property. The access point is between two intersections; approximately 140 feet from the intersection of Hendersonville Road and Racquet Club Road and approximately 280 feet from the intersection of Hendersonville Road and Weirbridge Drive. Both of these intersections have traffic lights.

The principal reason for the need for this access point (and this amendment) is due to the change (from what was originally proposed) in the design of the retaining wall on the northwestern side of the commercial portion of the project. As the project was being developed, several factors led to a change in the location and size of this retaining wall. As originally proposed, fill dirt for the commercial property was to come from the proposed residential portion of the property. In an effort to save as many trees as possible on that residential portion, the grading plan was revised to obtain the fill dirt on the commercial portion by lowering the northern corner of this property (adjacent to Racquet Club Road) to create a larger flat area. This necessitated extending the length of the proposed retaining wall. The increased length of the retaining wall eliminated two of the originally proposed driveway connections to Weirbridge Drive leaving only one.

There is no contract for a proposed development on this site. Potential uses could be anything allowed for the HBCZ zoning as originally approved by Council. One or two potential uses are possible on this remaining commercial portion.

Staff is concerned with this amendment, feeling that it takes away one of the more attractive aspects of the original proposal - that there would only be one roadway access point off of Hendersonville Road. Staff does recognize the limitations that resulted from the retaining wall change which was brought about in an effort to save as many of the existing large trees on the property as was possible. Staff is also concerned with the traffic impact on Hendersonville Road so close to the intersection of Hendersonville and Racquet Club Roads. It is felt that a right in/right out driveway entrance is the only suitable type access if one should be permitted. Any proposed development will be reviewed as a Level One by staff. That review would include a traffic impact analysis if one is warranted due to trip generation. While there is no contract on the site, a fast food chain, which is looking at the development potential on a portion of this property, would require a traffic impact analysis.

This proposed amendment was reviewed and approved with conditions by the City's Technical Review Committee on February 6, 2012. Conditional zoning amendments generally are not reviewed by the Planning and Zoning Commission.

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.**
Any commercial development that is proposed for this site will be reviewed as a Level I project by staff and will have to comply with all applicable City regulations.
- 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.

There are no significant natural or topographic features impacted by the proposed amendment to the conditional zoning approval.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposed amendment should not have an impact on the value of adjoining or abutting property. It should make the vacant commercial parcel more attractive for development.

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.

The proposed amendment will not affect the character of the area as Hendersonville Road in the vicinity is largely commercial strip development.

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 amendment supports the goal/strategy of maximizing the efficiency of the existing transportation system by including access management strategies in alterations to roadways. However, these same access management strategies also seek to limit the number of driveway cuts.

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 amendment does not address use which was addressed in the original conditional zoning ordinance.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

Any development proposal will be reviewed as a Level I project. Such a review will include a review of transportation issues and may call for a traffic impact study to be conducted. This review process will be limited to the basic standards and regulations.

Pros:

- The proposed amendment provides additional access to a property for which access is limited.
- Improved access should help with the marketing of the site.
- The amendment is for a right out/right in only access.

Cons:

- The amendment would allow for a curb cut on Hendersonville Road in close proximity to the intersections of Hendersonville and Racquet Club Roads and the intersection of Hendersonville Road and Weirbridge Drive.
- The amendment is somewhat inconsistent with the original commitment for controlled access and minimizing potential traffic issues.

Staff is concerned with an access point being located between these two signalized intersections without a traffic study being conducted based on a proposed use. As a traffic study would have to be reviewed by staff as part of a Level I review of any proposed development, however, staff recommends approval of this conditional zoning amendment subject to the conditions listed.

Mayor Bellamy opened the public hearing at 5:39 p.m.

Mr. Clay Mooney, landscape architect for the project, explained why this amendment is being requested. Due to the decision to minimize the impact for the residential portion and save trees, retaining walls had to be built. Because of those retaining walls there is now limited access and they have not been able to succeed in attracting someone to build on that property. He explained how traffic has been on their minds throughout this project, noting the new traffic improvements they have made. They have met with the N.C. Dept. of Transportation and they have initially given approval pending a formal receipt of a driveway permit application. The right-in and right-out seems the only reasonable course of action in order to have development flexibility. He hoped Council would support this amendment.

Mayor Bellamy closed the public hearing at 5:46 p.m.

Councilman Smith felt this is a good example of an urban density project.

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. 4063, to amend the conditional zoning for Weirbridge Village located at 1709 Hendersonville Road, for the addition of a right-in, right-out entrance drive for a commercial outparcel, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; and (3) The design, construction materials and orientation of development on the site must comply with the conceptual site plan presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Hunt and carried unanimously.

ORDINANCE BOOK NO. 27 - PAGE

E. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE TO CLARIFY AND EXPAND SIGN CODE STANDARDS

ORDINANCE NO. 4064 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CLARIFY AND EXPAND SIGN CODE STANDARDS

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Unified Development Ordinance to clarify and expand sign code standards to better address existing needs and practices. This public hearing was advertised on February 17 and 24, 2012.

Over the last year, interest in a collection of sign code amendments has grown and been intermittently discussed amongst staff and the Planning & Economic Development Committee.

The City of Asheville has had sign regulations since 1977 and has gone through a variety of amendments over the years with perhaps the most significant amendment occurring in 1989 when the standards were overhauled and new allowances established with significant stakeholder input – this is what was commonly referred to as the “sign code”. In 1997 the zoning code, sign code, and other separate codes were incorporated into the current **Unified Development Ordinance (UDO)** where the basic sign allowances were generally maintained. At this time, however, the sign standards were also expanded to include a number of new categories of signage not previously considered. This provided more flexibility and options for affected properties and for some unique signage needs.

During this same time period (late 80's and early 90's) there was much attention given to signs and sign standards with equally fervent opinions expressed from both business owners who wanted more and larger signs to provide better business identification, and from citizens who were fighting the proliferation of sign "clutter" that they believed was becoming increasingly common and objectionable from an aesthetic, wayfinding, and safety perspectives. In response, a large and diverse stakeholder group was formed and met regularly for approximately a year as standards were negotiated and revised. Every effort was made to be fair and reasonable, and to satisfy the number of divergent concerns. The critical work of this group continues to influence the city's application and development of sign standards with an emphasis on providing opportunity for legitimate business needs while controlling intrusions and unnecessary distractions that could cause safety hazards for drivers and pedestrians.

Our experience reflects that the sign code standards and their interpretation and application receive the greatest level of resistance from some sectors of the business community over any other section in the zoning code, despite the extent of the options and the moderate allowances offered. And enforcement of this code also receives a very strong scrutiny from the public and business competitors. In conversation with senior staffers, concern over sign standards goes back as far as we can recall and consistently gets raised periodically, year after year. And the pendulum seems to swing from year to year from concern that there is inadequate enforcement to concern that the standards are overly restrictive. Additionally, when speaking with other zoning enforcement personnel across the region, and seeing the content of sessions at national conferences, the tension with sign code standards appears to be a fairly universal phenomenon and is notorious for the challenges involved with enforcement.

Asheville has attempted to deal with some of this tension by convening stakeholder groups to identify the fair and reasonable "middle ground" and an informal benchmarking study conducted three years ago confirmed Asheville's position as neither the most restrictive nor the most lenient of cities in the southeast. Nevertheless, Asheville City staff continues to experience complaints on a regular basis (on both sides of the debate) for numerous reasons.

Eventually, a new Comprehensive Plan will be developed and the UDO will likely require some significant updating as part of implementing that new plan. There has been growing interest in simpler form-based codes for certain sections of the ordinance, and the sign code is one section that translates very well into a form-based version. Until that time however, there is a series of relatively minor amendments that can be considered.

As with all ordinances, it is challenging to anticipate all development possibilities and most standards are designed for the most common situations. For those that are atypical, a variance process is provided and relief from the sign standards can be considered when there exists a physical hardship to the site. The variance process has been an effective tool and is a relatively simple and expedient application process. This same variance process has also been very effective in revealing common scenarios where consideration of new standards to address recurring situations may be of benefit. This, combined with the identification of common permitting challenges, frequently applied interpretations, and news and information from the planning profession and sign industry, has helped establish a small list of sign code amendments that are designed to bring clarity to the existing standards, while also providing new opportunity for difficult but not entirely uncommon situations. A summary of those amendments is as follows:

Article XIII Amendments

Campaign signs. Clarify that the 30 days begins prior to the first day of polling, which will begin with early voting.

LED signs. Allow digital and LED changeable copy messages to change once every 4 hours.

Second tier development signage. Remove second tier allowances and replace with an option that would allow a land-locked property tenant signage on an adjacent free-standing, multi-tenant sign. Requires cooperation from adjacent property owner. Intent is to maintain sign allowances and not increase the number of structures, but allow existing sign structures to be shared.

Signs on vehicles. Clarify standards so that vehicles with signage parked on site must be parked in a proper, striped space and shall not be parked in aisles, or grassy medians, etc. and cannot block another businesses sign. Vehicles with signage stored off-site must be parked to minimize visibility. Add a second clarifier to prohibit mobile billboards.

Temporary sign material. Allow a temporary material to be used for a permanent sign for a period of 6 months to one year – after which its replacement with a permanent material would be treated as a face change.

A-frame signs. Clarify standards to permit one A-frame sign per public entrance when entrances are located on separate street frontages.

Housekeeping. 1) Add Urban Place and Airport to the table for commercial signage. 2) Fix allowance (60 s.f.) for NCD, CBI, NB, URD and UP.

Signs in City rights-of-way. Allow signs to be located within a city right-of-way when:

- The right-of-way is greater than 75 feet
- The City Traffic Engineer has determined that no traffic concern is created
- Sign location is a minimum of 25' from edge of pavement
- No variances to sign allowances are permitted

The Planning & Economic Development Committee reviewed an outline of the changes and supported its moving forward. The Planning & Zoning Commission reviewed the changes at their November 2, 2011, meeting and unanimously recommended approval. At this same meeting, the Commission also recommended that staff return with some amendments to the standards regulating digital billboards – this item is being reviewed separately and is scheduled for the City Council's March 27th meeting.

This proposal supports goals for job growth and community development by expanding options for businesses while also researching new formats for the UDO.

Pros:

- Provides greater flexibility for difficult but not uncommon signage situations.
- Provides improved clarity to existing sign standards.

Cons:

- Adding new standards may contribute to the overall complexity of the code.
- Increasing opportunities could increase the total number of signs in the environment.

There is no direct fiscal impact.

Ms. Tuch said that City staff recommends approval of this wording amendment, with a minor amendment to Section 7-13-5 (c) to read "Properties located one lot back from a thoroughfare with no direct street frontage and having shared access with adjacent or adjoining

parcels may share space on an adjacent property's free-standing sign in lieu of the second tier property's free –standing sign allowance.”

Mayor Bellamy opened the public hearing at 5:56 p.m., and when no one spoke, she closed it at 5:56 p.m.

Councilman Smith said that he is looking forward to moving toward form-based codes.

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

Vice-Mayor Manheimer moved for the adoption of Ordinance No. 4064, with the minor amendment outlined above by Ms. Tuch. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 12-51 - RESOLUTION PROMOTING PARTICIPATING IN THE 10% LOCAL FOOD CAMPAIGN

Ms. Cathy Hohenstein of the NC Cooperative Extension gave several statistics of the NC 10% campaign, outlining that the levels of support, and resources that can help if the 10% commitment is fulfilled through the seasons. She also outlined the following three ways that organizations or businesses can fulfill their commitment (1) pledge of purchase: organization can make choices with the 10% campaign in mind, when having foods at meetings or events; (2) participate in an employee or member program: organization can encourage employees or participants of services to join the 10% campaign and sign up on the campaign website as individuals; and/or (3) promotion or outreach program: use organizations website, listserv, events and external publications or promote the 10% campaign.

Said resolution reads: “WHEREAS, North Carolina has the opportunity to harness consumer spending on food to bolster the sustainability of local farms and fisheries, support economic development, job creation and help address diet-related health concerns; and WHEREAS, consumers are demanding locally produced foods and food producers are responding positively to this increased consumer demand; and WHEREAS, the demand for locally produced foods has not been diminished by a weak economy; and WHEREAS, there is significant potential for local food and farming businesses to be an economic development engine in North Carolina, particularly in rural areas; and WHEREAS, in 2009, North Carolinians spend about \$35 billion a year on food; and WHEREAS, if individuals spent 10 percent of their food dollars on local foods, approximately \$3.5 billion would be available in the local economy; and WHEREAS, city governments have an important role to play in supporting their local food systems; and WHEREAS, city governments set policies to procure local foods; and WHEREAS, city governments may commit to purchasing local foods when hosting meetings, conferences and or workshops; and WHEREAS, the Center for Environmental Farming Systems’**10% Campaign** supports local and regional food economies that benefit local food producers, related businesses and communities; and WHEREAS, the [North Carolina Cooperative Extension Service](#) is working in support of the **10% Campaign** in all 100 counties, including Buncombe County; and WHEREAS, these on-the-ground experts are working with other community leaders, farmers, businesses, parents, teachers and students, many of whom are already working to build the state’s sustainable local food economy, from farm to fork; and WHEREAS, the City is responsible for promoting economic development and job creation; and WHEREAS, the City is responsible for protecting and enhancing the health, welfare and safety of its resident in prudent and cost-

effective ways; and WHEREAS, the citizens of Asheville will benefit significantly through the success of the **10% Campaign** through a stronger economy and access to fresh, affordable meats, produce, fish and shellfish; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: The Asheville City Council pledges to access its ability to source local foods and to promote participation in the **10% Campaign** to its employees and citizenship as appropriate to help build the local food economy.”

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

Councilman Smith spoke in support of this resolution and hoped that the City would go well above the 10% in regard to local food preference.

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. 12-51. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE 288

B. RESOLUTION NO. 12-52 - RESOLUTION APPOINTING MEMBERS TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that the term of Charles Worley, as a member on the Alcoholic Beverage Control (ABC) Board expired on November 13, 2010. On November 22, 2011, City Council appointed Mr. William Russell to replace Mr. Worley; however, Mr. Russell declined the appointment.

The following individuals have applied for the vacancies on the ABC Board: Genny Lynn Beville, Tim Flora, Mark W. Cates, Guadalupe Chavarria, Randall C. Hall, Judy Kuhne, Fred Cooke and Charles Larrick.

On February 14, 2012, City Council instructed the City Clerk to arrange interviews for Guadalupe Chavarria, Melissa English, John Menkes and Randall Hall.

After Council spoke highly about all the candidates, the majority of Council voted to appoint John Menkes to serve a three year term, term to expire November 13, 2014, or until his successor has been appointed.

RESOLUTION BOOK NO. 34 – PAGE 290

C. RESOLUTION NO. 12-53 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Manheimer said that there currently exists a vacancy left on the Historic Resources Commission by Mr. John Dean, whose term expires July 1, 2012.

The following individuals have applied for a vacancy on the Historic Resources Commission: Jay Lively, Jay Marino, Anne Harrell, Frank Hallstrom, Deanna Reeder, Michael Bragg and Tracey Rizzo.

On February 14, 2012, it was the consensus of Council to interview Jay Lively, Tracey Rizzo and Deanna Reeder.

After Council spoke highly of all the candidates, the majority of Council voted to appoint Tracey Rizzo to serve the expired term of Mr. Dean, and then a full three-year term, July 1, 2015, or until her successor has been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Dan Bridges spoke about some of the following concerns he has experienced in his capacity of a volunteer in the handicapped parking program: (1) he is unable to find the correct person to voice his concerns; (2) handicapped parking signs for some new area businesses are 3.5 feet off the ground, but should be 6.5 feet off the ground; (3) no handicapped signs for some area businesses; (4) some handicapped signs are not legible; and (5) stripping of handicapped spaces. City Manager Jackson said that he would investigate Mr. Bridges concerns and report back to him and Council.

Mr. Fred English urged Council to oppose I-95 becoming a toll road through North Carolina as it will affect the price of what we pay in North Carolina.

Mr. Tim Sadler commented about the need for better density bonuses and urged Council to adopt a policy making zero waste as a goal for the City by 2020.

Ms. Gretchen Lewis thanked Council for the increase in recyclable materials and the City's participation in the 10% local food campaign. She hoped Council would keep sustainability and climate change as a priority in all their decisions.

Mr. Chris McGrayne urged City Council to support the City's demolition of unsafe private property.

Councilman Davis was pleased to announce the Southern Conference Basketball Tournament which will be in Asheville this weekend - March 2-5, 2012. He urged all citizens to come by the newly renovated US Cellular Center or the Kimmel Arena at UNC-Asheville to enjoy a weekend of basketball.

Senate Bill 183

Mr. Judy Mattox, Chair of the local Sierra Club Group, requested city Council help regarding Senate Bill 183 that allows 350 feet of clear-cutting on both sides of billboards on state rights-of-way. Dyke Longest, Director of the Duke Environmental Law and Policy Clinic, will file a suit on behalf of Scenic North Carolina, to challenge the temporary rules regarding the law and to request that the implementation of the law be moved back into the summer instead of starting on March 1. She asked the City to (1) write an amicus brief in support of their Complaint and Motion for Preliminary Injunction; (2) contact the N.C. Dept. of Transportation (NCDOT) and the Governor's Office asking them to suspend the temporary rules; (3) convene with other cities to discuss the possibility of city-initiated litigation over the temporary rules; (4) contact the NCDOT to ask for copies of permit applications in their city and their extraterritorial jurisdiction; (5) start documenting and investigating illegal cutting activity; (6) contact the NC League of Municipalities, NC Assoc. of County Commissioners and the Metro Mayors to urge them to fight this at the General Assembly in May; and (7) organize a coordinated strategy call with some other counties and cities with similar concerns, such as Charlotte, Boone, Winston-Salem, Raleigh, Wilson, etc.

Mayor Bellamy noted that Council expressed their opposition to this Bill last year in their legislative program. It was the consensus of Council to ask City Attorney Oast to review information regarding this Bill and provide Council an update at their next formal meeting, including what other communities are doing.

Closed Session

At 6:37 p.m. Councilman Pelly moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Henderson County Cane Creek Water and Sewer District, Asheville-Buncombe-Henderson Water Authority, Buncombe County, and City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(11); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:15 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:15 p.m.

CITY CLERK

MAYOR