

Tuesday – April 24, 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 Burleson

Absent: Mayor Terry M. Bellamy

PLEDGE OF ALLEGIANCE

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

INVOCATION

Vice-Mayor Manheimer gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 25, 2012, AS “ADMINISTRATIVE PROFESSIONALS DAY”

Vice-Mayor Manheimer read the proclamation proclaiming April 25, 2012, as "Administrative Professionals Day" in the City of Asheville. She presented the proclamation to Ms. Sandy Stotesbury, NC Division President, and Ms. Mary Ann Schiller, Land-of-the-Sky Chapter President, who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING APRIL 29, 2012, AS “GIRLS ON THE RUN DAY”

Councilman Bothwell read the proclamation proclaiming April 29, 2012, as "Girls on the Run Day" in the City of Asheville. He presented the proclamation to Ms. Audrey McElwain, Executive Director of Girls on the Run of WNC, and Ms. Rachelle Sorensen-Cox, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING MAY AS “FOSTER CARE MONTH MONTH”

Councilman Hunt read the proclamation proclaiming May, 2012, as "Foster Care Month" in the City of Asheville. He presented the proclamation to Ms. Tara Foster, representing the Buncombe County Dept. of Human Services, who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING MAY AS “MOTORCYCLE AWARENESS MONTH”

Councilman Pelly read the proclamation proclaiming May, 2011, as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Steve Ensley who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING MAY AS “STROKE AWARENESS MONTH”

Councilman Davis read the proclamation proclaiming May, 2012, as "Stroke Awareness Month" in the City of Asheville. He presented the proclamation to Robin Jones, RN, Stroke Program Coordinator at Mission Hospital; Teri Giordano, Paramedic with Buncombe County EMS and Coordinator of Go Gray In

May Because Gray Matter Matters, who briefed City Council on some activities taking place during the month.

F. PROCLAMATION PROCLAIMING MAY 6-12, 2012, AS "NATIONAL NURSES WEEK"

Councilman Smith read the proclamation proclaiming May 6-12, 2012, as "National Nurses Week" in the City of Asheville. He presented the proclamation to Ms. Kathleen Guyette, Senior Vice President and Chief Nursing Officer of Mission Health, and nurses from Mission Hospital, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 10, 2012**
- B. MOTION SETTING A PUBLIC HEARING ON MAY 22, 2012, ON THE 2012-13 ANNUAL OPERATING BUDGET**
- C. RESOLUTION NO. 12-87 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH RIVERLINK INC. FOR THE PURPOSE OF INSTALLING AND OPERATING PUBLIC PARKING AND PUBLIC RIVER ACCESS AT 706 RIVERSIDE DRIVE**

Summary: The consideration of a resolution authorizing the Mayor to execute a Lease Agreement with RiverLink, Inc. for the purpose of installing and operating public parking and public river access on city-owned real property at 706 Riverside Drive, Asheville, NC.

On November 22, 2011 RiverLink, Inc. presented information to the Asheville City Council on the organization's current revitalization focus at the intersection of Riverside Drive and Pearson Bridge Road. Within its stated mission to revitalize the French Broad River corridor, RiverLink, Inc. is seeking to establish a lease agreement for city owned property at 706 Riverside Drive. The purpose of this lease is to establish public parking and a future river access point for river recreation.

The property located at 706 Riverside Drive is approximately 0.46 acres. The land is undeveloped and encumbered with significant Metropolitan Sewerage District (MSD) sewer lines. A large portion of the property is contained within the French Broad River 100 year floodplain. Per the proposed Lease, RiverLink's responsibilities will include the installation and ongoing operation of a public parking lot and future river access point. All physical improvements are subject to the City approval, with the City to be responsible for placing signage on the property for public use. The proposed lease terms are as follows:

- (1) Term of five years, with a five year renewal.
- (2) Tenant responsibilities: Installation of all improvements, per zoning standards. Must maintain cleanliness of property, landscaping, improvements, clearing of debris.
- (3) Mutual rights to terminate lease
- (4) Public signage will be the responsibility of the City of Asheville
- (5) Rental: In that property will be maintained for public use, rental is established at \$1 per year
- (6) Greenway: this property is intended for a future greenway. The City reserves the right to design and construct the greenway through the property as the eventual design dictates.
- (7) Easements to remain in place: MSD sewer easements, power line easements

The Notice of Intent to enter into a Lease Agreement with RiverLink, Inc. was published on April 13, 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 – Job Growth and Community Development Goal by supporting riverfront redevelopment with an area partner. In addition, this action supports the Wilma Dykeman Riverway Master Plan by encouraging riverfront revitalization.

Pro:

- Activates an under-utilized property along the French Broad River corridor

Con:

- None

No expenses or in-kind services are required of the city for this lease agreement except for the modest costs associated with public signage. The city will receive no rental income from this lease.

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the lease agreement with RiverLink, Inc. on behalf of the City of Asheville.

RESOLUTION BOOK NO. 34 – PAGE 353

D. RESOLUTION NO. 12-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CAROLINA MOUNTAIN ROOFING FOR THE TRANSIT GARAGE ROOF REPLACEMENT PROJECT

ORDINANCE NO. 4076 - BUDGET AMENDMENT FOR THE TRANSIT GARAGE ROOF REPLACEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$152,925 and any change order within the budgeted amount with Carolina Mountain Roofing for the project known as Transit Garage roof replacement; and a budget ordinance amendment in the amount of \$17,000 to move funds from the Transit Capital Reserve funds to the Transit garage roof repair project to increase the total project budget to \$177,000.

The purpose of the project is to repair the roof at the transit operations garage. The subject building, which was constructed in 1971, is a one-story steel and masonry structure containing about 12,600 square feet. The current roof is an EPDM ballasted roof that was installed in 1985. The membrane on the roof has deteriorated to the point that leaking is occurring in the parking shed, vehicle maintenance area, and offices during rain events. This leaking not only creates a safety hazard with the electrical wiring and equipment in the garage but it has also caused the wood to rot around the skylights and flashing at the mechanical units.

The existing insulation has also been damaged and is therefore not energy efficient. It needs to be replaced in the areas where the water damage has occurred. We do not know at this time if any major structural damage has occurred.

The project would replace the existing roof with a new EPDM mechanically adhered roofing system, which would meet current energy conservation requirements and it would provide savings in energy consumption.

The City issued a Request for Qualifications and hired REI Engineers, Inc. (REI) on April 14, 2011, as the engineering firm to design, develop the technical specifications, and manage the construction project. REI developed the specifications and the city released the construction bid on July 22, 2011. The bids received were higher than the budget available and the bid was not awarded. On November 22 2011 City Council approved a capital project budget for the transit operations garage roof repair in the amount of \$160,000.

REI developed new specifications to bid the project again. An informal request for bids was issued on January 30, 2012 and bids were opened on February 23, 2012. Carolina Mountain Roofing was the responsive low bidder at \$152,925.

The budget set aside for this project is not enough to cover construction costs and engineering fees. Therefore, city staff is requesting the reallocation of \$17,000 in the CIP budget from the Transit Capital Reserve funds to the roof project to be able to complete the necessary roof repairs. The total cost of the project will now be \$177,000. Due to constraints in the grant allocation Federal Funds will provide 72% of the cost, which equates to \$128,000 and the remaining \$49,000 will come from the local match.

The project is scheduled to take place during the next three months.

This action complies with the 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:

- Provides needed maintenance to an aging facility.
- Helps to make the building safe and more energy efficient which should generate savings in energy consumption.
- Federal Funds will provide 72% of the total project cost, which equates to \$128,000.

Cons:

- The total cost of the project is \$177,000.
- The City's share of the total cost of the project is \$49,000.

There is currently \$74,000 available in the Transit capital reserve project that has accumulated from projects that came in under budget. Staff is recommending that Council appropriate \$17,000 from the reserves to cover the increased cost of the garage roof repairs. After this appropriation, there will be approximately \$57,000 available for future allocation.

Staff recommends that City Council adopt (1) a resolution authorizing the City Manager to execute a contract with Carolina Mountain Roofing for the project known as Transit Garage roof replacement; and (2) a budget ordinance amendment to reallocate \$17,000 from the Transit Capital Reserve funds to the project budget for the Transit Operations Garage roof repair project.

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ORDINANCE BOOK NO. 27 - PAGE**

E. RESOLUTION NO. 12-89 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION OF COMPUTERES AND RELATED EQUIPMENT FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2012

ORDINANCE NO. 4077 - BUDGET AMENDMENT FOR PERSONAL COMPUTER REPLACEMENTS

Summary: The consideration of a resolution authorizing the reimbursement of the City from proceeds of the financing for project expenses incurred prior to the execution of the installment purchase contract; and a budget amendment, in the amount of \$115,000 from debt proceeds, for the purchase of lifecycle replacements for computers and related equipment.

In previous years, the City of Asheville has used an operational lease for computer equipment. This offered the operational benefit of a lifecycle replacement for computers every four years, which allowed for more reliable computing for employees. However, during staff analysis during the operational lease rebid process, staff chose to move away from the operational lease model for several reasons.

First, during difficult budget years, when computers are purchased, rather than leased, an extension of the lifecycle is at zero cost. Second, according to staff financial analysis, it has the potential to save between 12-30% on payments.

The purchase of the computer equipment is the second of a 5-step process. The purchase will be from state and other authorized contracts. To execute the purchase, staff seeks authorization for both a budget amendment as well as a reimbursement resolution. When the FY 2011-12 budget was adopted, staff had not finalized its plan to purchase rather than lease computers, therefore only the operational lease costs were included in the adopted budget, not the purchase price. In September, Council approved a \$350,000 budget amendment for the purchase of the first round of computer replacements. This second budget amendment, which is for \$115,000, will provide funding for the next round of replacements that will occur in this fiscal year. The revenue to support this purchase will come from debt proceeds. The money that was budgeted for the remaining operational lease payments will be redirected to pay debt service on this financing. The purpose of the Reimbursement Resolution is to provide the City with the ability to move forward with the project and reimburse its accounts upon the issuance of the debt. The Resolution does not specifically authorize the issuance of the debt.

This action complies with City Council's strategic operating plan, specifically the Fiscal Responsibility goal of making smart investments

Pros:

- Continue to offer the lifecycle replacement, allowing for more reliable computing for employees
- Save between 12-30% on lease payments

Con:

- In the past, with an operational lease, keeping old computers had a cost, making the decision to replace the computers with modern equipment an easy one. With the new capital lease, there is no cost to retain old computers, and it may be tempting to leave old, obsolete computers in place.

As noted above, the purchase of the computer replacements will be funded with debt proceeds. The savings from the operational lease payments will be used to pay the debt service on this borrowing.

City staff recommends that City Council adopt (1) a resolution authorizing the reimbursement of the City from proceeds of the financing for project expenses incurred prior to the execution of the installment purchase contract; and (2) a budget amendment, in the amount of \$115,000 from debt proceeds, for the purchase of lifecycle replacements for computers and related equipment.

**RESOLUTION BOOK NO. 34 – PAGE 355
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F. RESOLUTION NO. 12-90 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT WITH BLUE CROSS BLUE SHIELD OF NORTH CAROLINA FOR THIRD PARTY ADMINISTRATOR SERVICES FOR THE CITY'S HEALTH INSURANCE PLAN

Summary: The consideration of a resolution authorizing the City Manager to enter in to a service agreement with the City of Asheville and Blue Cross Blue Shield of North Carolina for Third Party Administrator services for the City of Asheville's health insurance plan.

The City of Asheville is required to provide health insurance for our City employees. In an effort to promote Council's employer of choice strategic goal by providing the best and most cost effective benefit plan and providers for our employees, the City of Asheville utilized a formal bidding process for health insurance providers as Third Party Administrators (TPA). The City utilized our brokerage firm, The Ferguson Employee Benefit Agency, to facilitate this process. We received 15 proposals in response to our Request for Proposals. The Ferguson Employee Benefit Agency worked with staff to review each proposal. Staff heard presentations from four of the TPAs. Evaluation of the proposals included items

such as; experience in doing business in Western North Carolina, cost, network coverage and discounts, ability to support the Asheville Project, consumer tools, employee satisfaction.

After a thorough review the vendor selected is Blue Cross Blue Shield of NC.

This action aligns with City Council's Strategic Operating Plan in that it is an effort to promote Council's employer of choice strategic by providing the best and most cost effective benefit plan and providers for our employees

Pros:

- BCBS network discounts.
- Expanded Network access to employees and covered lives outside of the region.
- Enhanced online tools for consumers and practitioners.
- Web and phone support tools for employees to include online disease management and cost comparison tools.

Con:

- Possible transition issues that normally may occur when switching providers of these services.

The projected administrative costs for the new TPA service contract are \$660,950 for the first year, which represents a 47% increase over the current year fees. This increase is due primarily to BCBS's network access fee, however based on thorough analysis this increase will be offset by the network discounts received by utilizing the BCBS network.

Analysis was done by an independent firm that reviewed a total of twelve months of recent claims history comparing current discounts with those offered by the BCBS Network. In addition, Ferguson Employee Benefit Agency did a review comparing the top 100 codes by frequency, top 50 providers by cost, and top 10 hospitals by cost to further validate the results and ensure that network discounts were substantial enough to offset the increased administrative costs.

The City will be consolidating pharmacy benefits with BCBS eliminating other administrative expenses/costs associated with our current Pharmacy Benefit Manager and BCBS will also assume responsibility for managing the network access for mental health services. Funding for this contract is budgeted in the Health Insurance Fund.

City staff recommends City Council adopt resolutions authorizing the City Manager to enter in to service agreements with the City of Asheville and BCBS for Third Party Administrator services for the City of Asheville's health insurance plan.

RESOLUTION BOOK NO. 34 – PAGE 357

G. RESOLUTION NO. 12-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO THE CURRENT CONTRACT WITH RIVERTOP CONTRACTING INC. FOR PACK SQUARE PARK MAINTENANCE TO ADD FOUNTAIN AND ADDITIONAL GROUNDS MAINTNEANCE AND TO EXECUTE AN AMENDMENT TO THE CURRENT CONTRACT INCORPORATING THESE CHANGES

Summary: The consideration of a resolution authorizing the City Manager to execute a change order to the current contract with Rivertop Contracting, Inc. for Pack Square Park grounds maintenance to add fountain and additional grounds maintenance in the amount of \$33,362 and to execute an amendment to the current contract incorporating these changes.

The City of Asheville is responsible for the maintenance of Pack Square Park and contracts with Rivertop Contracting, Inc. for maintenance at this location. Since entering into the contract with Rivertop, it has been determined to add specialized maintenance services for the three fountains located in the park, and to add general ground maintenance at the new pavilion which is about to open in the park. The cost to add these services to the current contract is \$33,362, which is budgeted within the FY 2011-2012 adopted operating budget for Pack Square Park.

Pack Square Park Budget

Revenue:	\$150,000	City of Asheville
	<u>\$150,000</u>	Buncombe County
Total	\$300,000	
Expense:	\$90,000	Rivertop Maintenance Contract
	<u>\$33,362</u>	Rivertop Maintenance Contract Change Order
Total	\$123,362	
(Over)/Under	\$176,638	

This action complies with the Parks, Recreation, Cultural Arts, and Greenways Master Plan in that the expanded contract will support a higher level of maintenance delivery for Pack Square Park.

Pros:

- Enables the City to maintain the pavilion area and the three fountains in Pack Square Park Pavilion Site at the level of maintenance standards required at this location.
- Provides for daily pavilion and fountain maintenance on a daily basis.

Con:

- None

The \$33,362 to support the increased cost in the Pack Square Park contract is budgeted in the FY 2011-2012 Parks, Recreation & Cultural Arts Department operating budget as part of the Pack Square Park budget. In addition to funding the park maintenance contract, the \$300,000 Pack Square Park budget is designed to support utilities and supply costs associated with operating park. The City and Buncombe County evenly split the operating costs associated with the Park.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a change order to the current contract with Rivertop Contracting, Inc. for Pack Square Park grounds maintenance to add fountain and additional grounds maintenance in the amount of \$33,362 and to execute an amendment to the current contract incorporating these changes.

RESOLUTION BOOK NO. 34 – PAGE 358

H. RESOLUTION NO. 12-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING THE REPLACEMENT OF BRIDGE OVER POND ROAD AND HOMINY CREEK ON I-26

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N.C. Dept. of Transportation (NCDOT) approving the replacement of Bridge # 235 and # 238 over SR 3431 (Pond Road) and Hominy Creek on I-26.

The NCDOT plans to replace Bridge # 235 and # 238 over SR 3431 (Pond Road) and Hominy Creek on I-26. As a part of the agreement, the City agrees to effect the necessary adjustment of any utilities under franchise without cost to the NCDOT and to provide for the adjustment of any municipally-owned utilities without cost to the NCDOT, except that the NCDOT will reimburse the City in accordance

with the NCDOT's Municipally-Owned Utility Policy. These requirements are standard requirements in all of NCDOT's Municipal Agreements and may or may not be applicable for a specific project. Since the City of Asheville does not have any utilities under franchise, this specific requirement is not applicable. The Water Resources Department has reviewed the proposed project plans and has confirmed that municipally-owned water lines will not be relocated as a part of the subject project; therefore, a separate utility agreement, detailing the specific requirements and associated costs, is not needed.

The NCDOT has confirmed that the subject municipal agreement does not require a financial commitment.

This action complies with the City Council 2011-12 Strategic Operating Plan by partnering with the NCDOT to make improvements to the existing street infra-structure.

Pros:

- Two existing sub-standard bridges along the interstate highway system will be replaced.
- The NCDOT is funding and constructing the project.

Con:

- There are no identifiable cons.

There is no estimated cost to the City.

Staff recommends that City Council approve a resolution authorizing the City Manager to sign a municipal agreement with the NCDOT formally approving Project B-5178.

RESOLUTION BOOK NO. 34 – PAGE 359

I. ORDINANCE NO. 4078 - BUDGET AMENDMENT FOR TWO PART-TIME TEMPORARY INTERNS

Summary: The consideration of a budget amendment, in the amount of \$ 3,600, from Warren Wilson College, to appropriate revenue and budget expenditure accounts associated with the payment for two part time temporary interns.

The City of Asheville and Warren Wilson College (WWC) formed a strategic partnership in June 2007 to collaborate in our efforts to reduce green house gas emissions. A valuable part of this partnership is to provide professional development opportunity to WWC students. Warren Wilson College will provide the funds for payment to these interns upon approval of this budget amendment request.

The Sustainability Education Intern will support energy efficiency outreach efforts in the Office of Sustainability. The Transit Intern will support information gathering for transit routes in the Transportation Department.

This action complies with the City Council Strategic Operating Plan in the following ways: (1) Seek efficiencies in master plan implementation by identifying plan interdependencies, funding sources and key partnerships; (2) Expand partnerships with institutions to achieve common goals; (3) Identify strategies and costs for increasing the city's annual energy reduction goal to 4%.

Pros:

- Internship supports the Transportation Department in implementing the Transit Master Plan
- Internship supports the City Office of Sustainability efforts to reduce carbon footprint of city operations

Cons:

- None identified.

The \$3,600 for the interns' stipend will be funded through Warren Wilson College to be paid through the City of Asheville.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with payment of an interns stipend.

ORDINANCE BOOK NO. 27 – PAGE

J. RESOLUTION NO. 12-93 - RESOLUTION OF INTENT TO CLOSE A PORTION OF VICTORIA ROAD AND SET THE PUBLIC HEARING ON MAY 22, 2012

Summary: The consideration of a resolution of intent to permanently close a portion of Victoria Road, and setting a public hearing on May 22, 2012.

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

Pursuant to this statute, adjacent property owner Mission Hospital Inc. and Aycock Jr. and Owen E. et al William R has requested the City of Asheville to permanently close a portion of Victoria Road.

The proposed permanent closure of a portion of Victoria Road was on the Greenway Commission's agenda at their regular meeting on April 12, 2012, and they approved the closure unanimously.

This closure allows for 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 of intent to permanently close a portion of Victoria Road, and setting a public hearing on May 22, 2012.

RESOLUTION BOOK NO. 34 – PAGE 360

K. RESOLUTION NO. 12-94 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY IN BILTMORE VILLAGE AND SET THE PUBLIC HEARING ON MAY 22, 2012

Summary: The consideration of a resolution of intent to permanently close an unnamed alley in Biltmore Village, and setting a public hearing on May 22, 2012.

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

Pursuant to this statute, adjacent property owner's John William Bell Jr., Janis E. Bell and Wachovia Bank and Trust Company have requested the City of Asheville to permanently close an unnamed alley in Biltmore Village.

The proposed permanent closure of an unnamed alley in Biltmore Village was placed on the Greenway Commission's agenda at their regular meeting on April 12, 2012, and they 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 of intent to permanently close an unnamed alley in Biltmore Village, and setting a public hearing on May 22, 2012.

RESOLUTION BOOK NO. 34 – PAGE 362

L. RESOLUTION NO. 12-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SITE DEVELOPMENT CORPORATION FOR THE NORTH LOUISIANA SIDEWALK IMPROVEMENTS PROJECT – EMMA ELEMENTARY SCHOOL TO MALLARD DRIVE

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$189,145.50 and any change order within the budgeted amount with Site Development Corporation for the project known as North Louisiana Avenue Sidewalk Improvements – Emma Elementary School to Mallard Drive, TIP# SR-5001D, City of Asheville Project # ENG-08-09-002.

The City of Asheville will receive \$250,000 from FHWA through a Safe Routes to School grant to fund the project. A formal request for bids was issued on March 12th, 2012 and bids were opened on April 10th, 2012. Site Development Corporation, a business from Cliffside, NC, was the low bidder at \$189,145.50. The disadvantaged business enterprise (DBE) goal of 4.0% was exceeded at 5.15%. This is a unit price contract and not a lump sum contract.

This project will build much needed sidewalk 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, 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 a Safe Routes to School grant, 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 \$189,145.50 of transportation infrastructure improvements at minimal cost to the City. There is a total of \$250,000 budgeted for this project. As noted above, this project is fully funded with grant proceeds.

City staff recommends City Council adopt a resolution awarding the contract to Site Development Corporation and authorizing the City Manager to execute on behalf of the City of Asheville the contract and any change order within the budgeted amount.

RESOLUTION BOOK NO. 34 – PAGE 363

M. MOTION RESCHEDULING THE PUBLIC HEARING ON THE MUNICIPAL SERVICE DISTRICT FOR DOWNTOWN ASHEVILLE FROM MAY 22, 2012, TO JUNE 12, 2012

N. RESOLUTION NO. 12-96 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT TO EASEMENT FOR PACK PLACE EDUCATE ARTS & SCIENCE CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to an easement to allow for the installation of electrical service lines for a sign on the western or Biltmore Avenue façade of Pack Place.

The City owns the real estate on which Pack Place Education Arts & Science Center is located. Pursuant to a complex set of agreements, and as owner of the property, the City has the authority to grant easements for various purposes in connection with the operation of Pack Place.

The Diana Wortham Theatre is one of the facilities located in Pack Place. As part of the reallocation of space within the building, the main entrance to Pack Place that is on Pack Square will be used primarily by the Art Museum, and the main entrance to the Diana Wortham Theatre and the Colburn Earth Science Museum is being moved to the courtyard, which is accessed from Biltmore Avenue. In connection with this move, Diana Wortham Theatre proposes to locate a sign on the Biltmore Avenue façade of the building. The sign will also serve the Colburn Museum. In order to provide electrical power to the sign, it is necessary to run a conduit through the courtyard, which is essentially unimproved common area under the control of the City of Asheville. The conduit will be installed in an unobtrusive manner, and a conceptual drawing of the façade sign will be available at the Council meeting, if not attached.

This action aligns with City Council's Strategic Operating Plan in the goal of supporting a vibrant and active center city, as expressed in the Downtown Master Plan.

Pros:

- Allows for better identification of the entrance to Diana Wortham Theatre and the Colburn Earth Science Museum.
- Supports the renovation of Pack Place.

Cons:

- Slight additional burden on an existing easement.

Recited consideration of \$10 to the City. Negligible financial impact.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 34 – PAGE 364

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

III. PRESENTATIONS & REPORTS: None

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2012 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS

RESOLUTION NO. 12-97 - RESOLUTION ADOPTING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2012 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS

Community Development Director Jeff Staudinger said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2012-2013, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development.

The City will have available an estimated \$1,213,892 in CDBG funds and \$1,039,140 in HOME funds in the fiscal year beginning July 1, 2012. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 31 programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2010-2015.

This proposed Action Plan reflects a 16% reduction in CDBG Entitlement funding from last year (on top of a 16% cut last year from the year before), and a 26% reduction in HOME Entitlement funding. The CDBG cuts were buffered somewhat by the receipt of Program Income, which is returned to the grant fund for reallocation. The CDBG grant this year is \$26,601 less than last year. The HOME grant funds are \$384,224 less than last year. This combined funding cut of \$410,825 this year, following last year's cut of \$388,187 continues to have repercussions internally and externally. The Community Development Division will maintain its staffing this year using reserved prior year funds but significant cuts are being felt across the board by all subrecipients and their community development projects.

HOME funds and CDBG funds will assist in creating or improving 190 housing units and helping an additional 229 households afford housing Consortium-wide. CDBG funds will also benefit more than 3,775 low-income City residents through homeless services, housing counseling, small business assistance, and other needed services. Our partner agencies will contribute approximately \$18,513,000 of other funding to these programs, leveraging \$8.21 for every \$1 of HOME and CDBG funds.

A public hearing will be held at the Council meeting of April 24. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15.

This Annual Action Plan directly supports Council's Strategic Goals of:

- Affordable: This plan directly supports the City's affordable housing plan, uses innovative public-private partnerships to incentivize affordable housing development, and supports initiatives to end chronic homelessness emphasizing the Housing First model;
- Green and Sustainable: works with regional partners creating green buildings and energy conservation;
- Safe: Supports employment alternatives for youth at risk of gang exposure
- Job Growth and Community Development: Supports diversified job growth and small business development; promotes sustainable high-density infill growth; and attracts and retains quality employees.

Pros:

- Approval of the Action Plan paves the way for the receipts of over \$2,200,000 of HUD funding to the City, which will be used to create affordable housing, create jobs, and improve public infrastructure.
- HUD funding will leverage \$18,500,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment. New assisted housing units to be constructed in Asheville will add to the City's tax base.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2012-13 to the U. S. Dept. of Housing and Urban Development.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2012-13 to the U. S. Dept. of Housing and Urban Development.

Councilman Davis, Chair of the Housing & Community Development Committee, said it was very difficult for the Committee to make their recommendation in that all the requests were for good projects, but regrettably there was not enough money to fund everything.

Vice-Mayor Manheimer opened the public hearing at 5:40 p.m. and when no one spoke, she closed the public hearing at 5:40 p.m.

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

Councilman Pelly moved for the adoption of Resolution No. 12-97. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 34– PAGE 365

B. PUBLIC HEARING TO REZONE A PORTION OF PROPERTY LOCATED ON GERBER ROAD FROM URBAN VILLAGE DISTRICT/CONDITIONAL ZONING TO COMMERCIAL BUSINESS II DISTRICT

ORDINANCE NO. 4079 - ORDINANCE REZONING A PORTION OF PROPERTY LOCATED ON GERBER ROAD FROM URBAN VILLAGE DISTRICT/ CONDITIONAL ZONING TO COMMERCIAL BUSINESS II DISTRICT

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone a portion of property located on Gerber Road from Urban Village District/Conditional Zoning to Commercial Business II District. This public hearing was advertised on April 13 and 20, 2012.

The current application is to rezone 4.25 acres of the original Gerber Urban Village property from Urban Village (UV) to Community Business Two (CB II). Last fall, the developed portion which includes the shopping center (about 7.22 acres) was rezoned from UV to CB II because the bank holding the note on the development foreclosed on the property and subsequently sold the different parcels to new owners. As was noted during that rezoning request, the Urban Village zone was created in 2001 and was applied to the large Gerber tract along with a master development plan. Only a portion of the site fronting along Hendersonville Road was actually built and a large section of the property (about 16 acres) has remained vacant. The downturn in the economy has been discussed as the main cause for the failure of this urban village project.

The parcel under consideration with this application is located on the south side of Gerber Road and is physically disconnected from the other portions of the site. The property cannot stand alone as an Urban Village because it does not meet the standard size for UV zoned areas (5 acres) and the buildable area is limited because a sizable portion of the lot that runs along Gerber Road is too narrow for development. The request to rezone the property to CB II is based on the size of the property and its limited buildable area with access from Gerber Road. . The intended scale for development in the CB II zone is appropriate for smaller parcels located along streets such as Gerber Road.

The proposed CB II zone is intended to provide areas for medium to high density commercial uses serving several residential neighborhoods. The district requires parking to be placed to the side or rear of the building which is a pedestrian oriented building standard to encourage pedestrian access and movement through the district. The location for CB II zoned areas is appropriately located on major thoroughfare streets to ensure adequate access. The list of allowed uses is extensive in anticipation of the wide range of commercial uses needed to serve as a community base. Individual buildings cannot exceed 45,000 square feet.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable because the larger Urban Village project is being redirected because the property has been divided up and sold to different buyers and because the CB II zone is appropriately scaled for smaller lots like the subject parcel.

The Planning and Zoning Commission reviewed the rezoning request at their meeting on April 4, 2012. The only comment was from the owner's agent. Because of a recent rezoning for the Gerber Village area and a current conditional zoning proposal for apartments for the other remaining portion of the parcel, this rezoning request was expected given the changes in the development direction for the entire Gerber Village property. The Planning and Zoning Commission voted 5-0 (with 2 absent) to recommend approval of the rezoning request.

Pros:

- The proposed rezoning is responsive to changing market conditions and economic realities.
- The proposed zoning will be compatible with the scale of the parcel and the surrounding area.
- The zoning change is expected to encourage investment on the parcel.

Con:

- Mixed-use projects are becoming unlikely for this site and the surrounding area.

The Planning & Zoning Commission recommended approval of the rezoning from UV to CB II and staff supports that recommendation.

Vice-Mayor Manheimer opened the public hearing at 5:44 p.m. and when no one spoke, she closed it at 5:44 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 found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4079, subject to the following conditions: (1) This project will undergo review by the appropriate reviewing body prior to the issuance of any site development permits; (2) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; and (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY IDENTIFIED AS GIVENS PARK APARTMENTS, LOCATED ON GERBER ROAD, FROM URBAN VILLAGE DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 240 UNIT ELDERLY AFFORDABLE HOUSING COMPLEX, WITH A MODIFICATION REQUEST TO SECTION 7-11-3 (D) (3) (C) OF THE UNIFIED DEVELOPMENT ORDINANCE TO ALLOW FOR THE PLACEMENT OF REQUIRED STREET TREES

ORDINANCE NO. 4080 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY IDENTIFIED AS GIVENS PARK APARTMENTS, LOCATED ON GERBER ROAD, FROM URBAN VILLAGE DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 240 UNIT ELDERLY AFFORDABLE HOUSING COMPLEX

Urban Planner Nate Pennington said that this is the consideration of an ordinance to conditionally zone property identified as Givens Park Apartments, located on Gerber Road, from Urban Village District to Highway Business District/Conditional Zoning for the development of a 240 unit elderly affordable housing complex, with a modification request to Section 7-11-3 (d) (3) (c) of the Unified Development Ordinance to allow for the placement of required street trees. This public hearing was advertised on April 13 and 20, 2012.

The applicant is requesting a Conditional Zoning for a portion of one (1) parcel zoned UV (Urban Village to HB-CZ (Highway Business – Conditional Zoning) for the development of a 240 unit senior housing development in accordance with Section 7-7-8 of the UDO.

The subject property consists of a portion of one parcel comprising 16.95 acres (split by Gerber Road) according to the submitted site plan and is located in the City of Asheville's corporate limits. The property is located along the north side of Gerber Road and behind the Gerber Village Shopping Center on Hendersonville Road. If approved, the subject property would be subdivided into two (2) separate parcels which would create separate tracts of land on each side of Gerber Road. The portion of property (4.25 acres) south of Gerber Road is being considered for a standard rezoning under a separate

application. The proposed project density is 18.6 units per acre. The maximum density permitted in the HB zoning district is 32 units per acre.

The following list provides a breakdown of the proposed development:

- 5 story construction
- 2 apartment buildings - 240 total units (120 units per building)
- 188 – one bedroom units
- 52 – two bedroom units
- Covered pavilion, leasing area, walking trails and outdoor seating areas
- Large surface parking fields
- Approximately 800 linear feet of retaining walls, ranging in height from 5 to 8 feet
- New public sidewalk and other basic site improvements

The subject property is vacant and was previously graded to support the Gerber Village development. With the exception of existing evergreen trees along Gerber Road, the site is mostly void of vegetation.

The apartment project is proposed to be built in two (2) phases with one (1) building and associated parking to be constructed in each phase. The pavilion/seating area and a trail system are proposed to be built as part of phase I.

Access to the site is proposed to be provided from three points of ingress/egress (one is ingress only) along Gerber Road.

According to the site plan, 318 parking spaces are provided. This amount of parking is well within the minimum/maximum parking threshold and is inclusive of required ADA spaces. Sixteen bicycle parking spaces are provided and this number is in compliance of the required 5% bicycle parking standard. Vehicle parking is dispersed throughout the site with the majority of parking located to the sides and rear of the proposed buildings.

Street trees will be required along the entire frontage of Gerber Road – with one modification being requested (see below). Building impact and retaining wall landscaping are dispersed throughout the site. Parking lot landscaping has been provided in applicable areas and tree save areas are located towards the perimeter of the site.

The open space requirement for this type of development is 15% of the total site size; a total of 2.45 acres for this site. The site plan illustrates that more than adequate open space has been reserved to meet this requirement.

Section 7-11-3(d)(3)c. of the UDO provides that street trees are required to be located no farther than 20 feet from the edge of pavement. Due to the location of existing underground and overhead utilities as well as a natural gas relief valve platform along Gerber Road, the applicant is requesting a modification to place required trees as far back as 35 feet from the edge of pavement. **The staff finds this request to be reasonable and supports the modification.**

A continuous sidewalk will be constructed along Gerber Road.

This proposal was approved with conditions by the Technical Review Committee on March 19, 2012.

This proposal, together with the modification request listed above, was approved unanimously with conditions by the Planning and Zoning Commission on April 4, 2012. One audience member suggested that the project include urban gardening options, and asked about transit options near the project.

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 requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
- 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 subject property is vacant and was previously graded years ago to support the Gerber Village development. The property is surrounded by high intensity commercial uses, vacant property, road infrastructure and an active rail line. The proposed infill development is clustered towards the center of the site and will be planted with required landscaping.
- 3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
As noted in Finding #2, the proposed development is compatible with surrounding uses and adjacent transportation corridors.
- 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.**
As noted in Finding #2, the development is proposed in an area surrounded by other uses of similar intensity and served by adequate infrastructure. The proposed density is approximately one-half of the permitted residential density for the HB zoning district and is currently zoned to accommodate a much higher density.
- 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.**
Elements of the proposal are aligned with the City's goals and objectives for "Affordable" and "Green and Sustainable," as noted in the Compliance with Comprehensive Plan and other Adopted Plans section (listed above).
- 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 property is located along Gerber Road in the vicinity of Sweeten Creek Road and Hendersonville Road. The nearest bus stop is approximately 100 feet north of the Gerber Village Shopping Center along Hendersonville Road and a pedestrian access point is proposed allowing for ingress/egress into the shopping center from the project. Adequate water supply, fire and police protection, waste disposal and similar facilities are verified during the TRC review process.
- 7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
The impact of the proposed use as revised (Givens Park Apartments) is expected to be substantially less than the density associated with the previously approved Urban Village residential use. As a result, the revised proposed use is not expected to cause undue traffic congestion or create a traffic hazard.

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

Pros:

- Higher density development furthers the goals and objectives of the comprehensive plan.
- The project meets City goals of providing green, affordable and infill development.

Cons:

- None noted.

Staff recommends approval of the project, including the modification request, as submitted by the applicant, with the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures (including wall packs) and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee if applicable; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) A minor subdivision application must be submitted and approved to create the lot to the south of Gerber Road that is being rezoned as part of a separate application.

Vice-Mayor Manheimer opened the public hearing at 5:48 p.m.

Mr. Tracy DeBruhl urged the developer to use local labor.

Mr. Matt Sprouse, SiteWorks Studio, explained how they are excited about the project and how it fits a need in the community.

Vice-Mayor Manheimer closed the public hearing at 5:51 p.m.

Council members spoke in support of the project, and even though they cannot mandate the developer to use local labor they would encourage it.

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

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4080 to conditionally zone property identified as Givens Park Apartments located on Gerber Road, from Urban Village District to Highway Business District/Conditional Zoning for the development of a 240 unit elderly affordable housing complex, with the modification to place required trees as far back as 35 feet from the edge of pavement, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures (including wall packs) and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee if applicable; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) A minor subdivision application must be submitted and

approved to create the lot to the south of Gerber Road that is being rezoned as part of a separate application. This motion was seconded by Councilman Bothwell and carried unanimously by a 7-0 vote.

ORDINANCE BOOK NO. 27 - PAGE

D. PUBLIC HEARING TO REZONE A PORTION OF PROPERTY LOCATED AT 2 COMPTON DRIVE FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT

ORDINANCE NO. 4081 - ORDINANCE REZONING A PORTION OF PROPERTY LOCATED AT 2 COMPTON DRIVE FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of property located at 2 Compton Drive from RS-8 Residential Single Family High Density District to Institutional District. This public hearing was advertised on April 13 and 20, 2012.

Eliada Homes, Inc. has petitioned the City of Asheville to rezone a portion of their 203.41 acre property off of Compton Drive from RS8 to Institutional. The property abuts existing Eliada Homes property that is zoned institutional to the north and east. The subject property contains a single-family home and a portion of the drive for Erwin Hills Baptist Church accessing from New Leicester Highway.

The applicants are petitioning for this rezoning in order to perhaps develop the property as part of the Eliada Homes operation sometime in the future. The other 198 acres owned by Eliada Homes is zoned Institutional. Access to the property for institutional purposes would be via Compton Drive or off a shared drive with the church.

The property to be rezoned is 5.4 acres in size. It is relatively flat near Compton Drive but slopes sharply down to New Leicester Highway.

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

This rezoning request was recommended for approval by a 5-0 vote at the Planning & Zoning Commission meeting on April 4, 2012. There were no speakers in the public hearing.

Pros:

- Addresses the goal found in the Asheville City Development Plan: 2025 that appropriate non-residential uses that serve residents should be permitted in appropriate locations.
- Allows for all property owned by an institutional operation to be zoned as Institutional.

Con:

- None noted

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

Vice-Mayor Manheimer opened the public hearing at 5:56 p.m., and when no one spoke she closed the public hearing at 5:56 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 Pelly moved for the adoption of Ordinance No. 4081, and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE

E. PUBLIC HEARING TO DEMONSTRATE SUPPORT AND SOLIDARITY BY ASHEVILLE WATER CUSTOMERS IN DEFENDING OWNERSHIP OF ITS WATER SYSTEM

Vice-Mayor Manheimer said that they now have the report from the Legislative Research Commission studying this issue. They made the following three recommendations: (1) That the Metropolitan Sewerage District Act be amended (a) to allow Henderson County to have two board members on the MSD board (reducing the number of seats Asheville has from 3 to 1 and reduce the number of Buncombe County seats from 3 to 2); and (b) to allow MSD to run a water system; (2) That the Conservation Trust for North Carolina continue to work with the City of Asheville as the parties consider clarifying the 1996 Asheville Watershed Conservation Easement; and (3) Merging the Public Utility Water System with the Metropolitan Sewerage District of Buncombe County (MSD would take over the running of the water system entirely). The report says that they will not take any action until the next legislative session in January, 2013. Asheville has until January 2013 to enter into good faith negotiations with MSD to work out an agreement where Asheville would not run the water system and as long as we are engaged in that discussion, the legislature would not act to take our water system and merge it with MSD.

Mayor Bellamy had asked Vice-Mayor Manheimer to convey the message that now that we have the Legislative Report there is more opportunity for community discussion regarding this topic. Tonight will not be the last opportunity to speak about this issue at a public hearing.

Councilman Pelly said that since the Legislative Research Commission began their work earlier this year they held four public hearings of which three of those took place in Raleigh and the other took place at the WNC Ag Center near the Airport. There has not been any formal public hearing within the City of Asheville, despite the fact that the City of Asheville is the owner of the water system that serves Asheville and Buncombe residents. He had requested this public hearing so that Asheville residents who will be affected by the decisions made in Raleigh have an opportunity to voice their comments on this issue. This public hearing was advertised on April 13 and 20, 2012.

Vice-Mayor Manheimer opened the public hearing at 6:04 p.m.

The following individuals spoke in support of Asheville retaining ownership of the water system and urged Council to stand strong and fight for Asheville's continued ownership and operation of the City water system as they have been good stewards of this asset:

Peter Gentling, Asheville resident
Barry Summers
Heather Rayburn
Cheryl Wolf, Woodfin resident
Lois Hodgson
Teddy Jordan, President of Kenilworth Residents Association and Asheville resident
Mike Blankenship, Asheville resident
Christopher Chiaromonte
Leni Sitnick, Asheville resident
Ellen Lyle, Asheville resident
Tom English, Asheville resident
Valerie Hoh, representing the Coalition of Asheville Neighborhoods
Steve Rasmussen
Milton Byrd
Tracy DeBruhl
Susan Fisher, Arden resident
Fred English, Asheville resident
Byron Greiner, Chairman of the Issues Committee for the Asheville Downtown Association

Clare Hanrahan

Vice-Mayor Manheimer closed the public hearing at 6:56 p.m.

Councilman Bothwell urged our residents to get involved.

Vice-Mayor Manheimer said that it is unknown what the water rates will be for County residents.

Councilman Smith hoped we can appeal to legislators in the General Assembly to recognize the excellence to which the City of Asheville has managed its water system, to recognize the consensus formed around maintaining Asheville's management of its water system and that those in Raleigh will see the folly of pursuing Rep. Moffitt's unilateral hope.

Closed Session

At 7:02 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 litigation involving the following parties: State of North Carolina; J. Jerome Jensen, et al (Biltmore Lake Annexation); cities of Rocky Mount, Goldsboro, Wilmington, Kinston and Lexington; and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:29 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Hunt and carried unanimously.

A. ASHEVILLE-BUNCOMBE FOOD POLICY COUNCIL REPORT

Councilman Smith presented Council with the results of a lot of hard work from our community and hoped that we can agree to continue moving forward for a food secure Buncombe County. He thanked Council for already choosing to allow markets in residential neighborhoods and to join in NC Cooperative Extension's 10% Campaign and for the historical support of the farmer's markets around Asheville. This is another opportunity that we have to alleviate poverty, reduce hunger in our community, improve public health, expand local commerce and make a more sustainable community.

The Future of food in Asheville & Buncombe County addressing poverty, public health, local commerce and sustainability through food security. The world health organization defines food security as existing "when all people at all times have access to sufficient, safe nutritious food to maintain a healthy and active life."

Regarding regional food security, (1) 14% of Buncombe County's 15 zip codes contain a food outlet of some sort yet 1 out of 6 people in WNC experience food insecurity; (2) 27% increase in county residents receiving food assistance in 2012; and (3) 50% of students within Buncombe County School system were enrolled in the free and reduced lunch program during 2009-10 year, up from 47% the previous year.

Problems associated with food insecurity include (1) Impaired mental and physical development in young children; (2) Food insecure children are 90% more likely to be in fair or poor health than food secure children; (3) A poorly prepared and uncompetitive work force; and (4) Family and personal instability, where uncertainty over "the next meal" creates a roadblock to dealing with other problems.

Causes of food insecurity include (1) "Food Deserts"-areas that do not have a convenient, affordable, healthy food source nearby, or full scale grocery store; (2) High prices for healthy food even

when it is available; (3) Inadequate cooking education and nutrition information; (4) Limited public awareness on the necessity and accessibility of affordable, healthy food; and (5) The availability of *Local sustainable food* to the population.

The mission of the Asheville-Buncombe Food Policy Council will identify and propose innovative solutions to improve local food systems, spurring local economic development and making food systems environmentally sustainable and socially just.

Community stakeholders include: Manna, Children First, Bountiful Cities, Asheville Housing Authority, Green Opportunities, Mountain Housing Opportunities, Advantage West, Mission Hospital, NC Health & Wellness Center, Healthy Buncombe, Office of Heath Shuler, Chamber of Commerce, ASAP, Asheville Independent Restaurant Association, Pioneering Healthy Communities, Rainbow in my Tummy, Slow Food Asheville, Council on Aging, Jewish Community Center, YWCA, ABCCM, WNCA, Transition Asheville, Interfaith Group, NC Cooperative Extension, AB-Tech, UNC Asheville, Warren Wilson, Asheville City School Foundation, Land of Sky, Just Economics, Youth for Empowered Solutions, Women's Wellbeing Fund, Homeward Bound, Mountain Valley Resource Conservation, French Broad Food Cooperative, and many individuals and businesses.

We have enormous opportunities regarding our community's commitment to ensuring a stable, healthy, and affordable food supply. Food security encompasses issues of poverty, public health, local commerce, and sustainability.

Local food is a simple, convenient, and powerful tool to achieve food security. Local food is reliably healthy and beneficial to the economy, and Local food increases access and affordability of fruits and vegetables.

Improving food security infrastructure (1) If the food and farm economy were expanded in WNC an additional \$200 to \$300 million would be spent on locally sourced food within the region; (2) expanding could increase employment opportunities; and (3) Local food expansion could address poverty, public health, commerce, and sustainability within any community or region.

Some cities that have passed local food policies include Baltimore, Philadelphia, Seattle, San Francisco, Bloomington, Cleveland, Milwaukee, Nashville, NYC, Chicago, Portland, Oakland, Minneapolis, Detroit, Providence, Kansas City, Austin, Santa Monica, Denver, Ann Arbor, and Santa Fe.

Potential policies (planning/land use) (1) Identify arable city-owned land and issue an RFP for organic, GMO-free food production, with a focus on Permaculture; (2) - Modify zoning rules to allow increased food production – greenhouses, gardens; (3) - Home-based cottage industries allowance for small-scale, value-added products; (4) UDO allowances for innovative methods of production (aquaculture, vertical farming, rooftop gardens, etc.); and (5) - Identify barriers to food production in residential neighborhoods and seek remedies.

Potential policies (parks & recreation) (1) Utilize parks to grow food and have community programming regarding health, nutrition, and gardening; (2) - Edible and medicinal landscaping in all public parks and rights of way; (3) - Partnership with gleaning organizations to distribute produce from edible trees, plants in parks and rights of way; and (4) - Liability waiver for volunteers helping to tend food production in parks. Make it easier for grassroots efforts to happen.

Potential policies (community development) (1) Utilize community centers for farmers' markets and CSA distribution; (2) Encourage food distribution in underserved communities by establishing market areas in each neighborhood, based on neighborhood preferences; (3) Seek incentives for food distributors in food deserts; (4) Allocate funds to non-profits involved in food security efforts; and (5) Encourage mobile markets for low-income communities, especially those in food deserts.

Potential policies (schools) (1) Identifying qualifying students who aren't enrolled in free and reduced lunch; (2) Prioritize local, fresh foods in cafeterias; (3) For qualifying students – identifying needs

outside of school for food, expand on “summer feeding sites”; and (4) Partner with Parks/Rec to provide feeding sites (would also increase participation with Parks/Rec initiatives). Other partners might include AB Tech, AIR DINER, GO, MANNA, Salvation Army, and Meals on Wheels.

Potential policies (economic development) (1) Seek grant opportunities for food production, processing, and distribution; (2) Recruit businesses focused on food processing and distribution in identified food deserts; (3) Incentivize food system development particularly in regard to processing; (4) Encourage home-based cottage industries for small-scale, value-added products; (5) Incent innovative methods of production (aquaculture, vertical farming, rooftop gardens, etc.); and (6) Provide incentives for local restaurants and food trucks to participate in the NC Cooperative Extension’s 10% campaign. Ideas include the city providing advertising on public transit for participating businesses.

Potential policies (emergency) (1) Initiate a "Resilient Neighborhoods" program, i.e. assist neighbors in putting together knowledge and goods that would help them in the event of a shortage of food; and (2) Ensure fuel availability to food producers, processors, and distributors in the event of an extended fuel shortage.

Other potential policies (1) Replace contents of city vending machines with healthy food choices; (2) Implement CSA program for City Employees; (3) Utilize local, healthy foods in city commissary; (4) Investigate the potential for a citywide composting program alongside trash and recycling with a central point for community access to compost; and (5) Support community gardens and urban agriculture through resolutions.

Goals of Council include (1) Improve food sustainability within the region; (2) Coordinate production and distribution to increase efficiency; (3) Expand food education; (4) Improve land usage; and (5) Increase access of healthier food options.

Food systems cross governmental and geographic lines, and only by partnering with others can we take the necessary steps to create a food secure future. Asheville will work with all of our partners to ensure that food policies integrate sustainably with others’ efforts, plans, and visions.

Councilman Hunt said this Food Policy Council effort is broader than the City of Asheville. There has been enough focusing in on general notions of what can be achieved community-wide and now we need to understand what policies might be realistic to achieve and what might be priorities on a city level. Therefore, he moved to direct staff to explore the proposals of the Food Policy Council to consider which components might become policy for the City of Asheville. This motion was seconded by Councilman Bothwell.

Councilman Bothwell took part in the first large meetings of the communications team and this dovetails nicely with what the Tree Commission is looking at, which is to make Asheville a Bee City and start planting trees that are good for bees. He suggested this Report go through the Tree Commission and the Sustainable Advisory Committee on Energy & the Environment (SACEE).

Councilman Davis felt that food security is very important and there is no need for hunger in our community. He liked Councilman Bothwell’s suggestion of having SACEE review the report first. He felt the motion on the floor needed further refinement because some policy changes would require Unified Development Ordinance amendments, etc.

Councilman Hunt did not intend the motion to direct staff to move to any specific policy amendments at this stage. He was looking for simple exploration and refinement of what might fit policy-wise.

In response to Councilman Hunt, City Manager Jackson said that the Food Policy Council report is an excellent community initiative. There are a couple of ways to ask our organization to get behind it. One is to facilitate policy changes or implement programs and response to it affirmatively like we have with other partnerships. We can meet people half-way very effectively. Council’s strategic goals for the

year suggest that we would, in fact, do that. We have a City adopted Greenway Plan, a Sidewalk Plan, a Sustainability Plan, and 14-15 other master plans that have gone through an extensive process. Those are City-adopted master plans, not a community plan. If Council refers this to SACEE, we will have to define our role. We are already responding with freeing up market regulations, etc., and as initiatives come forward, we can respond to those and move those to priority status, given Council direction. There are two roles and depending upon Council's direction now, or the direction that may come out if Council refers this to SACEE, may require additional discussion and maybe resource allocations.

Councilman Smith said that he broke the presentation down into the different departments so each department could look at some of the pieces. He said some of this movement is already going on and if we can allow time for staff to look at these things and see how it fits into the strategic goals we have, we might be able to see the "low hanging fruit" and what things we are going to have to open up a longer, more deliberative process to approach.

Councilman Hunt suggested that SACEE take a leadership role and provide a report to Council in nine months and over that time engage with staff and explore what sort of things can come out from a refinement standpoint. Councilman Smith confirmed that during that time, departments will look at those things and deliver their cursory findings to SACEE and then have SACEE re-package and bring it back to Council.

Councilman Hunt withdrew his motion.

It was the consensus of Council to have SACEE look at the Food Policy Council's sustainability initiatives to see how they fit into the Sustainability Plan we have and for SACEE to provide a report back to Council in nine months. City Manager Jackson said that SACEE may also want to recommend to Council the significant partnerships as well. He would ask that SACEE not only look at what we can do for this program, but what the larger community effort will be and compliment it.

City Manager Jackson suggested a joint worksession between the Food Policy Council and SACEE to begin talking about how they can collaborate on the larger program and then bring it down to the City role and participation.

VI. NEW BUSINESS:

A. REVIEW OF CURRENT SKATEBOARDING ORDINANCE

Assistant City Manager Jeff Richardson said that this is a review of the current skateboard ordinance to either: (1) Strengthen the Police Department's ability to enforce the no-skateboarding provision in the city's business district by amending the current ordinance to disallow riding skateboards in cross-walks, and installing informational signage accordingly, or (2) Permit skateboarding in the Central Business District's (CBD) roadways as a "green" mode of transportation.

The City's current skateboard ordinance prohibits skateboarding upon any roadway, except while crossing a street on a crosswalk. This prohibition applies throughout the City, regardless of the type of district the roadway is located. Additionally, skateboarding is prohibited on any sidewalk in a business district. This particular prohibition applies in business districts only; skateboarding is allowed on sidewalks in all other districts.

Currently, the Asheville Police Department enforces the skateboard ordinance by either a citation or verbal warning; an average of 20-30 citations and countless verbal warnings are issued each year to skateboarders in the Central Business District. Because these citations enter the judicial system, a District Court Judge requested that informational signage be placed in the CBD informing the public of no skateboarding in the district. In addition, the judge also asked that the ordinance be modified to disallow skateboarding in cross-walks, in an effort to clarify the restriction and provide consistency throughout downtown.

On a separate but parallel track, skateboard advocates previously approached the Public Safety Committee in 2010 and asked the City to evaluate skateboarding as a means of green transportation in the Central Business District on downtown streets. At that time, the Police Department expressed concerns with traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.

Skateboarding advocates point to skateboarding as an alternative form of transportation, and if allowed, providing for an additional multi-modal option for citizens to get to and from work across the CBD, by allowing more expeditious movement throughout the downtown in general, similar to bicyclists.

Benchmark North Carolina Cities:

The North Carolina General Statutes do not address skateboards. This issue is usually governed by local ordinances. Several regional cities were identified to currently prohibit skateboarding in their core downtown areas, to include:

- Chapel Hill: No skateboarding on core streets downtown.
- Charlotte: No skateboarding on any roadway except to cross a street.
- Durham: No skateboarding on any roadway, except while crossing the street at a crosswalk and except upon streets set aside as play streets.
- Fayetteville: No skateboarding on any roadway, except while crossing a street at a crosswalk/intersection.
- Greenville S.C. No skateboarding in the Central Business District or any road designed for vehicular traffic posted more than 30 mph.
- Greensboro: No skateboarding on roadways throughout the city and any sidewalk in the CBD.
- Raleigh: No skateboarding on any roadway, except for crossing a street at a crosswalk, or upon streets as play or sledding streets.
- Wilmington: No skateboarding on streets, sidewalks, public park, or public vehicular area located in the CBD or Riverwalk.

Nationally, city staff identified several cities, to include Portland, Oregon, which allow skateboarding in certain areas of downtown. Portland, in contrast to Asheville, has significant bike lane infrastructure connectivity throughout its downtown, connecting back to greenways reaching to most areas of the city. Lastly, Portland, which is commonly referred to as the skateboarding capital of the U.S., also boasts five skateboard parks, and roadway signage and connectivity framing out a skatepark system. Additional cities, to include Seattle and San Antonio have embraced the idea of multi-skatepark systems.

This action aligns with City Council's Strategic Operating Plan in the area of Asheville as a Safe City/Asheville as a multi-modal city.

City Council has emphasized integration and implementation of a multi-modal transportation plan, to include adding it as a sixth Area of Focus in the current Strategic Operating Plan. Therefore, it is understandable as to the advocacy for additional green options through the downtown.

Similarly, the Strategic Plan also identifies "Safe", as a high priority, namely, Asheville as one of the safest cities when compared to similar sized cities. The Police and Transportation Department's operational efforts include continual analysis of Asheville's most dangerous intersections. This includes traffic crash data analysis, including intersection design, signalization (or lack thereof), roadway, signage, and marking design. These traffic safety efforts serve to better direct staff resources regarding dedicated patrol as a deterrent. In the spirit of those efforts, the Police Department cannot in good faith endorse skateboarding as a safe means of multi-modal transportation on streets in the Central Business District.

- (1) If City Council permits skateboarding in the Central Business District's (CBD) roadways as a "green" mode of transportation, staff analysis offers the following:

Pro: Expanded multi-modal opportunities for citizens throughout downtown.

Con: Traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.

Fiscal Impact: Transportation staff recommends informational signage on key city streets to denote skateboarding as an approved usage on CBD streets. Costs are estimated at \$500.

(2) If City Council strengthens the Police Department's ability to enforce the no-skateboarding provision in the city's business district by amending the current ordinance to disallow riding skateboards in cross-walks, and installing informational signage accordingly, staff analysis offers the following:

Pros:

- Removes uncertainty of whether skateboarding is a permitted activity downtown;
- Assists the prosecutorial process in the judicial court system;
- Creates a safer environment for pedestrians, the motoring public, and skateboarders.

Con: Restricts a mode of transportation in the Business Districts.

Fiscal Impact: The estimated cost to fabricate and install the appropriate signs in the central business district is about \$500 and is currently budgeted in the operating budget for the Transportation Department.

Skateboarding is prohibited in downtowns across the country. City staff recognizes the competing interests as outlined above with expansion of multi-modal options, while assuring Asheville remains a benchmark for community safety. Asheville's high downtown density makes this consideration especially concerning, thus, City staff recommends support for no skateboarding in the Central Business District.

Assistant City Attorney Kelly Whitlock briefly said that the current ordinance prohibits skateboarding upon any roadway, except when crossing a crosswalk. That prohibition applies across the board to all roadways – doesn't matter what district. Additionally, skateboarding is also prohibited on any sidewalk in the Central Business District. Skateboarding is allowed on greenways and in parks.

Councilman Smith felt there are inequities in our policies regarding transportation. We have a multi-modal transportation goal for our city and we need to allow people to use alternative modes of transportation. He said there is no data presented to suggest that skateboarding as a mode of transportation was any more dangerous than bicycling or segwaying. There are models for skateboarding as transportation, such as the Four Wheels Down model, which is if you are rolling on all four wheels, you are trying to get to one place to another. If you are using it to jump, do tricks or go on two wheel, then you are a recreational skateboarder and it becomes unsafe. Safe use of your vehicle, regardless of what it is, needs to be promoted. He didn't think we should have one mode of transportation signaled out for a prohibition.

Councilman Smith moved to direct staff to prepare an ordinance to allow the use of skateboards for transportation, using the Four Wheels Down model on roadways, crosswalks and bike lanes (where available), not sidewalks, within the Central Business District and bring it back for Council consideration. This motion was seconded by Councilman Pelly.

Councilman Bothwell agreed about the green transportation effort and that other cities have been successful with the Four Wheels Down model. However, one significant difference he has noticed is where they do have that policy, the cities tend to be flatter than Asheville. The danger is more prevalent when you're on a hill vs. a flat area.

Councilman Davis' concern is that in the Central Business District (CBD) there are a lot of pedestrians. The entire CBD is a 50 block area and easily walkable. He is not trying to single out a

sector of society, but there are certain things that make sense and to him, skateboarding in the CBD is not really a means of transportation as much as it is for recreation.

Councilman Pelly was not entirely convinced and would like to hear proponents talk about the safety concerns raised. If we do allow this to move forward, he asked for consideration of requiring helmets, lighting at night, etc.

Councilman Hunt said some concerns expressed were out of control skateboarding, jumping and recreational-type uses. Some felt that lifting the ban might invite these recreational aspects back in our downtown area.

When Councilman Hunt asked about enforcement challenges, Mr. Richardson said that if Council directs staff to move forward to allow skateboarding on roadways in the CBD with the Four Wheels Down model, staff would have to spend time talking with other cities who have that in place to talk about their enforcement mechanisms. Presently there are 20-30 citations a year with a considerable amount of verbal warnings. He would suppose it would be a challenge for the Police Department to enforce that because there is a significant amount of subjectivity looking through a very densely populated CBD to determine if this is a means of transportation, how fast is the person going, is the person a danger to himself or the people around him, etc.

In response to Vice-Mayor Manheimer, Mr. Richardson said that he has found no other city in North Carolina that allows skateboarders in their downtown. Portland, Oregon, (who has the reputation of the skateboarding capital of the United States with significant infrastructure in their CBD) and New Haven, Michigan, have ordinances that allow skateboarding in the CBD. He has not been able to identify a good benchmark city comparable to Asheville, but given direction by Council, they will continue to look.

The following individuals spoke in support of allowing the use of skateboards for transportation, using the Four Wheels Down model on roadways and crosswalks, not sidewalks, within the Central Business District, as they basically wanted the same rights as bicycles:

Owner of Push Skate Shop in downtown Asheville (presented Council with a list of downtown businesses that support skateboarding as transportation)

Chad McRory
A gentleman
Clyde Singleton
Mike Bellamy
Thomas Coffey
Carol O'Shiver
Thomas Lance

Ms. Michelle Arack spoke in favor of keeping the ban for pedestrian safety; however, she felt skateboarding in bike lanes would be acceptable.

When Councilman Bothwell asked if confiscation of the boards when given a ticket is City policy, Ms. Whitlock said that it is not part of our ordinance.

City Attorney Oast said that some clarification on the ordinance may be necessary, such as, operators shall wear helmets meeting American National Standards Institute standards, no skateboarding after sunset or before sunrise, skateboarders shall obey all traffic laws and shall keep to the right of the lane of travel using bike lanes where available, all skateboards shall have at least four wheels and all wheels shall be on the ground at all times. Vice-Mayor Manheimer said that if the motion passes, staff will craft the ordinance with suggested appropriate components for Council to consider.

Vice-Mayor Manheimer wanted to see some information about cities that are similar to Asheville that do allow skateboarding in their downtown and how they handled it. She would also like to hear what the downtown businesses have to say about skateboarding on the roadways downtown. She felt the

people in the audience are very well intentioned, but she recalled a downtown Asheville where we were not enforcing our ordinance and allowing skateboarding and it basically consisted of 20 guys in front of the Biltmore Building doing tricks and making it a very unwelcoming environment for those who were not on a skateboard. It was very intimidating and difficult to move around. It was not a community oriented activity that felt welcoming for older folks, younger children and families. She was not interested in creating that environment again in downtown.

In response to Councilman Bothwell, City Attorney Oast said that roller skating is not allowed on any sidewalk in a business district. He noted that our ordinance is from the 1960's.

When Councilman Pelly asked if Councilman Smith would be interested in a friendly amendment to his motion to also have staff draft an ordinance allowing skateboarding on roadways on all City streets, Councilman Smith asked if that could be a separate motion, given the speed limits downtown vs. the speed limit on Hendersonville Road.

At Councilman Pelly's request, it was the consensus of the majority of Council to have staff examine how other cities have dealt with allowing skateboarding on roadways on all City streets.

The motion made by Councilman Smith and seconded by Councilman Pelly carried on a 5-1 vote, with Councilman Davis voting "no."

B. RESOLUTION NO. 12-98 - RESOLUTION ESTABLISHING THE NEIGHBORHOOD ADVISORY COMMITTEE

Councilman Pelly said that nearly everyone in the Chamber is a resident of Asheville and, as proud as we are of that, we also identify ourselves by the area of town in which we live. Be it Malvern Hills, Beverly Hills or Richmond Hill we identify with the neighborhood we call home. There is a reason for this, neighborhoods are the place we inhabit on a daily basis and for which most residents feel a special bond of community.

Each area of town is unique and has its own identify and oftentimes its own set of challenges. For this reason, he maintains the City has a self-interest in promoting cohesion and community participation at the neighborhood level. By creation of the Neighborhood Advisory Committee, City Council is indicating they acknowledge a fundamental geographic subset of the city by which most residents already self-identify – their own neighborhood. He believes the collective interest of our community will be served by promoting cohesion and participation at the neighborhood level and that creation of this committee will help foster that process.

As proposed, the Neighborhood Advisory Committee is charged with developing plans to strengthen neighborhood identity and resilience, and to facilitate communication and cooperation between Asheville's neighborhoods and City offices. The Committee will also develop benchmarks and standards by which progress towards implementing these plans can be measured.

As an advisory Committee, these plans will take the form of recommendations to City Council for review and formal action. Among the questions the Committee will explore include (1) How are other cities meeting the needs of their neighborhoods?; (2) What are the best practices and model policies for defining and delivering neighborhood services?; (3) What is the best way to align the City's Strategic Operating Plan with neighborhood considerations?; (4) What training programs are needed and what are available for existing and potential neighborhood leaders?; (5) How might the City become a national model in providing neighborhood services?; (6) How might the City incentivize neighborhoods to become organized?; and (7) In what ways can this advisory committee support the goals of City government?

The idea of a Neighborhood Advisory Committee is not new. Many cities in North Carolina and elsewhere already have some variation of this idea. He believes the time is right for our City to begin to explore ways to refine and strengthen the relationship between City government and neighborhoods.

The resolution calls for a nine-member Committee with five members from each major geographic area of the City, as defined by postal zip codes, 28801 (central), 28803 (south), 28804 (north), 28805 (east) and 28806 (west). The remaining four seats will be at-large appointments and all seats shall reflect the socio-economic diversity of Asheville.

His personal hope is to attract candidates for appointment with a demonstrated interest in working to strengthen neighborhood identity and citizen participation.

Although he believes this is an important process to undertake, he does not know what outcomes the Committee may recommend. What he believes; however, is that our City will benefit from undertaking this discussion. There are many good ideas, some which don't cost anything, that can help us become an even more neighborhood-oriented community.

Examples of ideas that the Committee might explore include (1) working with the Asheville Police Department and Chief Anderson to increase Neighborhood Watch participation and community policing; (2) formalizing a process for sharing local success stories between neighborhoods such as Montford's community newsletter or Kenilworth Community Watch program; (3) formally recognizing successful neighborhood leaders to highlight their accomplishments; (4) creating a model for developing and executing individual neighborhood plans that identify challenges and opportunities; and (5) seeing how food security can fit into the "Resilient Neighborhoods" program.

Councilman Hunt felt that neighborhoods are the fabric of our community and a great source of strength. He hoped for the committee to achieve is how can neighborhoods serve to reinforce community-wide goals.

Mr. Steve Rasmussen supported establishing this Committee.

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. 12-98. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE 366

C. RESOLUTION NO. 12-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO INSTITUTE A THREE-WEEK FARE-FREE PROMOTION BEGINNING MAY 21 – JUNE 8, 2102

Director of Transportation Ken Putnam said that this is the consideration of a resolution authorizing the City Manager to institute a three week fare-free promotion as part of the implementation of the first phase of the Transit Master Plan (TMP), which is scheduled to begin on May 21, 2012, and end on June 8, 2012.

The first phase of the Transit Master Plan (TMP) implementation was approved by Council on April 27, 2010. The specific recommendations included a fare increase, operational changes, and a marketing strategy. The fare increase was effective on July 1, 2010, and affected monthly and annual passes and ticket books; the cash fare remained the same. The rest of the recommendations will be implemented on May 21, 2012, and include:

- Operational Changes

In order to provide better service to our customers, 30-minute frequency will be implemented along the main corridors in the densest sections of the specific corridor. In order to accomplish this task, existing routes will be staggered along five corridors; namely, Patton Avenue – Routes 15 and 16,

Haywood Road – Routes 1 and 9, Biltmore Avenue – Routes 4 and 8, Tunnel Road – Routes 13 and 26, and Merrimon Ave. – Route 2.

System wide on-time performance changes are also included. Currently, one of the biggest challenges the transit system faces is keeping the buses on-time mainly due to route deviations and Dial-A-Ride service. In order to accomplish this task, existing route deviations will be reduced or eliminated and Dial-A-Ride service will be stopped. The subject action addresses driver's concerns with the current route schedules and the pressure they constantly receive from riders to be on-time.

The operational changes are incorporating two cross-town routes, one serving the southeast-southwest and the other one serving the northeast-northwest. Also, new areas will be served, New Leicester Highway to Land of Sky Regional Council and ABCCM on Tunnel Rd.

The evening routes will be consolidated with the day routes, eliminating the existing gap; the evening routes will end earlier as recommended in the TMP, based on ridership. The routing will be the same for day and evening trips making navigation of the system smoother for the rider.

In addition, the bus stop system has been streamlined, new bus stops have been installed, some existing bus stops have been removed, and other stops have been relocated.

These system wide changes are being achieved with no fiscal impacts in the current operating budget.

- Marketing

One of the most important elements to enhance the Asheville Redefines Transit System, as expressed in the Transit Master Plan, was to develop a marketing strategy that focuses on the creation of a new image for the system and promotion of route changes including system "branding" (logo), color schemes for the buses, signs, and new maps. The City hired Urban Trans Consultants Inc., from Atlanta to support and assist in the implementation of the marketing strategy. Urban Trans has developed all the material that will be used during this implementation, including, a new brand, new image for the signs, new route numbers, maps, and miscellaneous material. Some of these changes have already been implemented, such as the Asheville Redefines Transit logo (ART) and the art work on the five new hybrid diesel-electric buses.

Staff is working on polishing the final details to roll out the new routes. As part of the communications plan six public meetings will be held to inform the public about the changes and to provide assistance navigating the system. The meetings will be held in Downtown Asheville and in five different neighborhoods: North, East, West, South, and the River District. Agencies and organizations have been contacted to inform their constituents about the changes. Also there will be mobile information stations at the Asheville Redefining Transit (ART) Station and on the buses and additional phone lines will be available to assist customers during implementation. All of these will be complemented with information to the media, press releases, and social media.

As part of the marketing strategy the Transit Commission has requested a fare free promotion from May 21, 2012, to June 8, 2012. This request was voted 6-1 during their March 6, 2012, meeting. The fare free is intended to ease the transition to the new routes for existing riders and to attract new riders to the system that would like to give it a try.

The city has implemented fare free promotions in the past. In 2007 there was a three-month fare free promotion that increased ridership 23%. In 2011 there was a one-week fare free promotion to promote the Strive Not To Drive campaign that increased ridership by 3%. On both occasions the ridership increases have been maintained after the promotion ended.

The increase in ridership not only reduces the cost/hour to operate the system but also increases the Federal Transit Administration Section 5307 apportionment that helps pay for transit operations (passenger miles vs. operating costs count for 9.2% of the apportionment).

The cost of the fare free promotion is estimated to be about \$42,000. Staff has analyzed revenues and expenses and concluded that the promotion would not have a negative impact on the overall current operating budget and the promotion can be absorbed in it.

The Transit Commission supports the subject action. In addition, the Finance Committee approved this action at their April 3, 2012, meeting.

This action complies with the current City Council's Strategic Operating Plan for Fiscal Year 2011-12 within the fiscal responsibility and multimodal transportation focus areas by operating the City of Asheville to the highest levels of fiscal responsibility; and helping establishing a multimodal transportation plan by making needed transit system improvements.

Pros:

- The fare free promotion will ease the transition to route changes for existing riders and will attract new riders.
- The fare free has been an effective marketing tool to increase ridership in the past.
- If there is an increase in ridership this will reflect in the system's performance measures, reducing the cost/hour of operating the system and potentially increasing the federal allocation.

Con:

- The cost of the project is about \$42,000.

The fiscal impact of this project is estimated to be approximately \$42,000 in lost revenue. Based on current year revenue to date, staff anticipates that budget estimates will still be met even with the \$42,000 in revenue that will not be received during the fare-free promotion.

City staff recommends that City Council authorize the City Manager to institute a three week fare-free promotion as part of the implementation of the first phase of the Transit Master Plan (TMP), which is scheduled to begin on May 21, 2012.

When Vice-Mayor Manheimer asked for public comments, none were received.

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 Bothwell moved for the adoption of Resolution No. 12-99. This motion was seconded by Councilman Hunt and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE 368

D. RESOLUTION NO. 12-100 - RESOLUTION AMENDING THE 2008-09 ANNUAL ACTION PLAN TO REALLOCATE CDBG-R FUNDS FROM LOUISIANA STREET SIDEWALK TO EMERGENCY REPAIR

Community Development Director Jeff Staudinger said that this is the consideration of a resolution amending the 2008-09 Annual Action Plan to reallocate CDBG-R funds from Louisiana Street Sidewalk to Emergency Repair.

In June of 2009, the City submitted to HUD its Amended 2008-2009 Action Plan for the use of \$332,942 received in an ARRA-funded CDBG-R grant. Of that award, \$123,648 was allocated to the City of Asheville to contract for sidewalk construction on North Louisiana Street, serving the Emma neighborhood and connecting that neighborhood to Patton Avenue. \$63,914.59 was used for that

purpose, leaving an unexpended grant budget of \$59,733.41. The City fully expected to be able to use these funds for additional sidewalk construction there. However, competing Public Works construction priorities and an extended timeframe in negotiating rights-of-way have resulted in delay in getting additional construction underway.

CDBG-R funds must be fully expended and drawn down from HUD prior to September 30, 2012. Public Works and Community Development staff have had extensive discussion about the project and the CDBG-R timeframe. Although Public Works staff feels that the intended construction could be completed within that timeframe, two factors concern staff:

1. The potential loss of funds due to additional unanticipated delays;
2. The potential loss of funds due, ironically, to cost savings for the intended construction, due to a favorable construction cost environment.

In light of these considerations, Public Works staff has reviewed the project funding available, and state that the intended project will be completed with already budgeted City funds for sidewalks- sufficient funds are available in both materials and contracted services budgets. Both CD and Public Works staff concur that the allocation of these funds for another grant eligible purpose is in the best interest of the City.

Because of the impending deadline to use the funds in a manner which meets both CDBG and Recovery Act regulations, limited options are available. Of existing CDBG-R grantees, the Emergency Repair program, operated by Mountain Housing Opportunities, has significant unmet demand, and would be able to meet the completion timelines outlined above. The Emergency Repair program provides one of two services to very-low income, special needs households: a "Tier 1" repair that provides up to \$5,000 to address one issue that threatens the health or safety of the household; and a "Tier 2" repair which provides up to \$15,000 to address more complicated issues threatening the health or safety of the household. In either case, the repair prevents homelessness. The HCD Committee reviewed this, and agrees that reallocating funds for the MHO Emergency Repair program is advisable.

This proposed reallocation of CDBG-R funds directly supports Council's Strategic Goal of Affordable by funding an initiative to prevent homelessness.

Pros:

- Approval of the reallocation ensures that \$59,733 of HUD CDBG-R funds will be used to assist very-low income special needs households make emergency repairs that address critical health and safety issues in their homes;
- The City has sufficient other funds to construct the planned sidewalk on N. Louisiana Street.

Con:

- None.

The proposed reallocation is fully funded from the federal CDBG-R grant. Other funds budgeted for sidewalk construction are sufficient to construct the sidewalk for which the grant had originally been programmed.

Staff recommends approval of the resolution authorizing the amendment to the 2008-2009 Annual Action Plan to reallocate \$59,733.41 of CDBG-R funds from the City of Asheville North Louisiana Street sidewalk project to the Mountain Housing Opportunities Emergency Repair program.

When Vice-Mayor Manheimer asked for public comments, none were received.

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 Davis moved for the adoption of Resolution No. 12-100. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE 369

E. ORDINANCE NO. 4082 – ORDINANCE AMENDING THE FEES & CHARGES MANUAL FOR ELECTRONIC GAMING OPERATIONS

Director of Finance & Management Services Lauren Bradley said that this is the consideration of an ordinance amendment to the *Fees & Charges Manual* for Electronic Gaming Operations.

In May 2010, the City of Asheville adopted zoning standards regulating Electronic Gaming Operations (EGOs). Adopted on the same night was an amendment to the *Fees & Charges Manual* establishing a privilege license fee for these same operations. The fee was established by considering the potential revenue for the operations and was benchmarked against other municipalities in the area. The benchmarking revealed that Asheville's fee was neither the highest or the lowest. The fee adopted was (Ord. No. 3869):

Base fee \$1,000.00 per year; plus \$2,500.00 per machine added to the base fee.

Shortly after standards were established and fees collected for over 50 businesses, the NC General Assembly adopted a new law that banned all EGO's. As most businesses were informed of the likelihood of the ban, there was little resistance to the ban. Permit issuance and fee collection ceased, and police enforcement followed. In order to accommodate a few large privilege license fees, a subsequent fee amendment allowed for pro-rated fees which enabled a few modest refunds. This fee was (Ord. No. 3910):

** Base fee \$48.67 per month (or part of a month) per establishment; and 208.33 per month (or part of a month) per machine.*

**This amendment appears to include a typographical error that swapped the respective fees. As originally adopted, the fee was written as "Base fee \$208.33 per month (or part of a month) per establishment; and 48.67 per month (or part of a month) per machine". This was in error.*

Now that the legality of EGOs seems to be somewhat settled, the option for pro-rated fees are not necessary. Additionally, pro-rating fees for privilege licenses is uncommon and somewhat problematic both from both a processing and a collection standpoint. This amendment proposes to supersede the current fee and re-establish the once-year fee to be paid in full at any point through-out the year for a new business, and renewed annually at the beginning of each new fiscal year. If adopted, this fee would not allow for pro-rated fees for a partial year, nor would it allow for any refunds should the state pursue new action that would prohibit these operations.

Additionally, staff is proposing an increase in the base fee from \$1000 to \$1500 per establishment. Additional research shows that this increase is consistent with fees from other municipalities.

This fee amendment has not been reviewed by other public bodies – although it is an amendment to an existing fee. Additionally, the judicial decision has left little time to establish a fee prior to the new fiscal year.

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.

Pros:

- Works in concert with regulating standards that help control the unchecked proliferation of these businesses, and potential nuisance impacts associated the businesses.
- Provides unbudgeted revenue for the City of Asheville.

Cons:

- None noted.

Revenue from these fees in 2010 was approximately \$192,000. City enforcement staff has noted approximately the same number of establishments currently in operation as those that were noted in 2010. Therefore, staff has included the additional revenue from these fees in the Proposed FY 2012-13 Budget that is being presented to Council on April 24.

Ms. Bradley said that since we had the fee in place, there were 72 businesses with these machines and approximately 226 stations. If Council approves the privilege license fee, there may be some of these operations that close and chose not to function just because it's not financially feasible for them to do it. But we expect that there will be at least as many as we saw before paying the privilege license fee. We charge a privilege license fee for this type of operation because it helps provide information about who is conducting this type of business and where so that we can ensure compliance with our zoning guidelines, and it also helps provide a fee mechanism for these businesses to participate in the demand on City services in a way that is more equitable. If people don't pay the fee, they can't get their zoning permit and there is a civil violation of \$100 per day. More significantly, our ordinance for privilege licenses says that there is a criminal penalty (a misdemeanor) if you don't pay your privilege license fee and that the City can seek an injunction; however, we normally go through a collection process first.

City staff recommends the adoption of the ordinance and new fee as proposed.

Mr. Mike Grace, attorney from Winston-Salem representing a firm out of Oklahoma who is one out of the two main plaintiffs in the lawsuit mentioned, said his client licenses over 150 internet café locations in more than 60 counties across North Carolina. He was not concerned about the propose change to the fee schedule, but to open dialogue concerning the fee schedule as a whole. Based on his experience, the City will not have many people applying for licenses at the current fee schedule of \$2,500 per machine. There are only three other cities that have a similar schedule and they are in negotiations with them to reconsider their schedule. He feels this fee will drive legitimate businesses out of the City into the County and you will have to deal with the people running illegally. He will contact City Attorney Oast and some later time for reconsideration of the entire schedule.

In response to Councilman Davis, Ms. Bradley said that initially, before the ruling change, we had 45-50 establishments licensed with a revenue of approximately \$190,000.

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

Councilman Smith moved for the adoption of Ordinance No. 4082. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE

F. PRESENTATION OF THE CITY MANAGER'S RECOMMENDED BUDGET

Director of Finance & Management Services Lauren Bradley outlined the following budget goals: (1) Maintains the current tax rate to support affordability goals for Asheville citizens and businesses; (2) Invests in our workforce; (3) Aligns resources with strategic planning and core services; and (4) Builds a budget based on sound financial management practices to ensure continued stability as the economy recovers.

General Fund revenues consist of (1) No property tax increase; (2) Revenues projected to increase by 2.9% (a) 1% growth projected in property tax revenue; (b) 5% growth projected in sales tax revenue; (c) 1.6% growth projected in Intergovernmental revenue; (d) 11.7% growth projected in licenses

& permits; and (e) Other sources remain flat; and (2) No fund balance appropriation. Revenue enhancement is restoration of licenses for electronic gaming machines: \$200,000.

She then showed a chart of sales tax revenue and other taxes.

General Fund expenditures consist of (1) 1% cost of living adjustment for city employees; (2) General Fund contribution to health care to remain unchanged; (3) Technical adjustments made for: (a) Increases in the cost of fuel; and (b) Fire department overtime staffing costs (addition of 9 firefighters); and (4) Increased Housing Trust Fund contribution by \$200,000 for \$500,000 total.

Water Fund - (1) No water rate increases to any class of customer; (2) Revenues have increased partly due to Automatic Meter Reading initiative; and (3) Contribution to capital is increasing by \$1.3 million as a result.

Stormwater Fund - Stormwater fees remain unchanged (a) \$290,000 appropriated from stormwater fund balance for Michigan Avenue capital project.

Transit Fund - Loss of \$160,000 in State funding; partially off-set by increase in Transit revenue as a result of increased ridership (a) Increases Parking Fund transfer by \$90,000; and (b) An additional \$30,000 from the Parking Fund will fund holiday bus service on main routes during peak hours.

Parking Fund - Proposed budget includes: (a) Increasing transfer to the Transit Fund; (b) Full year of operation of Biltmore Avenue Parking Garage; (c) Transfer of \$40,000 to capital for meter replacements; and (d) Transfer of \$120,000 to General Fund for first phase of form based planning policy and increase to EDC allocation.

Civic Center Fund – (1) General Fund operating transfer to the Civic Center Fund shows an increase of \$303,000 for debt service associated with renovations; capital decreases by same amount making overall transfer unchanged; and (2) 2 FTEs added to cover additional points of sale and building maintenance; expenses covered by increases in revenue.

Golf Fund – (1) Includes a revenue adjustment and \$140,000 transfer from General Fund to balance the budget; and (2) Responses to the Request for Proposals (RFP) coming forward to City Council in the first quarter of FY 2012-2013.

Internal Service Fund - Proposed FY 2012-13 budget includes the first year contribution (\$200,000) of a step-up plan to meet the City's annual required contribution for Other Post Employment Benefits (OPEB) to the State Treasurer's OPEB Investment Fund.

She then reviewed pie charts of the FY 2012-13 CIP Revenues and CIP Expenditures.

Capital Improvement outcomes include (1) Street Resurfacing: \$1.3 million, 5.83 miles resurfaced; (2) 1 mile of sidewalk maintenance, 1.35 miles new sidewalk; (3) Design work for Town Branch greenway to make it shovel ready; (4) Northside bicycle sharrow project; (5) \$500,000 for parks and facilities deferred maintenance; (6) \$1 million in vehicle replacement (a) Half targeted for alternative fuel vehicles; and (7) Continuation of Green CIP (a) Third phase of streetlight retrofit project; and (b) \$840,000 for facility weatherization and retrofit projects.

Vice-Mayor Manheimer noted that the public hearing on the budget will be held on May 22, 2012.

G. 2012 STATE LEGISLATIVE AGENDA

City Attorney Oast said that this is the consideration of the City's Legislative Agenda for the 2012 Session of the North Carolina General Assembly.

The session of the North Carolina General Assembly that begins on May 16, 2012 is a “short” session. Essentially, it is a continuation of the 2011-2012 biennial session of the General Assembly that began on January 26, 2011, and adjourned for the first time on June 18, 2011. As Council knows, the legislature has continued to meet sporadically throughout the year to take up such special subjects as redistricting, and considering whether to override the Governor’s veto of certain bills.

Despite the fact that this short session or continuation session is more general in nature, the range of bills that may be considered is still fairly narrow. Included among the bills eligible for consideration are (1) Bills that passed out of the chamber in which they were introduced, and that were received in the other chamber (“crossover bills”); (2) Bills implementing the recommendations of study commissions (“study bills”); and (3) Local bills that meet certain requirements (non-controversial, unanimous support among local delegation, etc., “local bills”). The City of Asheville is interested in some bills that fall into each of these categories.

I. “Crossover” Bills. There is an 18 page list of bills that were passed out of one house and are eligible for consideration in the short session. That list includes some local bills of interest to Asheville.

One crossover bill, HB 552, is the bill to create the Greater Asheville Regional Airport Authority. Council has previously expressed concerns about this bill, and we will continue to monitor it.

II. Study Bills. HB 925 directs the Legislative Research Commission (“LRC”) to study whether certain municipal water systems should be conveyed to metropolitan sewerage districts in the interest of promoting operational efficiency. The hearings that have been conducted by the LRC’s “Committee on Metropolitan Sewerage/Water System,” chaired by Rep. Tim Moffitt of Buncombe County, have focused on Asheville and MSD. As Council knows, the Committee’s draft report was published on April 13. Following a comment period, an amended report was voted out of Committee April 19. That report contained a recommendation that the 2013 Session of the General Assembly take action to consolidate the water system with MSD, but further provided that action not be taken “if the parties are engaged in good faith negotiations on this matter.” The full LRC will consider the recommendations of the Committee on May 14 (two days prior to the convening of the short session). This proposal, and the report, have been covered extensively in other places, and no attempt will be made to summarize that information here. We will, of course, monitor this bill and keep Council advised of developments.

III. Local Bills. Council has long been interested in a bill that would reconfigure the boundaries of Asheville and Woodfin in the area around UNC-Asheville. This is not a new request, but it has been revised. The municipalities of Asheville and Woodfin are adjacent to one another and, in places, share a common boundary. In the area near UNC-Asheville and the River Road/Broadway/US 19-23 Interchange (herein “19-23 Interchange”), however, there are pockets of unincorporated areas that are developed, and should have a municipal level of service available, especially public safety services. Additionally, some properties located in Asheville or Woodfin could be more efficiently served with police, fire, and garbage collection services by the other municipality.

Municipal boundaries in this area do not follow streets or recorded property lines, and this can cause jurisdictional confusion when it is necessary to respond to emergencies or traffic incidents. Perhaps the most dramatic illustration of this phenomenon is that the UNC-A athletic field and track are transected by the City of Asheville’s corporate limit such that part of the track is in the City of Asheville, and part of it is in unincorporated Buncombe County. In addition, there are parts of the UNC-Asheville campus (or lands being held for future development by the university), that are located within the Town of Woodfin. Asheville, Woodfin, and UNC-Asheville agree that the campus and associated property should be in the City of Asheville’s jurisdiction. The proposed legislation would include all of the State-owned university properties (whether they are currently in Woodfin or unincorporated) in Asheville’s corporate limits. In addition, there is a small portion of unincorporated area near the 19-23 Interchange that we are proposing for incorporation into Woodfin. This will eliminate some jurisdictional and service delivery confusion for an important and heavily traveled intersection.

The proposed legislative action affects only State-owned properties, and as such would have no property tax implications. In the past, the owners of private property in the area have objected to the proposed reconfiguration as it affected them, and previous versions of the bill stalled as a result. However, in a bill drafted in 2010, an "opt-in" procedure was proposed for the privately-owned properties in Woodfin such that the political jurisdiction would not change unless the owners requested it. We have contacted all of the affected private property owners.

There has been a new area added to the proposed boundary adjustment. As Council may know, the Town of Woodfin has been working to reconfigure the entrance to the Reynolds Mountain Development, and has proposed a roundabout on Weaverville Highway/Merrimon Avenue near Beaver Drive. The proposed location of this roundabout is where Asheville's and Woodfin's boundaries meet. Discussions among Asheville and Woodfin officials, and with the North Carolina Department of Transportation, have resulted in a proposed boundary reconfiguration such that all of the roundabout and parts of some realigned streets will be located in Woodfin's jurisdiction. As with the 19-23 Interchange, this will eliminate some jurisdictional and service delivery confusion for a heavily traveled intersection. Woodfin officials have discussed this with affected property owners.

IV. State-wide and Regional Issues. As occurs with every session of the legislature, other organizations of which the City is a member or in whose activities the City participates adopt their own legislative agendas. Those organizations include the Asheville Area Chamber of Commerce and the North Carolina League of Municipalities. Council may wish to take a position or receive more information with respect to one or more of the items included in those programs.

Deadlines. The legislature convenes for the short session on Wednesday, May 16. Local bills must be submitted to bill drafting no later than 4:00 p.m., on Wednesday, May 23, and introduced or filed for introduction no later than 4:00 p.m., on Wednesday, May 30.

Council has previously taken positions on the bills that affect us. Additionally, Council directed the submission of the Woodfin/Asheville boundary reconfiguration request last year. Accordingly, no formal action is needed other than a reaffirmation of Council's previous positions on these matters. If Council wishes to include new or additional matter, that can be done by resolution or motion.

At Council's direction, he will transmit appropriate information, including past resolutions regarding the Water Authority and the airport, to the members of the General Assembly whose district includes Asheville.

RESOLUTION BOOK NO. 34 – PAGE

H. RESOLUTION NO. 12-101 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Esther Manheimer said that There currently exists the following three vacancies on the Community Relations Council: (1) vacancy from Ms. Kate Pett whose term expired December 31, 2010; (2) vacancy from Ms. Jill Fromewick who is not interested in serving another term whose term expired December 31, 2011; and (3) vacancy from Ms. Sharon West whose term will expire December 31, 2012.

Mr. Mike Hahn, current member whose term expire December 31, 2011, is eligible to serve another term and is interested in reappointed.

It was the consensus of Council to interview Itiyopiya Ewart, Kathryn Liss, Mike Hahn, Rachael Tanksley-Russell, Frank Dibari, Carol Hallstrom and Chuck Rosenblum. Mr. Dibari and Ms. Hallstrom have since been appointed by the Buncombe County Board of Commissioners. Mr. Rosenblum was unable to attend the interview.

After Council spoke highly of all the candidates, Councilman Bothwell moved to (1) appoint Itiyopiya Ewart to serve the unexpired term of Ms. Pett, term to expire December 31, 2013; (2) appoint Rachael Tanksley-Russell to serve a three-year term, term to expire December 31, 2014; (3) appoint Kathryn Liss to serve the unexpired term of Ms. West, and then a full three-year term, term to expire December 31, 2015; and (4) reappoint Mr. Hahn to serve a three-year term, term to expire December 31, 2014. All terms are until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 34 – PAGE 370

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaronmonte cited examples of police harassment in Asheville.

Ms. Judy Strong felt that even though the City of Asheville owns McCormick Field, they should not use taxpayer dollars to support it. She suggested they contact the Tourism Development Authority and apply for a grant and/or increase user fees. Vice-Mayor Manheimer said that City Manager Jackson would contact her to provide her an explanation of why the City has an obligation to keep their assets up.

Rev. Amy Cantrell, Pastor and Co-Founder of Be Loved Community, and Dr. Bill Pence urged Council to find a safe legal space for people to camp when the shelters are full. They offered to work with the City for a dignified solution.

Mr. John Kleckner said that he is working on a documentary on downtown and would be happy to get their perspective on several of the issues raised by Council at this meeting.

Mountain Area Information Network Request

Mr. Tim Ballard, Board Member of the Mountain Area Information Network (MAIN), read a statement from the Board which requested a policy directive by City Council to enable MAIN's continued access to a city-owned cell tower. They requested a 60-day extension to the City's directive that they vacate the tower on May 1. The extension will give Council and City staff ample time to evaluate details of the request.

Councilman Hunt said in the past three weeks there has been a lot of dialogue between MAIN, City staff and City Council. He suggested Council grant the 60-day grace period noting that it would be MAIN's responsibility to respond on the following key questions: (1) what is MAIN's proposal in regard to the past due payments on the lease; and (2) in regard to moving forward in some type of partnership with the City, how would MAIN articulate community need and how would that come together for City participation.

In response to Councilman Hunt, City Manager Jackson said the amount due is long overdue and staff has been providing extensions, gone through a collections agency, with over \$37,000 outstanding. Staff tries to be fair and consistent when seeking payment of the debts to taxpayers. If extended, staff will look forward to seeing their proposal to make good on those payments and also the proposal on how they want to partner with the City.

In response to Councilman Bothwell, City Manager Jackson said at this point the recourse is to terminate the services, which is provided for in the contract, but we can certainly apply discretion as management, if endorsed by Council.

In response to Councilman Davis, City Manager Jackson said that we have others looking for that cell tower space.

Councilman Davis said that he also spoke with Mr. Wally Bowen, representing MAIN, who was amenable to a 30-60 day extension. Because we do have others interested in that space, he could support an extension of 30 days only.

Mr. Isaac Coleman, Board member of MAIN, requested Council for the 60-day extension, in that they are trying to serve an under-served population.

City Manager Jackson said that there are two issues. One is the payment of the obligation for use of the cell tower. That is an outstanding debt owed. He didn't think it would take more than 30 days to show good faith and agree to a payment plan. On the other hand, if there is some grant application for the City to bring to Council for different federal/state/non-profit partnership grant where the City would provide in-kind services, that proposal would need to be developed and very clear. Council has considered those kinds of proposals in the past and they have been very well developed with a scope of services, who is the entity that has the grant funds available, what would MAIN do, what is the City being asked to do, what the criteria is for the grant, the performance deliveries, how the public is served, etc. Staff would bring that to Council as they have in the past. We do not have anything of that nature from MAIN. Council has expressed a desire to extend broadband service particularly to segments of the community if there is a good plan and opportunity to structure such an opportunity. The first response as to whether or not MAIN will honor its obligation and agree to some kind of commitment and the question is if there will be a proposal on that. It would be wise for Council, as good stewards of the City's assets and the taxpayer resources, to know within a 30-day timeframe if that plan is forthcoming. In this case they will be responding to Council. We have gone through months in trying to get a response on a payment plan from MAIN. Their other option is to ask Council to waive that debt and enter into another kind of contract proposal. It would need to have a greater level of specificity than staff has been able to secure. The City does not have the ability to gift or do grants, no matter how worthy the agency might be. The City does have the ability to contract for the delivery of public services and typically Council wants those to be performance based contracts. Council also has a process for outside agency grants and contracts of that nature.

Councilman Davis was comfortable with a 30-day extension to receive an answer about how the past due payments would be settled, recognizing if they present some plan, it would take longer for that to be developed.

City Manager Jackson said that within 30-days we should get a response on whether it is a viable organization with which the City should contract with. If there are substantial opportunities to partner that are consistent with the legal requirements, when we report on their payment plan proposal, we can report on what those options might be and how much more time it might take to bring that back in the form of a contract.

In response to Councilman Smith, City Manager Jackson said that he would provide a history on the grant that is being discussed by MAIN members.

It was the consensus of Council to grant a 30-day extension to the City's directive that MAIN vacate the cell tower on May 1.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 10:18 p.m.

CITY CLERK

MAYOR