

Tuesday – March 27, 2012 – 3:30 p.m.
First Floor North Conference Room

Worksession

Present: Vice-Mayor Esther E. Manheimer, Presiding; 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 Burleson

Absent: Mayor Terry M. Bellamy

General Fund Operating Budget

Director of Finance & Management Services Lauren Bradley reviewed with Council the budget process calendar; General Fund Revenues, 10-year property tax rate trend; and General Fund Expenditures. She pointed out other financial pressures that (1) Asheville supports a larger population than its residential population suggests; (2) slow economic recovery; (3) limitations on annexation; and (4) limited opportunity to diversify revenue sources. Ongoing opportunities include (1) opportunities to promote urban scale, infill growth; (2) continuing to provide high quality public services that support a high quality of life; continue to attract people and business growth to Asheville; and (3) continuing to seek partnerships on projects with regional impact. Tool and process include setting the strategic vision for the City; setting the annual property tax rate; determining the scope of public services; determining the level of investment in public infrastructure; economic incentives; and land use planning.

She reviewed the revenue and expenditure assumptions, along with the Fiscal Year 12-13 expenditure obligations. At this time, she said that staff is asking for feedback from Council so they can build it into the budget.

The City Council Finance Committee received a preview of the FY 12-13 General Fund Operating Budget Briefing at its meeting on Tuesday, March 20, 2012. At that meeting, the Committee requested additional information on a few items included on the "Expenditure Options" list in the presentation and staff has provided that supplemental information to the full City Council.

Ms. Bradley responded to various questions/comments from Council and those which could not be answered immediately will be provided to the full Council. Some included the impact of fire staffing on their budget; how much the fuel cost is for cars vs. large vehicles; are alternative fuel vehicles being looked at when fleet is replaced; what is the reoccurring costs vs. the one-time capital expense on reinstating vacuum leaf collection.

Several comments/questions were raised by Council, some being, but are not limited to: reinstating the vacuum leaf collection will be discussed at the Capital Improvement Plan worksession on April 10, along with options; the Economic Development Commission is actually requesting \$60,000, not \$50,000; can the form based code cost be spread over multiple years; request staff contact Mountain Housing Opportunities regarding funding for the Eagle-Market Street Project; question of whether the Business Improvement District contribution will be needed in the first year; interest by Council to have a two-year plan (with a portion this year) to raise the Housing Trust Fund allocation back to \$600,000 a year; interest by Council to implement transit service on Sundays (understanding it is restricted to the areas with the highest routes); and request to look at the WNC Nature Center allocation.

It was the consensus of Council to build in a minimum of \$500,000 for employee compensation.

Strategic Operating Plan

City Council reviewed the proposed Fiscal Year 2012-13 Strategic Operating Plan, by reviewing completed and ongoing goals. It was the consensus of Council that the Strategic Operating Plan captured City Council goals for FY 2012-13; therefore Ms. Bradley said that staff will bring back a resolution to adopt the FY 2012-13 Strategic Operating Plan at the April 10, 2012, meeting.

Councilman Pelly moved to continue the budget worksession until 3:30 p.m. on Tuesday, April 10, 2012. This motion was seconded by Councilman Hunt and carried unanimously.

Tuesday – March 27, 2012 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Esther E. Manheimer, Presiding; 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 Burlison

Absent: Mayor Terry M. Bellamy

PLEDGE OF ALLEGIANCE

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

INVOCATION

Councilman Pelly gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION HONORING THE UNC-ASHEVILLE BULLDOGS

Vice-Mayor Manheimer read the proclamation honoring the UNC-Asheville Bulldogs. She said that the joint City-County proclamation was presented to the Bulldogs at a reception held earlier in the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 13, 2012

B. RESOLUTION NO. 12-63- - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE FIVE TRANSIT VEHICLES

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease five transit vehicles.

As a result of the 2000 Census, the French Broad Metropolitan Area was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration (FTA) named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the FTA

funding, including reporting, administration and procurement of goods. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the FTA regarding the use of all FTA funds and owns all the capital items that Henderson County purchases with these funds.

As per Henderson County's request, the City of Asheville conducted a procurement process and ordered five transit vehicles. Three of those vehicles are paid with the American Reinvestment and Recovery Act funding; the other two vehicles are paid with a combination of 5307 Urbanized Area Formula Grant, North Carolina Department of Transportation and Henderson County's funding; these vehicles will be used to serve the County's service area and will be operated by Apple Country Transit.

In order for the County to receive the buses, a lease agreement, stipulating the terms and conditions to operate these vehicles, must be signed by both parties as required by FTA. The lease agreement also details how the County will reimburse the City for those two vehicles that require local match.

There is no cost obligation for the City with this action other than staff time to accomplish the task.

This action complies with the current City Council 2011-12 Strategic Operating Plan within the fiscal responsibility focus area by operating the City of Asheville to the highest levels of fiscal responsibility.

Pros:

- The lease agreement is an administrative step required by the FTA that protects the City's interests as designated recipient of Federal funds.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project for the duration of such, approximately seven years.

There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease five transit vehicles.

RESOLUTION BOOK NO. 34 – PAGE 302

C. RESOLUTION NO. 12-64 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR THE PREMISES AT 179 S. CHARLOTTE STREET

Summary: The consideration of a resolution authorizing the Mayor to enter into a Lease Agreement with the City of Asheville Board of Alcoholic Control for real property located at 179 S. Charlotte Street.

The property at 179 S. Charlotte Street has been in operation as an ABC Store since 1984. The property is improved with a brick building measuring 3406 square feet on a 0.84 acre lot. At this time, the Board of Alcoholic Control has offered to enter into a lease that is consistent with market based pricing, as follows:

- (1) Term of five years

- (2) Annual rental fee at an initial rate of approx. \$46,000 per year with 3% annual increases
- (3) Lessee to pay all utilities and maintenance associated with premises
- (4) Both parties have the option to terminate the lease at 180 days written notice.

In order to achieve market-based pricing, City staff established the rate by gathering and comparing lease rates of similar size and location within the Asheville market. The rental rate is consistent with area fair market value for this type of building and use at \$13.51 per square foot per year. All proceeds of this lease benefit the Community Development Block Grant budget as Program Income.

The Notice of Intent to enter into a Lease Agreement with the City of Asheville Board of Alcoholic Control was published on March 16, 2012, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested.

This action complies with the City Council Strategic Operating Plan by contributing to fiscal responsibility. Strategic real property management, through the renewal of lease agreements, presents the City with revenue enhancements.

Pros:

- Enhanced revenue through the lease fee, to benefit the Community Development Block Grant program as income
- The City of Asheville Board of Alcoholic Control is a consistent and well established tenant in that location

Con:

- The City of Asheville Board of Alcoholic Control distributes overall net proceeds to the City of Asheville and Buncombe County based on 75% and 25% split. An increase in the rent may have a modest effect of the net distribution that contributes to the City's General Fund.

The proposed increase to the lease amount will be built into the upcoming budget cycle for the Community Development Block Grant FY2012-2013 budget. During the next four subsequent years, the lease rate will increase by 3 percent annually. Over the life of the five year lease, the city will realize more than \$244,000 in CDBG Program Income. Given the increase in rent, there may be a slight decrease in the Board's distribution to the City's General Fund, since an increase in operational costs such as rent may minimally impact the overall net proceeds.

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the lease agreement with the City of Asheville Board of Alcoholic Control on behalf of the City of Asheville.

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D. RESOLUTION NO. 12-65- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FLETCHER GRADING CONTRACTORS FOR THE NORTH LOUISIANA AVENUE SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$192,187.25 and any change order within the budgeted amount with Fletcher Grading Contractors for the project known as North Louisiana Avenue Sidewalk Improvements – Emma Road to Emma Elementary School, City of Asheville Project # ENG-08-09-002.

The City of Asheville will receive \$100,000 from HUD through a CDBG grant and \$187,500 from FTA through a JARC grant to fund the project. A formal request for bids was issued on February 10th, 2012 and bids were opened on March 7th, 2012. Fletcher Grading Contractors, a local business, was the low bidder at \$192,187.25. The disadvantaged business enterprise (DBE) goal of 6.2% was exceeded at 67%. This is a unit price contract and not a lump sum contract.

This project will build much needed sidewalk and transit infrastructure along North Louisiana Avenue. Pedestrians currently must walk on the side of the road, in a ditch, or in the street itself. Many children use this thoroughfare as well to reach Emma Elementary School. This project is not within the City limits, but is in the ETJ. The community has been active in getting this project underway and has garnered the support of the City of Asheville, NCDOT, and Buncombe County through a municipal agreement. The scope of work includes sidewalk, curb and gutter, drainage, retaining walls, wheelchair ramps, bus stops, driveways, and utility relocation.

This action complies with the City Council Strategic Operating Plan in fully leveraging funding from the State and other sources for regional transportation improvements.

Pros:

- Improves pedestrian safety.
- Funded by CDBG and JARC grants, with no City General Fund contribution.
- Encourages walking, thereby reducing carbon emissions.
- Future maintenance will be paid for by Buncombe County.

Cons:

- The City could be contracted by Buncombe County for future maintenance of the project.
- Project management and contract administration will consume staff time.

This project will bring \$192,187.25 of transportation infrastructure improvements at minimal cost to the City. There is a total of \$287,500 budgeted for this project.

City staff recommends City Council adopt the resolution awarding the contract to Fletcher Grading Contractors and authorizing the City Manager to execute on behalf of the City of Asheville the contract and any change order within the budgeted amount.

Councilman Smith was pleased to support this action and noted the low bid was a local company.

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E. RESOLUTION NO. 12-66 - RESOLUTION AUTHORIZING APPLICATION FOR A FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REFERSE COMMUTE PROGRAM TO CONTINUE FUNDING THE BLACK MOUNTAIN ROUTE AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE DOCUMENTS TO ACCEPT THE GRANT IF AWARDED

Summary: The consideration of a resolution authorizing a mixture of local, private and federal funding to continue funding the Black Mountain route.

Since inception in 2002 the Black Mountain route has been funded with different funding sources. During the first 7 years, Intercity grant provided 45% Federal, 45% State and 10% match from the Town of Black Mountain, Buncombe County, and from the route's farebox revenue. The Intercity grant was discontinued in November 2009; the North Carolina Department of Transportation funded the route with a Demonstration grant until December 2010. After that date the route was merged with route 29 and funded with City and Warren Wilson College funds,

for the segment from Downtown to Warren Wilson College, and Job Access and Reverse Commute grant for the segment between Warren Wilson and the Town of Black Mountain.

After exploring all the options available, the JARC funding is the only funding source in the short-term we can apply for, and if awarded will allow city staff to pursue other funding sources for the upcoming years. The Job Access and Reverse Commute (JARC) program was established to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment. Eligible activities are capital, planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects.

This route is part of a partnership between Warren Wilson College and the City. As proposed in the Transit Master Plan, this route was merged with route 29 that served the college and operates as a regular route with frequent stops. The route operates four times a day, Monday through Saturday, along US 70 (Tunnel Road) between downtown Asheville and Black Mountain. Mountain Mobility is also applying for the JARC funding to fund the Black Mountain portion of the route. The service will continue connecting with the local Mountain Mobility deviated route service.

This route's ridership is increasing steadily since it was merged in the new route 170.

| Year | Period | Route | Ridership | Change |
|--------|-------------|-------|-----------|--------|
| FY2012 | July - Dec. | 170 | 36,193 | 28% |
| FY2011 | Jan. - June | 170 | 28,248 | 21% |
| FY2011 | July - Dec. | 28 | 23,350 | |

The total cost of providing this service is \$237,120; 50% or \$118,560 will be paid by the grant and the other 50% by the combined contribution of Warren Wilson College (14% or \$33,280) and the City of Asheville to the route (36% or \$85,280). The city is planning to apply for a one year period.

The application deadline is March 28, 2012.

This action complies with the current City Council 2011-12 Strategic Operating Plan within the Fiscal Responsibility and Multimodal Transportation focus areas by seeking efficiencies in master plan implementation by identifying plan interdependencies, funding sources and key partnerships. This action also complies with operational improvement recommendations included in the Transit Master Plan that was accepted by the City Council on October 27, 2009.

The Transit Commission supports the subject action.

Pros:

- Increased mobility for the citizens of Asheville both within and outside the city.
- This is a step toward retaining the service and funding.

Con:

- The City is required to fund 50% (\$118,560) of the subject project cost; funding will be allocated from the Warren Wilson College and City of Asheville contribution to current route 170.

The total cost of the subject project is about \$237,120. The City is required to fund 50% (\$118,560) of the subject project cost with the remaining 50% funded by the JARC grant. The City's required funding will be allocated from the Warren Wilson College and the City of

Asheville's contribution to the current route 170. Warren Wilson contribution will total \$33,280; therefore the City's cost is \$85,280 per year. The City's cost will be included in the Transit Fund proposed budget for FY 2012-13.

City staff recommends City Council adopt a resolution authorizing City staff to apply for a FTA Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

RESOLUTION BOOK NO. 34 – PAGE 305

F. RESOLUTION NO. 12-67 - RESOLUTION AMENDING THE 2012 CITY COUNCIL MEETING SCHEDULE TO DELETE THE MAY 8, 2012, CITY COUNCIL FORMAL MEETING

RESOLUTION BOOK NO. 34 – PAGE 306

G. ORDINANCE NO. 4069 - BUDGET AMENDMENT TO INCREASE THE CIVIC CENTER FUND BUDGET TO REFLECT UPDATED FISCAL YEAR 2011-12 REVENUE AND EXPENDITURE PROJECTIONS

Summary: The consideration of a budget amendment, in the amount of \$150,000, from the Civic Center operating revenue, to increase the Civic Center Fund budget to reflect updated Fiscal Year 2011-12 revenue and expenditure projections.

In order to fund anticipated expenses over the last quarter of the current fiscal year, staff is recommending that the Civic Center Fund budget be increased by \$150,000. It is anticipated that revenue generated by concessions will cover the most if not all of the cost of the budget amendment; therefore, no additional transfer from the General Fund is required at this time. The Civic Center has several events scheduled before June 30 that should generate significant revenues.

This amendment has been presented to the Civic Center Commission and recommended to City Council.

This action supports the City Council Strategic Plan by supporting the Civic Center as a regional entertainment destination and improving the Civic Center customer experience.

Pro:

- Provides sufficient budget authorization for anticipated revenues and expenditures in the Civic Center Fund without increasing the General Fund transfer.

Con:

- If year end revenues are not sufficient due to the extended closing of the Center, some of the budgeted General Fund allocated for transfer to the Civic Center may need to be utilized.

As noted above, this budget amendment is anticipated to be funded with Civic Center operating revenue that will likely exceed original budget estimates. Therefore, there is no expected impact to the City's General Fund budget.

Civic Center staff and Commission recommend City Council approve a budget amendment to increase the Civic Center Fund budget by \$150,000 to reflect updated Fiscal Year 2011-12 revenue and expenditure projections.

ORDINANCE BOOK NO. 27 – PAGE

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

Vice-Mayor Manheimer 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 Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

In the Mayor's absence, Councilman Pelly moved to authorize Vice-Mayor Manheimer to sign Resolution No. 12-66. This motion was seconded by Councilman Smith and carried unanimously.

III. PRESENTATIONS & REPORTS: None

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING 157 AND 163 CRAVEN STREET FROM URBAN PLACE DISTRICT TO RIVER DISTRICT

ORDINANCE NO. 4070 - ORDINANCE TO REZONE 157 AND 163 ON CRAVEN STREET FROM URBAN PLACE DISTRICT TO RIVER DISTRICT

Urban Planner Julia Fields said that this is the consideration of an ordinance to rezone 157 and 163 Craven Street from Urban Place District to River District. This public hearing was advertised on March 16 and 23, 2012.

Ms. Fields said that the French Broad River Group, LLC has petitioned the City to rezone three properties along Craven Street, west of the French Broad River and Riverside Drive from Urban Place (UP) District to River District. The site of the former WNC Stockyards, these properties were among twelve properties in the River District that were rezoned in 2007 from River District to Urban Place, a newly created district. The purpose of this district is to foster higher density, mixed-use development in particular on properties in or near the French Broad and Swannanoa Rivers. At the time it was believed that this rezoning would encourage redevelopment of this site.

Having marketed the site for a number of years with its present zoning, in February of this year the owner/manager of the three properties along Craven Street petitioned the City to have these parcels rezoned back to River District. The petitioner indicated that because the River District allows for greater flexibility in use and development design than is found in the Urban Place District, that rezoning back to River should help in the marketing and ultimate redevelopment of this site. Additionally, the property is bisected by another property zoned River District that was not rezoned in 2007 creating an awkward development situation. Another property south of the site and owned by the same LLC is also zoned River. The petitioner would prefer that all the properties be zoned the same - River District.

The property is 5.54 acres in size and is entirely within the regulated 100 year floodplain. A portion of one of the properties along the French Broad is located in the floodway as well. The property was adopted into the Regional Brownfields Initiative in January of 2011 making it eligible for revolving loan funds for any needed cleanup. A small restaurant and a number of large buildings used for a variety of purposes are located on the site.

If the property is rezoned to River District it still would be subject to design standards. Any proposed development would have to be reviewed and approved under the River District Design Review processes.

The Planning and Zoning Commission reviewed this petition at its meeting on March 7, 2012. They voted unanimously to recommend this rezoning to the Asheville City Council. The only person who spoke on the matter was the applicant.

Pros:

- Provides greater flexibility for the development of property in the River Arts District.
- Allows for five parcels in single ownership to have the same zoning.

Con:

- None noted.

Staff finds this request to be reasonable and also recommends approval of this rezoning request.

Vice-Mayor Manheimer opened the public hearing at 5:15 p.m., and when no one spoke, she closed it at 5:15 p.m.

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

Councilman Hunt moved for the adoption of Ordinance No. 4070. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE

B. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING CHANGES TO THE STANDARDS REGULATING DIGITAL BILLBOARDS

ORDINANCE NO. 4071 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING CHANGES TO THE STANDARDS REGULATING DIGITAL BILLBOARDS

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance amending the Unified Development Ordinance concerning changes to the standards regulating digital billboards. This public hearing was advertised on March 16 and 23, 2012.

Assistant Planning & Development Director Shannon Tuch said that the City of Asheville has had a somewhat complex history and relationship with billboards. Back in 2000-02, there were public discussions about amortizing and prohibiting billboards. As a result, the City entered into negotiations with the outdoor advertisers in the area and developed a 10-year agreement that included a new "Cap & Replace" ordinance along with the removal of 10 very high profile billboards in the City. This agreement was signed in 2004 and won't expire until 2014. The Cap & Replace ordinance required that all qualifying billboards be registered, and once registered, they could be maintained and even moved – but no additional billboards could be added to the overall industry. Any relocated billboard could only be re-located to one of nine specific corridors and would also have to meet a number of standards.

Then in 2006, the City adopted a small amendment that allowed billboards to be combined or split into smaller faces, provided the same total amount of square footage was not increased.

Then in 2008, the City was approached by Lamar Outdoor Advertising requesting the consideration of new standards that would allow new digital technology to be used for billboards. The proposal provided that three times the square footage of paper billboard face be removed for every one square foot of digital. After some discussion, these standards were ultimately adopted and included a number of digital specific standards designed to help control the most concerning aspects of these boards.

Both the 2006 and 2008 billboard amendments are not included in, or controlled by, the 2004 billboard agreement.

Shortly after the adoption of the digital billboard standards in 2008, Lamar began installing boards around the City on major corridors and, to date, has installed 7 total, including the most recent one on Tunnel Road, near the Asheville Mall. Fairway Advertising has installed 4 digital billboards, including the one located on Merrimon Avenue. This particular billboard has raised a lot of concern in the community and has caused staff to re-examine and reconsider the standards regulating digital billboards.

Staff first raised the issue of digital billboards with the Planning & Zoning Commission as part of an update to the City's sign code. The Commission chose to separate digital billboards from the rest of the sign updates to be considered separately.

The Commission first considered an update to digital billboard standards in December and at that time, the intent of the recommended ordinance was to specifically address concerns raised by the Merrimon billboard. The Commission debated whether this was enough of a change and requested the matter be continued to allow staff more time to research other options.

The Commission discussed the matter again in January of this year, and the public was invited to comment as well as representatives from both Lamar and Fairway. The Commission was somewhat divided on the matter with some members preferring to strengthen standards and some preferring to eliminate the option of digital billboard standards altogether. After significant deliberation, the Commission ultimately recommended that staff return the following month with the basic amendment that was originally proposed but also directed staff to continue to work on researching the standards that regulate digital billboards and to return at a later date with this research and a possible amendment that would strengthen those standards.

What is before Council now is the ordinance supported by the Planning & Zoning Commission, as an interim step, while staff continues to research the matter.

A summary of the changes is as follows:

- (1) There is a change to the corridors in which digital billboards could be erected. Merrimon Avenue has been removed and a narrow and residential portion of Sweeten Creek Road has also been removed.
- (2) The setback standard has been extended to any residential unit, not just residential structure.
- (3) A new setback of 50' from the row or edge of pavement is proposed on narrow corridors.

There are a number of standards regulating digital billboards that are not being considered at this time, including brightness, dwell time, conversion ratios, etc. that are more complex and would likely require additional research before amending.

Lastly, the option to repeal the standards allowing digital billboards was also discussed at some length at the Commission meeting and, should this be Council's preference, would not require any further research by would require a new amendment and ordinance that would have to go back before the Planning & Zoning Commission.

Safety: While many citizens find certain aspects of digital billboards objectionable, the characteristic that is most concerning from a public safety standard is the question of whether these billboards may distract motorists by the bright, changing images and contribute to accident rates. This question was debated some in 2008 when the standards to allow digital billboards were first proposed, however, at that time the data on the subject was extremely biased or inconclusive. The Federal Highway Administration (FHWA) was in the process of studying the issue and was expected to reveal the results in 2009. No results were revealed however, and the FHWA continues to study the issue. Other experts have weighed in on the subject but, once again, the conclusions are in conflict with one another.

One safety study, not limited to billboards alone, concludes that a distraction that causes a driver to look away from the road for more than two seconds greatly increases the likelihood of an accident, and that external stimuli were more likely to distract drivers for longer periods of time than internal distractions [Chan et.al., 2008, *Evaluation on a Driving Simulator of the Effect of Drivers' Eye Behaviors from Distractions Inside and Outside the Vehicle*]. Determining whether a digital billboard causes an individual to look away for more than a brief moment is at the heart of the issue that continues to be debated (see American Planning Association, *Digital Billboards, Distracted Drivers* article).

Sustainability: A reduced carbon footprint was thought to be one of the benefits of digital billboards because they utilized energy efficient LED lights, did not require vehicles to be driven to the site, and did not use adhesive and other plastics and papers. There is new information however, that indicates that the energy used for the average digital billboards is higher than originally believed. Comparing the benefits of the new technology to the old techniques is difficult to evaluate and may not be as good as had originally believed.

This proposal does not directly relate to the goals outlined in the Strategic Operating Plan but is most closely aligned with the goal for "job growth and community development" by balancing business needs with community needs and concerns.

The subject of billboards is discussed in some detail in the **Implementation Matrix** of the City's comprehensive plan; Goal 1 under the Transportation section of the **Land Use and Transportation** portions of the Matrix states:

Goal I. The design of streets and highways should be consistent with the economic goals of the City of Asheville and should be compatible with the physical character of the community.

And strategy 6 under this goal states:

Strategy 6. New billboards should not be allowed along any road corridors and existing ones should be amortized and removed unless adjacent to federal aid primary highways.

It is important to note, however, that the comprehensive plan was adopted in 2003 before the state passed legislation effectively eliminating a municipality's ability to amortize billboards, and before the City entered into an agreement with the outdoor advertisers in the area. The current "Cap & Replace" ordinance effectively bans the addition of any new billboards.

Pros:

- Addresses compatibility concerns from residents and motorists while still preserving opportunities for off-premise advertising.
- Reduces potential for distractions in other already congested areas.

Con:

- Renders one existing billboard non-conforming.

City staff concurs with the Planning & Zoning Commission and recommends, at a minimum, approval of the wording amendment as proposed. City staff also supports the Commission's recommendation to continue work to strengthen the existing standards.

As an alternative, the City Council may choose to eliminate standards for 5 billboards entirely. Should the Council support this alternative, staff would return later with a revised ordinance.

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

Councilman Hunt moved for the adoption of Ordinance No. 4071. This motion was seconded by Councilman Bothwell.

Councilman Hunt felt that removing the digital billboards standards is the best thing for the community for a number of reasons, especially driver safety. However, his concern goes beyond safety. He appreciates the role signage in advertising can play economic development; however, his view is that the economic development of this community is better served by reinforcing the quality of life and quality of character. Digital billboards are a very bright, glaring form of advertising that he feels overwhelms our aesthetic character in our community. After Council deliberates the motion to strengthen the digital billboards standards, he will make another motion to instruct the Planning & Zoning Commission review an ordinance that eliminates standards for digital billboard entirely.

Vice-Mayor Manheimer opened the public hearing at 5:34 p.m.

The following individuals spoke in support of eliminating digital billboards standards entirely, for several reasons, some being, but are not limited to: billboard control is good for business; billboards degrade the natural environment; billboards endanger health and safety; billboards hamper economic growth; limiting or banning digital billboards makes sense for Asheville with its tourism-based economy; and need to begin discussion on how we can approach phasing out digital billboards:

Ms. Diane Hankins, east Asheville resident (requested a 6-month moratorium on all digital billboards)

Mr. Jane Northway (provided Council with a copy of "Scenic America's Trust About Billboards")

Mr. Alan Escovitz (provided Council with a copy of "Billboard Control is Good for Tourism")

Ms. Grace Curry, representing the local Sierra Club (supports 6-month moratorium on all digital billboards)

Rev. Tyler Martin, north Asheville resident

Ms. Dakota Forgione

Mr. Terry Graves, General Manager of Fairway Outdoor Advertising, said they have been in the community a long time. They also do a lot with public service announcements, and provided Council with a copy of the many public service announcements. Another attribute of

digital advertising is, because of the nature of digital, we can involve the community in different ways quicker, such as, Amber Alerts and social media. We have received a lot of positive feedback and exposure from those social media aspects. He noted that he was part of the negotiations when billboards were banned from downtown and said that Fairway is committed to continuing to work with the City.

Rev. Christopher Chiaromonte felt there needs to be a balance regarding the use of digital billboards.

Vice-Mayor Manheimer closed the public hearing at 5:59 p.m.

When it was determined that if the ordinance is adopted, digital billboards are still allowed to apply for a permit if they meet these new stricter standards, Councilman Pelly asked Councilman Hunt for a friendly amendment to his motion to consider a moratorium until a new ordinance can be considered by Council to eliminate the standards entirely. City Attorney Oast noted that it would take just as much time to get a moratorium in place (notice and public hearing) as it would be to direct the Planning & Zoning Commission to review a new ordinance to eliminate the standards and bring it back to City Council for consideration.

The motion made by Councilman Hunt and seconded by Councilman Bothwell to amend the standards regulating digital billboards carried unanimously.

City Attorney Oast noted that these provisions apply only to digital billboards. We are subject to the Cap & Replace ordinance regarding static billboards until January of 2015, including Merrimon Avenue and that portion of Sweeten Creek Road. In summary, Council cannot adopt an ordinance to remove static billboards prior to January 2015.

ORDINANCE BOOK NO. 27 - PAGE

Councilman Hunt moved to instruct the Planning & Zoning Commission to consider an ordinance to eliminate digital billboard standards entirely. This motion as seconded by Councilman Pelly.

Councilman Hunt appreciated the digital billboard companies working with the City in the past and hoped that the good relationship will continue in the future.

In response to Councilman Davis, City Attorney Oast said that if City Council adopts an ordinance eliminating digital billboard standards entirely, the existing digital billboards would be grandfathered, but no new ones could be erected.

Vice-Mayor Manheimer opened the public hearing at 6:10 p.m.

The following individuals spoke in support of eliminating digital billboards entirely:

Mr. Paul Van Heden

Mr. Dave Castel

Mr. Joe Minicozzi, licensed and certified planner with the American Institute of Certified Planners

Vice-Mayor Manheimer closed the public hearing at 6:14 p.m.

In response to Councilman Hunt regarding a timeframe, Ms. Tuch said that the Planning & Zoning Commission could consider the ordinance at their May meeting and it could be back before City Council at the end of May.

The motion made by Councilman Hunt and seconded by Councilman Pelly to instruct the Planning & Zoning Commission to consider an ordinance to eliminate digital billboard standards entirely carried unanimously.

V. UNFINISHED BUSINESS:

A. UPDATE ON LIVING WAGE POLICY

RESOLUTION NO. 12-68 - RESOLUTION ADOPTING A LIVING WAGE FOR FULL- AND PART-TIME CITY EMPLOYEES AND GENERAL SERVICE CONTRACTS \$30,000-\$200,000

Administrative Services Manager Brenda Mills said that the purpose of this staff report is to provide an update on the Living Wage Policy and recommended action for the Fiscal Year 2012-2013, which includes a resolution adopting a living wage for full- and part-time City employees and general service contracts \$30,000-\$200,000.

In April 2011, City Council approved a resolution setting a living wage for City of Asheville full- and part-time employees and contract employees working on General Service contracts \$30,000-\$90,000 in value. The resolution set the living wage for Fiscal Year 2011-2012 at \$11.35/hour without employer provided health insurance and \$9.85/hour with employer provided health insurance.

Based on direction given in 2011, City Council stated its intent to annually evaluate the living wage as part of the budget process to ensure the wage stays current with inflationary indexes (such as the Consumer Price Index) and/or the most current recommendation from Just Economics. The City Council also stated it would evaluate if the living wage provision should be extended to additional thresholds of General Services contracts. Once the rate and contract threshold is set, the City's standard terms and conditions for general service contracts will be updated annually to reflect that wage.

The terms and conditions for contracts within this threshold have contained a provision that the vendor is required to pay a Living Wage to employees who carry out duties specific to the completion of the contract. It has been the City's intent to pay the additional cost of incorporating a living wage into General Service contracts.

Analysis:

(1) Living Wage Rate

It is the recommendation of Just Economics, based on a formula that takes into consideration costs of housing for a single person, that the living wage rate remain unchanged in Fiscal Year 2012-2013 at \$11.35/hour without employer provided health insurance and \$9.85/hour with employer provided health insurance.

(2) Living Wage application to General Service Contracts

The City's new financial system, MUNIS, allows general services contract information to be collected and reviewed each quarter for living wage review. Data collected since July 2011 shows the following impact of the living wage policy on the city's general services contracts:

- Total of 114 general services contracts were let through March 14, 2012
- Number of general services contracts by dollar thresholds:
 - Between \$30,000 and under \$90,000 (17 total) – Eight were subject to living wage and vendor complied with living wage requirements per the City's current policy.

- Between \$90,000 and under \$200,000 (4 total) – All contracts in this threshold would have been subject to living wage if the current policy had included contracts up to \$200,000.
- Over \$200,000 (6 total) – Two contracts in this threshold would have been subject to living wage if the current policy had included contracts above \$200,000.

For the data above, contracts not subject to the living wage would have been those that did not include a labor services (i.e., software licensing purchases, Interlocal agreements, etc.). For the most part, contracts executed in the \$90,000-\$200,000 and above range included services where living wage rates are already paid (audit services, Development Services software implementation, IT infrastructure maintenance, radio infrastructure maintenance, etc.).

The City of Asheville currently meets the current living wage standard for full-time employees, and so no fiscal impact is expected.

Data from contracting in the current fiscal year shows that when the City contracted for services above \$90,000, the vendor typically already paid a living wage. Based on the City's current year performance, the impact of adjusting the General Services contract threshold up to \$200,000 may have a limited financial impact. However, if the City executes large contracts for labor intensive services (i.e., security services, landscaping and mowing services), there may be a more significant impact, possibly ranging from 10-30%.

Adoption of a living wage policy supports the Asheville City Council's goal to make Asheville a place that is affordable for people of all income, life stages and abilities. The Finance Committee reviewed and unanimously approved staff's recommendation at its meeting on March 20, 2012.

Staff recommends adoption of a Living Wage resolution that:

- (1) Sets the living wage rate at \$11.35/hour without employer provided health insurance and \$9.85/hour with employer provided health insurance;
- (2) Increases the contract threshold for General Services subject to the living wage up to \$200,000 for review;
- (3) Directs staff to continue to monitor the impact of an adjustment with data provided to City Council as part of the quarterly financial reports, and;
- (4) Brings the policy back to City Council for official review as part of the FY 13-14 budget process.

In response to Councilman Davis, and for clarification purposes, Ms. Mills explained that the living wage provision for general service contracts from \$30,000-200,000 is a requirement for all bidders. The City would contract with the lowest responsible bidder if they meet all the requirements. We may; however, have to pay a little more for the contract that meets the living wage requirement if the lowest bidder does not pay a living wage.

When we receive bids, Councilman Davis felt it would be helpful to have the figures of how many employers would not be paying a living wage if it were not required and to monitor what the difference would be.

Rev. Christopher Chiaromonte felt that \$11.35 is not a living wage.

The Executive Director of Just Economics thanked the City for the living wage provisions and hoped that other companies will follow in the City's footsteps.

Vice-Mayor Manheimer 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. 12-68. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE307

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Pat Dockery presented Council with a petition which reads “We the undersigned residents of West Asheville would like for all excessive noise (especially from The Get Down club that has shown blatant disregard for the neighborhood) to cease and desist between the hours of 10:00 p.m. and 7:00 a.m.” She also presented Council with a thread from Facebook regarding the noise ordinance. She said she attended the Public Safety Committee and was not satisfied with the outcome. She asked that Council adopt a temporary ordinance until such time as the Public Safety Committee reviews further information from City staff.

Rev. Christopher Chiaromonte asked for Council to investigate why the Asheville Police Department selectively enforces ordinances.

Ms. Judy Mattox, Chair of the local Sierra Club, urged Council to vote for intervention on Senate Bill 183, selective vegetation removal.

Closed Session

At 6:53 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: Scenic NC Inc.; North Carolina Outdoor Advertising Association, et al; State of North Carolina; J. Jerome Jensen, Jr., et al (Biltmore Lake Annexation); Cities of Rocky Mount, Goldsboro, Wilmington, Kinston, Lexington; and Henderson County. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (2) 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 authorization is contained in G.S. 143-318.11(a)(4). This motion was seconded by Councilman Smith and carried unanimously.

At 8:13 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 8:13 p.m.

CITY CLERK

MAYOR