

Tuesday – July 24, 2012 - 5:00 p.m.

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Manheimer gave the invocation.

I. PROCLAMATIONS:

A. ANNOUNCEMENT OF STRIVE NOT TO DRIVE WINNERS

Mayor Bellamy recognized Mr. Keith Bamberger who explained the Strive Not To Drive Program. Mayor Bellamy then said that each year Strive Not To Drive recognizes individuals and organizations that help make getting places without driving alone in a car easier. The winners were nominated by their friends, peers, and admirers for their dedication to striving not to drive. The Golden Spoke Award goes to people who make commuting by bike a priority. The Golden Wheel Award goes to people who are multi-modal mixing walking, cycling, and riding the bus to get the places they need to go. We also give a Strive Not To Drive Leadership Award to people who lead by example and make it easier for others to Strive Not To Drive. This year Strive Not To Drive is recognizing two individuals with the Golden Spoke Award: Caroline Wiltz and Lynn Player; Golden Wheel Award: Morna Childers, West Asheville Library and Jim Grode; and Strive Not to Drive Leadership Award: Renee Owen. The Workplace Challenge winners are as follows: winner for business and organizations with fewer than 10 employees – The Western North Carolina Alliance; the winner for 11-30 employees – Equinox Environmental; the winner for 31-50 employees – REI; the winner for 51 to 250 employees – SMARTTRAC Technology; and the winner for business and organizations over 251 employees – Buncombe County.

B. ENVIRONMENTAL EXCELLENCE AWARD FOR THE DR. WESLEY GRANT SR. SOUTHSIDE CENTER

Ms. Susan Roderick, Executive Director of Asheville Greenworks, and Ms. Willie Mae Brown, presented City Council via Director of Parks, Recreation & Cultural Arts Roderick Simmons, with the Environmental Excellence Award for the construction of the Dr. Wesley Grant Sr. Southside Center. The Center construction included significant green building techniques to earn LEED certification, the first for new construction of a city-owned building.

On behalf of City Council, Mayor Bellamy thanked Ms. Roderick for the Award. She also thanked City staff, Jane Mathews, the Junior League, K. Ray Bailey and Virgil Smith for their hard work in helping Asheville achieve this award.

II. CONSENT AGENDA:

At the request of City Manager Jackson, Consent Agenda Items "D 1 and 2" and Consent Agenda Item "L" were removed from the Consent Agenda and would be scheduled at a later date.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 26, 2012**

- B. RESOLUTION NO. 12-159 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXTEND THE GENERAL SERVICES CONTRACT WITH CAROLINA MANAGEMENT TEAM FOR THE WATER RESOURCES WATER STORAGE TANK AND PIPE COATING AND MAINTENANCE PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to extend the general services contract with Carolina Management Team (CMT) for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the 2012-13 fiscal year with an option to renew for an additional fiscal year.

On July 26, 2011, City Council awarded the general services contract to Carolina Management Team for the Water Storage Tank and Pipe Coating and Maintenance Project. The scope of the project is for the maintenance, rehabilitation, repair, and repainting of water storage tanks and pump station piping at various sites in the water distribution system. Project locations have included: West Asheville Candler Knob Tanks, Spivey Mountain Tank, South Buncombe Tank, Spivey Mountain Pump Station, Ridgeview Tank, Beaverdam Pump Station, Gaston Mountain Tank, Patton Mountain Pump Station, and Young's Cover Tank.

The Water Resources Department desires to extend CMT's contract for an additional fiscal year with an option to renew for an additional fiscal year, both at \$150,000.00 each year, contingent upon funding. The extension of the contract with CMT with a one year option to renew benefits the City as follows: eliminates the time and expense associated with re-bidding; eliminates the logistics and operational requirements to mobilize another Contractor's workforce on site; continued work with a company who has a proven track record for excellent work and a known contract cost.

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

Pros:

- Approval of the project will allow Water Resources to complete necessary maintenance on various water storage tanks and pump station piping in need of rehabilitation and repair. The project will also make these sites more aesthetically pleasing.
- The project will provide a local company with work for at least the next year.
- The WRD will realize cost savings by not having to rebid the project.

Cons:

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

No additional appropriations are necessary as funds are budgeted in the Water Resources Capital Improvement Projects Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to extend the general services contract with Carolina Management Team for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the fiscal year 2012-13 with

an option to renew for the 2013-14 fiscal year, at a cost of \$150,000.00 per fiscal year contingent upon funding.

RESOLUTION BOOK NO. 35 – PAGE 1

C. RESOLUTION NO. 12-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PATTON CONSTRUCTION GROUP INC. FOR THE HAW CREEK AND RIDDLE ROAD WATERLINE REPLACEMENT

ORDINANCE NO. 4095 - BUDGET AMENDMENT FOR THE HAW CREEK AND RIDDLE ROAD WATERLINE REPLACEMENT

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction agreement with Patton Construction Group, Inc., for the bid amount of \$914,790.00 plus a contingency amount of \$91,479.00 for a total in the amount of \$1,006,269.00 for the Haw Creek Area and Riddle Road Waterline Replacement; and a budget amendment in the amount of \$369,169.00 from savings in other capital projects that were completed under budget.

This project consists of the construction and installation of approximately 3,200 linear feet (LF) of 8-inch ductile iron pipe and 6,130 LF of 6-inch ductile iron pipe with all associated valves, hydrants, and services to provide fire protection and domestic water service to the Haw Creek area and Riddle Road area. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received five (5) proposals.

Companies responding were:

1. Cana Construction – Waynesville, NC
2. Carolina Specialties Construction – Hendersonville, NC
3. Huntley Construction – Asheville, NC
4. Patton Construction Group, Inc. – Arden, NC
5. Steppe Construction, Inc. – Mill Spring, NC

The bids were reviewed by City Staff and McGill Associates Consulting Engineers, and Patton Construction Group, Inc., was selected as the lowest responsible bidder at a bid of \$914,790.00. A contingency amount of \$91,479.00 has been added for a total contract amount of \$1,006,269.00.

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

Pros:

- This project will replace existing waterlines, which are undersized, constructed of asbestos cement pipe, and/or rupture often causing costly repairs for the City and Water Resources Department and frequent outages for the customers, with a durable, reliable, sustainable water system for the Haw Creek and Riddle Road areas.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would prevent the completion of this important waterline system improvement.

The Water Resources Department currently has \$637,100.00 budgeted for this project. The remaining funds of \$369,169.00 needed for the contract will be transferred from the General Projects capital project that accumulates remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Amount in Haw Creek / Riddle Road Project	\$ 637,100.00
<u>Amount Needed for Construction Contract</u>	<u>\$ 369,169.00</u>
Total Amount for Project	\$1,006,269.00

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of the City Manager to enter into an agreement with Patton Construction Group, Inc., for the bid amount of \$914,790.00 plus a contingency amount of \$91,479.00 for a total contract amount of \$1,006,269.00 for the Haw Creek Area and Riddle Road Waterline Replacement; and a budget amendment in the amount of \$369,169.00 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 35 – PAGE 2
ORDINANCE BOOK NO. 27 – PAGE 401**

**D. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
CHANGE ORDER WITH BROWN AND CALDWELL FOR THE MAIN WATER
TRANSMISSION LINE EVALUATION PROJECT**

**BUDGET AMENDMENT FOR THE MAIN WATER TRANSMISSION LINE
EVALUATION PROJECT**

These items were removed from the Consent Agenda in order to have staff prepare a presentation related to this topic.

**E. ORDINANCE NO. 4097 - ORDINANCE ENACTING A THROUGH TRUCK
PROHIBITION ON RIVERVIEW DRIVE FROM AMBOY ROAD TO HAYWOOD
ROAD**

Summary: The consideration of an ordinance to enact a through truck prohibition on Riverview Drive from SR 3556 (Amboy Road) to SR 3548 (Haywood Road).

The Traffic Engineering Division has conducted a traffic-engineering study along the subject road at the request of residents. This study, which included a truck traffic count, has determined that the subject street is not appropriate for through truck traffic.

City ordinances # 19-60 and 19-61 prohibit trucks from using residential and designated streets as listed in Appendix C of the Code of Ordinances. For purposes of these ordinances, a truck is defined as a vehicle that has any of the following characteristics; a gross vehicle weight rating of 10,000 pounds or more, a tandem or tri-axle, or a tractor or tandem vehicle when pulling semi-trailers or tandem semi-trailers. There are certain exceptions to the ordinances including points of destination on the specific street, authorized detour route, emergency vehicles, public utility vehicles, wreckers (when towing), and buses.

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

The Public Safety Committee reviewed the subject action on June 25, 2012, and recommended that it move forward to City Council for consideration and approval.

Pros:

- City staff has been able to respond favorably to citizens requests.
- Consistent with streets of like character and design.
- Based on a traffic-engineering study.

Cons:

- Initial cost to install the appropriate truck prohibition signs is about \$400.00.
- Typically, traffic control signs have a serviceable life of five to seven years.

The initial cost to install the appropriate truck prohibition signs is about \$400.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance to enact a through truck prohibition on Riverview Drive from SR 3556 (Amboy Road) to SR 3548 (Haywood Road).

ORDINANCE BOOK NO. 27 – PAGE 405

F. RESOLUTION NO. 12-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH T&K UTILITIES INC. FOR THE MCINTOSH ROAD WATER SYSTEM IMPROVEMENTS PROJECT

ORDINANCE NO. 4098 - BUDGET AMENDMENT FOR THE MCINTOSH ROAD WATER SYSTEM IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction agreement with T&K Utilities, Inc., for the bid amount of \$635,860.00 plus a contingency amount of \$64,140.00 for a total in the amount of \$700,000.00 for the McIntosh Road Water System Improvements Project; and a budget amendment in the amount of \$466,000.00 from savings in other capital projects that were completed under budget.

This project consists of the construction and installation of approximately 6,500 Linear Feet (LF) of new 8-inch Ductile Iron Pipe (DIP) and 1,000 LF of 6-inch DIP with all associated valves, hydrants, and services to provide fire protection and domestic water service to the McIntosh Road area. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received three (3) proposals.

Companies responding were:

6. Carolina Specialties Construction – Hendersonville, NC
7. T & K Utilities, Inc. – Asheville, NC
8. Patton Construction Group, Inc.– Arden, NC

The bids were reviewed by City Staff and T & K Utilities, Inc., was selected as the lowest responsible bidder at a bid of \$635,860.00. A contingency amount of \$64,140.00 has been added for a total contract amount of \$700,000.00.

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

Pros:

- This project will complete an important link in the Water System between Brevard Rd and West Oakview Road and provide better domestic and fire service to the areas of McIntosh Rd, Pond Rd and Hazelnut Dr.
- The completion of this project will accomplish waterline relocation on Pond Rd that is necessary to allow NCDOT to complete a bridge replacement project on I-26 over Pond Rd.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would prevent the completion of this important waterline system improvement.

The Water Resources Department currently has \$234,000.00 budgeted for this project. The remaining funds of \$466,000.00 needed for the contract will be transferred from the General Projects capital project that accumulates remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Amount in McIntosh Road WL Project	\$234,000.00
<u>Amount Needed for Construction Contract</u>	<u>\$466,000.00</u>
Total Amount for McIntosh Road	\$700,000.00

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of the City Manager to enter into an agreement with T & K Utilities, Inc, for the bid amount of \$635,860 plus an additional contingency amount of \$64,140.00 for a total in the amount of \$700,000.00 for the McIntosh Road Water System Improvements Project; and a budget amendment in the amount of \$466,000.00 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 35 – PAGE 5
ORDINANCE BOOK NO. 27 – PAGE 406**

G. RESOLUTION NO. 12-163 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE WITH DANNY'S DUMPSTER FOR THE PURPOSE OF OPERATING A COMPOST FACILITY ON CITY-OWNED PROPERTY AT 120 HARDESTY LANE

Summary: The consideration of a resolution authorizing the City Manager to execute a Lease Agreement with Danny's Dumpster, Inc. for the purpose of installing and operating a Type III compost facility on a portion of city-owned real property at 80 Hardesty Lane, Asheville, NC.

Danny's Dumpster, Inc. is a small business located in Leicester, NC that serves as a commercial food waste hauling company for area establishments such as restaurants, universities, hospitals, etc. The food waste collected by Danny's Dumpster is used as a primary input in industrial composting operations. In addition to food waste hauling, Danny's Dumpster seeks to establish a compost processing facility to process food wastes and wood debris into the finished soil amendment known as compost. Compost processing facilities are regulated by the North Carolina Department of Environmental and Natural Resources, Solid Waste Division. Danny's Dumpster is in the process of applying for a Type III permit, which would enable Danny's Dumpster to process vegetable, grain, fruit, meat, and dairy food wastes.

The property at 80 Hardesty Lane is approximately 33 acres and is located at the back of the Recreation Park complex, between the Swannanoa River and the railroad. The current uses of this property are: (1) The City of Asheville Public Works Department operates a 5-acre beneficial fill site for waste concrete and other inert materials; (2) New Sprout Organic Farms leases 10 acres of land for certified organic fruit and vegetable production; (3) the Men's Garden Club of Asheville operates a small greenhouse on approx 0.37 acres. The proposed lease area for Danny's Dumpster is 5 acres +/-, directly adjacent to the beneficial fill site. This lease area will be minimally improved with three in-vessel composting containers, a food waste mixing container and covered storage areas for wood chip / debris and finished compost product. Danny's Dumpster will be required to access this site using the back entrance to Recreation Park off of U.S. 70 to avoid potential congestion with park users. No direct sales of compost will be permitted onsite.

The proposed lease terms are as follows:

- Initial term of two (2) years with the option to renew for two (2) additional two (2) year periods, subject to the mutual consent of the parties.
- Tenant responsibilities: Installation of all improvements, subject to zoning standards. Must maintain cleanliness of property, improvements, clearing of debris.
- All utilities to be paid by the tenant
- Maintenance: All maintenance to be performed by Tenant
- Mutual rights to terminate lease
- Rental: As consideration for the annual rental fees, Danny's Dumpster Inc. will accept all tree, limb and brush material generated by the Public Works Department of the City of Asheville free of charge. This in-kind arrangement equals an estimated \$50,000 annual cost savings for the Public Works Department.
- Standard provisions of all City leases (e.g. insurance, indemnity, etc.) will also apply

The Notice of Intent to enter into a Lease Agreement with Danny's Dumpster, Inc. was published on July 13, 2012, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested. In the notice, the property was referenced as 80 Hardesty Lane; should this resolution be approved, the address assigned to this portion of the property will be 120 Hardesty Lane.

This action complies with the City Council Strategic Operating Plan by addressing the following goals: (1) Job Growth and Community Development Goal by supporting diversified job growth and business development, (2) Green & Sustainable Goal by reducing city-wide solid waste and (3) Fiscal Responsibility by leveraging an external partnership to reduce City service costs.

Pros:

- Support the local green economy
- Contributes to solid waste reduction
- Cost savings in the form of in-kind service exchange
- All tree, limb and brush debris collected by the City of Asheville will be recycled into compost

Con:

- None

The lease agreement requires that Danny's Dumpster accept all tree, brush and limb debris generated by the Public Works Department free of charge. Given the existing disposal costs associated all tree, limb and brush material, the City estimates the value of this cost savings at \$50,000 per year. The City will receive no rental income from this lease.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement with Danny's Dumpster, Inc. on behalf of the City of Asheville.

In response to Mayor Bellamy, Real Estate Manager Nikki Reed said we will be leasing this surplus land to an existing business. She said Danny's Dumpster is an existing hauling business that is looking to expand to actually process the commercial compost that he now picks up. This is a straight forward lease of surplus property.

RESOLUTION BOOK NO. 35 – PAGE 7

H. RESOLUTION NO. 12-164 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERFEST 2012

RESOLUTION NO. 12-165 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT DOG DAY AFTERNOON

RESOLUTION NO. 12-166 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL

RESOLUTION NO. 12-167 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL

RESOLUTION NO. 12-168 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE SYMPHONY IN THE PARK

RESOLUTION NO. 12-169 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE CHAMBER AFTER HOURS

RESOLUTION NO. 12-170 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST

RESOLUTION NO. 12-171 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITIZEN-TIMES HALF MARATHON & 5K

RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE WEST ASHEVILLE SOAPBOX DERBY

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at RiverFest 2012 on August 11, 2012; Dog Day Afternoon on August 18, 2012; the Goombay Festival on August 24, 25 & 26, 2012; the Lexington Avenue Arts & Fun Festival on September 1 & 2, 2012; Symphony in the Park on September 3, 2012; Chamber After Hours on September 6, 2012; Organicfest on September 8, 2012; the Asheville Citizen-Times Half Marathon & 5K on September 15, 2012; and the West Asheville Soapbox Derby on September 29, 2012.

- Riverlink has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at RiverFest 2012 and allow for consumption at this event.

RiverFest will be held on Saturday, August 11, 2012, from 1:00 p.m. – 7:00 p.m., within the boundaries of French Broad River Park, as per the event area limits referenced on the accompanying site map.

- Animal Compassion Network has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Dog Day Afternoon and allow for consumption at this event.

Dog Day Afternoon will be held on Saturday, August 18, 2012, from 10:30 a.m. – 4:00 p.m. within the boundaries of Carrier Park, as per the event area limits referenced on the accompanying site map.

- YMI Cultural Center has requested through the City of Asheville Development Services Center that City Council permit the sale of beer and/or unfortified wine at the Goombay Festival and allow for consumption at this event.

The Goombay Festival will be held on Friday, August 24, 2012 from 6:00 p.m. to 9:00 p.m., Saturday, August 25, 2012 from 12:00 p.m. to 10:00 p.m. and Sunday, August 26, 2012 from 11:00 a.m. to 9:00 p.m. within the boundaries of Eagle Street between Biltmore Avenue & S. Spruce Street, South Market Street between S. Pack Square & Beaumont Street, and includes Triangle Park, Sycamore Street and Wilson Alley, as per the event area limits referenced on the accompanying site map.

- Arts2People has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at the Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

The Lexington Avenue Arts & Fun Festival will be held on Saturday, September 1, 2012 from 8:00 p.m. to Sunday, September 2, 2012 at 2:00 a.m. and again on Sunday September 2, 2011 from 11:00 a.m. to 9:00 p.m. within the boundaries of Lexington Avenue between the intersections of College Street and the I-240 overpass, Walnut Street between Broadway and Rankin Avenue, Rankin Avenue between Walnut Street and Hiwassee, Hiwassee between Rankin Avenue and Carolina Lane, Chicken Alley and Carolina Lane between Hiwassee and Walnut Street, the Rankin Avenue Monthly Parking Surface Lots on Rankin Avenue between Walnut and Hiwassee, and the metered parking lot at Lexington Avenue and the I-240 Underpass, as per the event area limits referenced on the accompanying site map.

- The Asheville Symphony Society in conjunction with Arts2People has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Symphony in the Park and allow for consumption at this event.

Symphony in the Park will be held on Monday, September 3, 2012 from 1:00 p.m. to 9:00 p.m. within the boundaries Pack Square Park's Roger McGuire Green, Reuter Terrace, City-County Parking Lot, and Spruce Street between College Street and Court Plaza as per the area limits referenced on the accompanying site map.

- The Asheville Buncombe Youth Soccer Association has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Chamber After Hours and allow for consumption at this event.

Chamber After Hours will be held on Thursday, September 6, 2012 from 5:30 p.m. to 7:00 p.m. within the boundaries of Azalea Park as per the area limits referenced on the accompanying site map.

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

OrganicFest will be held on Saturday, September 8, 2012 from 10:00 a.m. to 6:00 p.m. with all beer and/or unfortified wine contained to a beverage tent located within Pack Square Park's Roger McGuire Green as per the area limits referenced on the accompanying site map.

- Lend-a-Hand Foundation has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at the Asheville Citizen-Times Half Marathon & 5K and allow for consumption at this event.

The Asheville Citizen-Times Half Marathon & 5K will be held on Saturday, September 15, 2012 from 5:30 a.m. to 12:00 p.m. along various streets with all beer and/or unfortified wine restricted to a portion of Otis Street, as per the event area limits referenced on the accompanying site map.

- Asheville Greenworks in conjunction with Run Amok Productions has requested through the City of Asheville Development Services Center that City Council permit the sale of beer and/or unfortified wine at the West Asheville Soapbox Derby and allow for consumption at this events.

The West Asheville Soapbox Derby will be held on Saturday, September 29, 2012, from 12:00 p.m. – 5:00 p.m. on Seven Oaks Road between the intersections of Wilmington Street and Westwood Place, as per the event area limits referenced on the accompanying site map.

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

Pro:

- Allows fundraising opportunities for Riverlink, Animal Compassion Network, YMI Cultural Center, Arts2People, Asheville Buncombe Youth Soccer Association, Asheville Greenworks, Lend-a-Hand Foundation, and Run Amok Productions.

Con:

- Potential for public safety issues

There is no direct fiscal impact related to the approval of this resolution.

City staff recommends City Council adopt the resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at RiverFest 2012, Dog Day Afternoon, the Goombay Festival, the Lexington Avenue Arts & Fun Festival, Symphony in the Park, Chamber After Hours, Organicfest, Asheville Citizen-Times Half Marathon & 5K, and the West Asheville Soapbox Derby.

Due to questions raised by Councilman Davis regarding the West Asheville Soapbox Derby event on September 29, it was the consensus of Council to remove consideration of that resolution at this meeting until further information regarding the event and location of the event can be obtained. It was also the consensus of Council, at the suggestion of Mayor Bellamy, to provide Council with a listing of how many events that have applied for the possession of alcohol at their events and if each of those events have a tie to Asheville.

RESOLUTION NO. 12-164 - RESOLUTION BOOK NO. 35 – PAGE 8
RESOLUTION NO. 12-165 - RESOLUTION BOOK NO. 35 – PAGE 11
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RESOLUTION NO. 12-172 - RESOLUTION BOOK NO. 35 – PAGE 32

I. RESOLUTION NO. 12-173 - RESOLUTION TO THE CHIEF OF POLICE AS THE ABC BOARD AUTHORIZED OFFICIAL TO MAKE RECOMMENDATIONS CONCERNING THE SUITABILITY OF PERSONS OR LOCATIONS FOR ABC PERMITS

Summary: The consideration of a resolution to designate the Chief of Police as the authorized official to make recommendations concerning the suitability of persons or locations for ABC permits to the North Carolina Alcoholic Beverage Control Commission (Commission).

Pursuant to NCGS 18B-901, ABC permits are issued by the Commission. Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which the applicant has applied. One of the factors that the Commission takes into consideration is the recommendation of the local governing body. Pursuant to NCGS 18B-904(f), the governing body may designate an authorized official, by name or by position, to make recommendations as to the suitability of a person or of a location for alcohol permits.

This item was reviewed by the Public Safety Committee and received unanimous approval.

This action aligns with the City Council's Strategic Operating Plan in the goal that Asheville will be one of the safest and most secure communities when compared to similar sized cities. By inspecting and regulating locations and persons for alcohol permits we enhance public safety.

Pros:

- Compliance with statutory regulations in permitting alcohol sales.
- Clearly designates the Chief of Police as the authorized official for the City of Asheville concerning ABC permits.

Con:

- None.

The Asheville Police Department recommends that City Council approve the resolution designating the Chief of Police as the Authorized Official for the City of Asheville to make recommendations as to the suitability of a person or of a location.

RESOLUTION BOOK NO. 35 – PAGE 35

J. RESOLUTION NO. 12-174 - RESOLUTION AMENDING A HOUSING TRUST FUND LOAN TO MOUNTAIN HOUSING OPPORTUNITIES INC. FOR THE APARTMENTS AT THE GLEN ROCK HOTEL

Summary: The consideration of a resolution authorizing approval of an additional \$167,000 in Housing Trust Fund financing to Mountain Housing Opportunities, Inc. (MHO) for the development of 22 one-bedroom apartments at the Glen Rock Hotel.

MHO has proposed a 22-unit multifamily rental development in the historic Glen Rock Hotel building on Depot Street. The site size is .66 acres and is currently zoned Urban Place with Conditional Use zoning. The total project development cost is \$2,569,900. Through this project, 11 HOME units will be created, fulfilling the HOME unit commitment in the old East Riverside project. The amount of that grant (\$235,000) is included in the project's sources of funds.

The Project was previously approved for funding in January 2012 as two separate loans, with more favorable terms being offered for the units rented below 60% AMI. The first loan in the amount of \$165,500 was approved as a deferred interest-only loan at 2.00% interest with principal deferred for 20 years. This represented 75% of the total loan request at that time. Twelve (12) of the proposed units are proposed to be targeted to persons at or below 60% AMI. The second loan in the amount of \$55,000 was approved as an amortized loan with monthly payments at 2.5% interest for 20 years. This represented 25% of the total loan request. Ten (10) of the proposed units will be targeted to persons at or below 80% AMI.

Staff has received a funding request from Mountain Housing Opportunities (MHO) for an additional \$167,000 to complete the project financing. MHO has explored all available financing options and funding sources. In addition to City and County support, funding has been provided by Neighborworks America, the TD Bank Charitable Foundation, and Community Housing Capital. MHO will also provide a \$125,000 developer loan and a \$125,000 CDFI loan to the project. The additional funding requested by the developer will allow the project to begin construction. The terms requested are 2.50% interest-only with principal deferred for twenty (20) years. Approval of this request with special loan terms of interest-only financing requires an exception to our current policy. If approved at the requested amount, the new loan will bring the total HTF investment in the project to \$387,000. The maximum aggregated loan amount under current guidelines for a project of this size is \$200,000.

Staff analysis of the financial proforma suggests that that terms requested are necessary and reasonable due to the minimal cashflow that will be available for debt service after expenses. The Housing and Community Development Committee reviewed the request at their June 21st meeting and recommends approval at the requested terms based upon the financial need of the project.

The project proposal meets the funds' stated priorities in that 100% of the units will be one-bedroom floor plans. The first floor of the hotel (12,600 SF) will be developed commercially at a later time. MHO remains in negotiations with local grocers who may be interested in utilizing this space. The second and third floors (15,306 SF including common areas) will be adapted to residential use. The per-unit subsidy based upon the total aggregate loans of \$387,000 is \$17,590. The aggregate loan requests represent 15% of the total development costs. The total per-unit development cost is \$116,814. The developer has provided a third party market analysis which reflects a capture rate of 4.5% for those persons seeking one-bedroom units. This would equate to a current market demand of 488 units, of which the project only needs to attract 22 tenants. Staff would note that units of this size (485-740 square feet) are relatively uncommon and comparable projects are not available by which to gauge the impact of the smaller floorplans on marketability.

The project is located in the East of the Riverway area, and is easily accessible to services, transit and employment. Two (2) of the units will be fully ADA accessible. The project

will be LEED certified. Success of previous mixed-use developments demonstrates sufficient developer capacity for this type of project.

The project directly supports the City's Strategic Operating Goals: (1) *Affordable*: The project proposal is supportive of the City's goal of providing safe and decent affordable housing units to the citizens of Asheville; and (2) *Sustainable*: The proposed project provides new housing units located near transit lines, higher urban development densities, and encourage higher standards of energy efficiency. The project also addresses the priorities of the Consolidated Strategic Housing & Community Development Plan by increasing the housing stock, providing affordable rental units, building high quality energy-efficient housing, and coordinating development with transportation and jobs.

Pros:

- Priority development area.
- Development team has been successful on similar projects.
- Financing commitments exceeding \$1.5million have been received from non City-County sources.
- Urban location with easy access to employment, transit, and services.
- Energy efficiency with LEED certification
- Addresses the need for additional one-bedroom and efficiency units.
- Rehab and adaptive reuse of existing building.
- Catalyst for continued revitalization of a formerly distressed area.

Cons:

- Requested loan terms do not comply with current guidelines.
- Developer is relying heavily on City-County subsidy.
- There are no comparable projects by which to assess the impact of relatively small unit size on market demand.
- The City has a significant prior investment in the Glen Rock Apartments representing a substantial concentration of capital.

The current balance in the Housing Trust Fund is \$470,848.07. No adverse fiscal impact is expected or anticipated. If approved, \$303,848.07 will remain available to support other qualified projects.

The Housing and Community Development Committee recommends City Council approve a resolution amending the loan terms as previously authorized in Resolution No. 12 10 dated January 10, 2012, to Mountain Housing Opportunities, Inc.; and approving the following loans to Mountain Housing Opportunities, Inc at the terms stated: (1) \$332,000 at 2.50% interest-only with principal deferred 20 years to Mountain Housing Opportunities, LLC for the development of Twelve (12) multifamily units at the Glen Rock Hotel on Depot Street; all funds to be made immediately available for disbursement following loan closing. These Twelve (12) units to be restricted to families earning 60% or less of the area median income; and (2) \$55,000 amortized at 2.5% interest for 20 years to Mountain Housing Opportunities, LLC for the development of Ten (10) additional multifamily units at the Glen Rock Hotel on Depot Street; all funds to be made immediately available for disbursement following loan closing. These Ten (10) units to be restricted to families earning 80% or less of the area median income.

RESOLUTION BOOK NO. 35 – PAGE 36

K. RESOLUTION NO. 12-175 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE ACT AS LEAD AGENCY AND FISCAL AGENT FOR THE 2011-12 EMERGENCY SOLUTIONS GRANT PROGRAM

Summary: The consideration of a resolution for the City to act as the lead agency and fiscal agent for the 2011 and 2012 Emergency Solutions Grant.

The HUD Emergency Shelter Grant program is undergoing extensive changes. In prior years, agencies providing homeless shelter, outreach and homelessness prevention services applied directly to HUD for funding, primarily for operational costs for their programs. In Buncombe County, the following agencies and programs were funded last year: ABCCM Day Shelter, ABCCM, Steadfast House, Helpmate, Homeward Bound, AHOPE, and Salvation Army.

As the (now renamed) Emergency Solutions Grant, the program emphasis is changing from emergency and transitional shelters to rapid rehousing activities. Funding for Asheville and Buncombe County programs will be routed through the State of North Carolina, as opposed to directly through HUD. Instead of individual agency application, the State will require that each Continuum of Care (the City is the lead agency for the Asheville Buncombe CoC) submit one application detailing the use of funds for the coming year. The application deadline is August 13.

A total of \$164,444 will be available this year to Asheville and Buncombe County. A supplemental FY 2011 allocation of \$37,794 must be used for rapid rehousing. The FY 2012 allocation of \$126,646 is available for both traditional purposes (limited to existing grantees) and for rapid rehousing. Per federal regulations, no less than 40% of those funds must be used for rapid rehousing, and the State has set that as a minimum, encouraging CoC's to do more.

The proposed City of Asheville role moving forward is for the City, through the Community Development Division, be the lead agency for the ESG program, and be the Fiscal Agent for the program as well. As lead agency, we would facilitate the application process to the state for the FY 11 and the FY 12 ESG funds, including facilitating the local recommendations for agency funding. As fiscal agent we would, upon receipt of the award, administer the grant by entering into contracts with the funded agencies, processing their request for draw downs, ensuring program compliance, and report to the State. This is the same role we play with CDBG and HOME funds, although we report directly to HUD for those funds. Some funds (estimated between \$7,000 and \$10,000) will be made available to the City for grant administration.

The Homeless Initiative Advisory Committee, the joint City/County advisory committee established to coordinate the 10 Year Plan to End Homelessness, has created a subcommittee to assist with preparing a community-wide application in this important transition year. None of the subcommittee members represents an agency that receives ESG funds, or that would receive ESG funds.

For funding decisions, our proposed process is that the Homeless Initiative Advisory Committee would make a recommendation to the Housing and Community Development Committee regarding individual agency funding. The HCD Committee recommendation would serve as an authorization to submit the final application, with their recommendation going to Council at the earliest possible time for final ratification

The project directly supports the City's Strategic Operating Goal of *Affordable*: The project proposal is supportive of the City's goal for all citizens to have access to safe, sufficient and affordable housing, by supporting initiatives intended to address homelessness with an emphasis on Housing First.

Pros:

- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid rehousing of persons experiencing homelessness;
- By acting as lead agency and fiscal agent, the City can assist homeless services providers by ensuring a coordinated and consistent application;
- By acting as fiscal agent, the City can ensure timely payment of grant funds to participating agencies and ongoing compliance with applicable state and federal regulations;
- We anticipate that the applications for future funding from HUD and the State will require a lead agency and fiscal agent, and this program gives the City specific experience in working with the State.

Cons:

- The application deadline was announced last week. Although we have been preparing for this, the deadline is very tight nonetheless, and does not coordinate well with Council's meeting schedule. This is the reason for designating the HCD Committee be authorized to submit the final application.

Program funding is entirely from the US Department of Housing and Urban Development. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution authorizing the City of Asheville act as lead agency and fiscal agent for the FY 11 and FY 12 Emergency Solutions Grant, and authorizing the Housing and Community Development Committee to approve the submittal of the regional application, to be ratified by City Council at its earliest opportunity.

RESOLUTION BOOK NO. 35 – PAGE 37

L. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE HOUSING AUTHORITY TO FUND AND CREATE A PUBLIC HOUSING POLICING UNIT

This item was removed from the Consent Agenda until the terms of the agreement are finalized, the fiscal analysis and performance measures are determined, and a budget amendment is ready for Council consideration as a new business item.

M. RESOLUTION NO. 12-176 - RESOLUTION SETTING A PUBLIC HEARING ON AUGUST 14, 2012, TO CONSIDER AN ECONOMIC DEVELOPMENT GRANT FOR LINAMAR CORPORATION

Summary: The consideration of a resolution authorizing a public hearing to be held on August 14, 2012, to consider an economic development incentive grant for Linamar Corporation.

Linamar Corporation is a world-class designer and diversified manufacturer of precision metallic components and systems for the automotive industry, energy and mobile industrial markets. The company located a new manufacturing facility in the former Volvo facility in the City of Asheville in 2011. The company is planning a \$75,000,000 expansion on its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. The City of Asheville is considering offering a performance-based grant totaling \$1,000,000.

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

The economic development incentive grant for Linamar supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and

Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in manufacturing in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Cons:

- Grant is formulated based on use of 75% of value of property tax revenue for a 5 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 25% of the new incremental property tax revenues from the project. After 5 years, the City will henceforth receive 100% capture of new city property taxes.

City staff recommends Council approve a resolution authorizing a public hearing to be held on August 14, 2012, on an economic development incentive grant agreement to support the expansion of Linamar Corporation.

RESOLUTION BOOK NO. 35 – PAGE 38

N. RESOLUTION NO. 12 -177 - RESOLUTION AWARDED THE PROJECT KNOWN AS WILD CHERRY ROAD BRIDGE CONSTRUCTION PROJECT TO SADDLEBROOK CONSTRUCTION INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH SAME

Summary: The consideration of a resolution authorizing the City Manager to execute a unit price contract (and all change orders in the amount up to a total contract amount of \$580,000.00) with Saddlebrook Construction, Inc., in the amount of \$463,711.44 for the project known as Wild Cherry Road Bridge Construction Project, Project # ENG-11-12-012.

In response to a Priority Maintenance Notification for Bridge Maintenance issued by the NCDOT Bridge Management Unit, a Request for Qualifications was advertised on October 28, 2011 by the City for a firm to analyze the status of the bridge and determine whether it was more prudent to rehabilitate or replace the bridge and to prepare a design of the selected course of action. The engineering firm of Mattern and Craig was selected for this undertaking. Their recommendation based on a Life Cycle Cost Analysis was to replace the bridge.

A formal request for bids for construction was issued on May 29, 2012; bids were received on June 14, 2012. There were a total of 2 bids received; not meeting the required minimum number of bids the project, per NCGS 143-132, was re-advertised on June 14, 2012. Bids were received again on June 22, 2012. Three bids were received with the lowest responsive bidder being Saddlebrook Construction, Inc., located in Pickens, S.C., with an amount of \$463,711.44.

This will be a unit price contract and not a lump sum contract and is part of the City of Asheville's CIP program.

This action complies with the City Council Strategic Operating Plan of Fiscal Responsibility and Multimodal Transportation in that it will be providing infrastructure maintenance and increase the output of new sidewalks. This action will also address the Priority Maintenance Notification for Bridge Maintenance issued by the NCDOT Bridge Management Unit.

Pros:

- Updating a failing infrastructure item.
- Will be a step forward in meeting the City's Strategic Plan and CIP goals.
- Is listed as an identified need on the City of Asheville pedestrian plan.

Cons:

- Project management and contract administration will consume staff time and City funds.
- Temporary lane closures.
- The new construction will increase the maintenance load on the City.

The budget for this project was included in the approved FY 2011-12 Capital Improvement Program and is being financed with proceeds from the 2012 Limited Obligation Bond issuance. The \$580,000 contract price is within the approved project budget.

Staff recommends City Council to authorize the City Manager to execute on behalf of the City of Asheville a contract with Saddlebrook Construction, Inc., in the amount of \$463,711.44 for the project known as Wild Cherry Road Bridge Construction Project, and all change orders in the amount up to a total contract price of \$580,000.00 to pay for unexpected items that might be uncovered.

RESOLUTION BOOK NO. 35 – PAGE 39

O. RESOLUTION NO. 12-178 - RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY ON CURVE STREET

Summary: The consideration of a resolution to purchase real property on Curve Street for \$1,000 that is bisected by Curve Street.

North Carolina General Statute sec. 160A-11 authorizes the City of Asheville to purchase real property. Parcel number 9648-68-5878 consists of .17 acres of property that is bisected by Curve Street, a City maintained street. Curve Street bisecting the property predates records detailing its creation, and the owner has approached the City wishing to sell the bisected property. Although the City has a statutory obligation and right to continue to maintain Curve Street without regard to the underlying property; obtaining the property will allow Public Works staff to clarify the Curve Street right-of-way for future maintenance clarity. City staff, including those from Legal and Economic Development, have researched the proposed purchase and found an equitable offer of \$1,000 to which both sides are agreeable.

Pros:

- The purchase will clarify the status of Curve Street ownership for perpetuity.
- It will clear the books of an unused parcel of property.
- It is a mutually agreeable purchase.

Con:

- Uses operational funds to purchase property.

This action meets Council's goal on several fronts: It is a collaborative partnership to clarify a public good. A clarified street right-of-way will allow for future design potential should multi-modal transportation ever be an option for any future Curve Street redesign.

Other than the initial purchase of \$1,000, there is no additional fiscal impact to the City of Asheville. The initial purchase will be absorbed in the Public Works budget.

Staff recommends that Asheville City Council adopt a resolution authorizing the purchase of parcel 9648-68-5878, consisting of .17 acres bisected by Curve Street.

RESOLUTION BOOK NO. 35 – PAGE 40

P. RESOLUTION NO. 12-179 - RESOLUTION ACCEPTING SONNET LANE AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept Sonnet Lane as a city-maintained street.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request on May 7, 2012, asking the City to accept the subject street as a city-maintained street.

Sonnet Lane from Bassett Road to its dead-end is a developer-constructed street that has an average width of 20 feet with stand-up asphalt curb and 24-inch curb and gutter, a length of 0.18 mile, and a right-of-way width that varies from 25 to 32 feet.

Transportation Department staff and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

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

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

Pros:

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

Con:

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

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Sonnet Lane as a city-maintained street.

RESOLUTION BOOK NO. 35 – PAGE 41

Q. ORDINANCE NO. 4099 - BUDGET AMENDMENT TO PURCHASE TWO VEHICLES TO SUPPORT OPERATION OF THE TRANSIT SYSTEM

Summary: The consideration of a budget amendment in the amount of \$56,250, from federal grant funding and Transit Capital Reserves, to purchase two vehicles to support operation of the transit system.

Transit Operations staff has identified the need to replace two support vehicles used to perform supervisory activities. Currently there are four vehicles available to perform supervisory activities including transporting drivers on a daily basis. The vehicles recommended for replacement have achieved their useful life of five years and will be replaced by two new SUV type vehicles. The SUV type vehicles will be a valuable asset especially during periods of inclement weather.

The City was granted funding through the annual apportionment, Section 5307 of the Federal Transit Administration. The annual apportionment is regularly used for capital items as well as operating and American with Disabilities Act's related expenses. Staff has secured a total of \$56,250 to complete the subject project including a local match of 20% (\$11,250). The local match will come from Transit Capital Reserves.

The project should be accomplished within the next three months.

This action complies with the City Council 2012-13 Strategic Operating Plan within the green and sustainable focus area by taking the City of Asheville's sustainability to the next level.

Pros:

- Replaces aged vehicles for more efficient ones which should generate savings in fuel consumption and maintenance costs
- Federal Funds will provide 80% of the total project cost, which equates to \$45,000.

Cons:

- The total cost of the project is \$56,250.
- The City's share of the total cost of the project is \$11,250.

The total cost of the project is \$56,250 including a 20% local match equating to \$11,250. The local match will come from Transit Capital Reserves. After this allocation, there will be approximately \$46,000 remaining in the Transit Capital Reserves.

Staff recommends that City Council adopt a budget ordinance amendment in the amount of \$56,250 from Federal Funds and Transit Capital Reserve Funds to purchase two support vehicles.

ORDINANCE BOOK NO. 27 – PAGE 408

R. ORDINANCE NO. 4100 - BUDGET AMENDMENT TO INCREASE THE ORIGINAL BUDGET FOR THE PURCHASE OF AN AUTOMATED VEHICLE LOCATION SYSTEM FOR THE TRANSIT SYSTEM

Summary: The consideration of a budget amendment, in the amount of \$225,000, from state grant funds to increase the original budget for the purchase of an Automated Vehicle Location system for the transit system.

On February 28, 2012, staff requested permission to apply for a FY 2013 Urban Advanced Technology grant. The Urban Advanced Technology grant is a biannual opportunity offered by the North Carolina Department of Transportation designated exclusively to provide funding for technology projects that would enable transit systems to improve efficiency in their operations and at the same time enhance the riders experience using transit.

The City was awarded \$405,000 to acquire an Automated Vehicle Location (AVL) system with focus in the Real Time Passenger Information feature. The AVL system produces operational information in real time, which includes vehicle location, speed, fuel usage, on-time performance, and historical records. This information is a powerful tool to help manage the system and to identify areas needing improvement. It also enhances the customer experience by

providing next bus arrival information in real time, via personal cell phones, Smartphones and through the transit system's website. This project has been identified in the Transit Master Plan as a vital project to help improve the system's operation.

The FY 2011-12 adopted Transit Capital Projects Fund included a budget of \$225,000 for the AVL system purchase, with \$180,000 in funding from the state grant and \$45,000 coming from the General Fund for the local match. This budget amendment will increase the total project budget by \$225,000 to a new total of \$450,000. Under the amended budget, the grant provides 90% of the funding or \$405,000 and the City provides the 10% local match or \$45,000, which was previously budgeted. This project should be completed in 24 months.

This action complies with the current City Council 2012-13 Strategic Operating Plan within the multimodal transportation and fiscal responsibility areas by funding system improvements that are in the long-term Capital Improvement Program and exploring alternatives for enhancing the city's long term financial commitment to master plan implementation, respectively.

The Transit Commission supports the subject action.

Pros:

- The acquisition of an AVL system is part of the Transit Master Plan implementation.
- The project will enable the City to improve the transit system's efficiency as well as the customer experience.
- The North Carolina Department of Transportation will provide funding for 90% or \$405,000 of the project.

Cons:

- The total project cost of \$450,000.
- The City provides the 10% local match or \$45,000.

The total anticipated project cost is \$450,000. The City is required to provide a 10% local match in the amount of \$45,000, which was already included in the FY 2011-12 Adopted General Fund Budget.

Staff recommends that City Council adopt a budget amendment in the amount of \$225,000 from state grant funds to acquire an Automated Vehicle Location system for the transit system.

ORDINANCE BOOK NO. 27 – PAGE 410

S. ORDINANCE NO. 4101 - BUDGET AMENDMENT FOR 2012 LIMITED BOND FINANCING

Summary: The consideration by City Council of a technical budget amendment to budget: 1) the \$10,600,000 refunding component of the 51 Biltmore Parking Facility in the Parking Services Fund; 2) the \$10,506,000 refunding of the 1997A and 1997C Certificates and the 2006 Contract in the General Fund; and 3) the \$398,000 in execution and delivery costs of the 2012 Bonds in various funds.

On June 27, the City closed on its 2012 Limited Obligation Bond financing. The financing generated \$43,448,000 in bond proceeds which are being used to: 1) finance various projects contained in the FY 2012 capital improvement plan such as streets, sidewalks, LED streetlights, City Hall and Civic Center renovations, vehicles and equipment and greenways; 2) refinance the 1997A and 1997C Certificates, the proceeds of which were used to finance and refinance improvements to various City facilities; 3) refinance the City's obligations under the 2006 Contract, the proceeds of which were used to finance two fire stations, vehicles and equipment;

4) refinance the City's obligations under the 2011 Contract, the proceeds of which were used to finance the construction of and improvements to the 51 Biltmore Parking Facility; and 5) finance the costs of the initial execution and delivery of the 2012 Bonds.

The financing was completed at a rate of 2.919% with a final maturity of 2032. The refunding activities generated cash flow savings (new debt service, including all costs compared to the old debt service) of \$1,162,000 through 2021 – representing about \$129,000 annually.

The FY 2012 budget contained debt financing appropriations for various projects included in the annual capital improvement plan and identified above. The budget, however, did not include appropriations reflecting the refunding components and costs of the transaction. The refunding components are comprised of \$10,600,000 for the 51 Biltmore Parking Facility and \$10,506,000 for the 1997A and 1997C Certificates and the 2006 Contract. The costs of the execution and delivery of the 2012 Bonds totaled \$398,000 – slightly less than 1% of the total bond proceeds. This technical amendment incorporates into the budget the refunding components above and the costs of execution and delivery.

This action complies with the City Council Strategic Operating Plan goal of "Operate the City of Asheville to the highest levels of fiscal responsibility."

Pro:

- Amends the FY 2012 budget to reflect the various actions taken by the City Council beginning in December 2011 with respect to the 2012 Limited Obligation Bonds.

Con:

- None.

As noted above, the refunding activities generated cash flow savings (new debt service, including all costs compared to the old debt service) of \$1,162,000 through 2021 – representing about \$129,000 annually. The annual debt service payments associated with the 2012 Limited Obligation Bond Financing are included in the FY 2013 Adopted Budget.

City staff recommends City Council approve the technical budget amendment to budget: 1) the \$10,600,000 refunding component of the 51 Biltmore Parking Facility in the Parking Services Fund; 2) the \$10,506,000 refunding of the 1997A and 1997C Certificates and the 2006 Contract in the General Fund; and 3) the \$398,000 in execution and delivery costs of the 2012 Bonds in various funds.

ORDINANCE BOOK NO. 27 – PAGE 412

T. ORDINANCE NO. 4102 - TECHNICAL BUDGET AMENDMENTS FOR WATER CNG VEHICLES AND THE LAKE CRAIG (AZALEA ROAD) FLOOD MANAGEMENT CAPITAL PROJECT

Summary: The consideration of two technical budget amendments to: 1) move the \$56,524 budget for the water department's CNG vehicle purchases from the General Capital Projects Fund to the Water Capital Projects Fund; and 2) combine two previously approved project budgets for the Lake Craig (Azalea Road) Flood Management Project into one single project with a total budget of \$4,163,239 funded by Senate Bill 7 and Sullivan Act proceeds.

Water CNG Vehicles: On August 10, 2010 City Council approved a budget amendment and accepted grant funds from the Department of Energy's Clean Cities Grant to upgrade a portion of the City's fleet vehicles to CNG. City Council subsequently amended the original CNG project budget on April 10, 2012 to accept additional grant funds. The current budget for the project, which is fully accounted for in the City's General Capital Projects Fund, is \$482,227. From this amount, \$56,524 was spent to upgrade water department vehicles to CNG. Staff is

requesting that Council approve a technical budget amendment to move this \$56,524 from the General Capital Projects Fund to the Water Capital Projects Fund.

Lake Craig (Azalea Road) Flood Management. In a prior fiscal year, the City received grant funding through the Senate Bill 7 allocation for the Lake Craig Flood Management (Azalea Road) project. This funding, which totals \$2,153,239, was budgeted in the City's Grant Fund. In addition, through a prior year annual budget appropriation in the General Capital Projects Fund, City Council approved the use of \$2,010,000 in Sullivan Act funds for the Lake Craig Flood Management (Azalea Road) project. The technical amendment that staff is proposing combines these two separate projects into one single project with a total budget of \$4,163,239. Due to the nature of the improvements being funded in this project, the single project budget will include appropriations in the General Capital Projects Fund, the Water Capital Projects Fund, and the Stormwater Capital Projects Fund. The allocation of the budget across these three funds may change once final construction bids are received, but the total project budget of \$4,163,239 cannot be amended without Council approval.

This action complies with the City Council Strategic Operating Plan goal of "Operate the City of Asheville to the highest levels of fiscal responsibility."

Pros:

- Allows for more effective accounting and reporting of revenues, expenses and fixed assets.
- Aligns the budget with current accounting procedures.

Con:

- None.

These two technical amendments will have no net impact on the City's overall budget since all of the appropriations above have been previously approved by City Council.

City staff recommends City Council approve the two technical budget amendments to: 1) move the \$56,524 budget for the water department's CNG vehicle purchases from the General Capital Projects Fund to the Water Capital Projects Fund; and 2) combine two previously approved project budgets for the Lake Craig (Azalea Road) Flood Management Project into one single project with a total budget of \$4,163,239 funded by Senate Bill 7 and Sullivan Act proceeds.

ORDINANCE BOOK NO. 27 – PAGE 422

U. ORDINANCE NO. 4103 - BUDGET AMENDMENT TO BALANCE REVENUE AND EXPENDITURES IN SIX OF THE 2008 PROJECTS IN ORDER TO CLOSE AND INACTIVATE THE PROJECTS

Summary: The consideration of a technical budget amendment in the amount of \$1,711,071.00 to balance revenues and expenditures in 6 of the 2008 Water Revenue Bond Projects in order to close and inactivate the projects.

In order to inactivate 25 older, completed capital projects, the revenue in six (6) 2008 Water Revenue Bond Projects (including Hendersonville Road, Central Business District, Pump Station / Mills River WTP Backup Generators, Valve Installations, and Fairview Tank / South Buncombe Pump/Weston Road) must be balanced. Specifically, the budget amendment reduces the revenue and expenditures budgeted in five projects by \$ 1,711,071.00 million to match actual expenditures, and

Once these projects have been balanced via budget amendment, they can be closed as part of the City's annual year-end project close out.

This project is part of City Council's strategic plans to operate the City of Asheville to the highest levels of fiscal responsibility.

Pro:

- Approval of the technical budget amendment will allow six (6) of the 2008 Water Revenue Bond Projects to be balanced and closed in keeping with Generally Accepted Accounting Practices (GAAP).

Con:

- None.

The budget amendment is only a technical adjustment to balance revenues and expenditures in six (6) of the 2008 Water Revenue Bond Projects; therefore, it will have no additional impact on the Water Resources Capital Improvement Projects or Operating Funds.

City staff recommends City Council approval of a technical budget amendment in the amount of \$1,716,871.00 to balance the revenue in 6 of the 2008 Water Revenue Bond Projects in order to close and inactivate the projects.

ORDINANCE BOOK NO. 27 – PAGE 425

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

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, removing from consideration Consent Agenda items D 1 and 2, H (9 - West Asheville Soapbox Derby event) and L. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE POLICE DEPARTMENT FORENSIC INVENTORY

Mr. Michael Wright, Manager of Blueline Systems & Services LLC, provided Council with the following report, using photographs to illustrate his points:

"Blueline used applicable crime scene procedures in their work in the Asheville Police Department evidence facility. They first made photographs of the evidence condition in various parts of the property facility. A video tape was also made of the overall scene to show its condition before anything in the facility was touched. There are two systems in use to track evidence within the facility. The older system is a Microsoft access database (ACCESS). It covers the time period from 1980's through December 2005. The current system is referred as RMS. During the first few days of the inventory process, the Blueline staff set out to gain an understanding of the APD property and evidence storage system, floor plan and utilization of the various areas. It quickly became apparent that in some areas a readily-understandable and accurate system existed. In other areas a section of shelving or evidence would be encountered that had no understandable organization at all. Subsequently the location of an item described in the databases was rarely specific enough to narrow down exactly where an item might be located within the facility. It was decided that an independent location system must be created for the purpose of locating missing items and as a reference point for testifying the exact location of evidence, allowing the inventoried items to be located again for court, disposition or verification purposes and to facilitate future audits by the City or other entities. The only accurate and expeditious way to proceed was to design and implement an accurate shelf numbering system

and create three excel databases in which all items could be scanned in or manually entered. Considering the large size of the inventory, the difficulty of locating the items, and the state of the paper records, Blueline had to modify its plan procedures to make the best use of time and money allocated for the inventory.

"In the APD facility, 21,783 items are assigned a code ANBL which means not located in a bin. This contributes greatly to confusion in the facility and difficulty in locating items in a timely manner. Blueline has scanned (or manually entered) the following items from the two filing systems into three excel databases: ACCESS: 12,743 items; RMS: 22,793 items; and unidentified: 286 items for a total of 35,822 items. The location of those items are now identified by shelf and bin number. The fact that an item was not located does not rule out the item being found in the future in an area of the facility not yet scanned. The total items that the RMS systems shows to be on hand is 31,731. The ACCESS database system lists 80,039 items which have been entered since the start of computerized recordkeeping. 26,679 items do not show any disposition in the system. 204 items show a status of being at the SBI (some or most may have been returned). 2,150 items listed as status -0- (it is unknown what this code means).

"Selected items were given a complete examination per the contract. The items in the high risk facility (guns, drugs and cash) were completely scanned for inventory and location purposes. Specific items of evidence were located and completely examined for the purposes of verifying the integrity of the grand jury case evidence from a January, February, March and April of 2011 grand jury sections. Blueline prepared approximately 68 discovery trial-ready packages for grand jury cases and isolated them on shelves and carts. Blueline prepared a binder of grand jury cases and delivered it to the district attorney. Fourteen bankers boxes of currency envelopes were found in the back of the auction destruction room marked "school fund." Much research will be required in the future by APD or some other entity to find the legal status of these currency envelopes. They are marked "school fund" but there is no attached documentation to show what cases or court orders might of assigned those to the school fund. Many items show a disposition of destroyed, yet they are still on the shelf. About 75% of the facility had no shelf numbering system, so it was difficult to describe where anything might be.

"Lack of document scanning and filing has allowed large numbers of dispositions to accumulate on the desks and shelves in the outer offices of the property and evidence facility. Thousands of pages of property reports, dispositions and correspondence have never been filed. There are also 10-15 file cabinets in that facility full of papers that are in various states of organization. The Blueline staff dictated and created an index directory of the numbered box or bin locations in the various sections of the facility, as there was no directory to tell an outside party where anything might be there in the past. Blueline performed a partial organization of seven boxes of paper files from past years which were found in the auction and destruction room.

"Blueline found large quantities of evidence stored on the floor and blocking doorways and isleways and in several areas in the facility the inventory had overflowed the shelving and was piled in the aisles and floors. Blueline had the City of Asheville bring in two 20-foot long containers for storage and constructed 10 metal shelf sections for organizing evidence. As we encountered this evidence, as we removed it, we inventoried it and then indicated in our records where its new location is.

"Blueline prepared a floor plan drawing to show existing and new shelving and area numbers. The drawing is color-coded to show the areas scanned in yellow and the areas yet to be scanned in green. We have indicated where all the new shelf numbers are on this floor plan so future occupants of the room can find where the shelf numbering system is. Blueline did not make any entry into the new property room area. Their work was restricted to the old property room area. They have completed approximately 75% of the shelf space and there is probably 25% left for the City to inventory. Also all of the evidence in the two 20-foot long containers came out of the isleways and corners and general work areas. There is now almost nothing left on the floor, so if there happens to be a flood, the evidence would not be damaged.

"Blueline identified a number of questioned-item packages and referred them to the State Bureau of Investigation. Blueline has worked with and continues to work with the SBI investigators and with the district attorney and staff. In order to draw an accurate file of conclusion, the questions about whether or not cash, drugs or firearms are missing from the facility, thousands of paper documents of hand-written lists may have to be located, examined, entered and reconciled with a specific piece of property in two computer systems.

"We made many detailed and specific recommendations that are in the report that is filed with the district attorney but the recommendations that City Council needs to be concerned with is that the existing paper filing system is not consistent from year to year and the files need to be organized, re-sorted, analyzed and verified and aggressive and continuous purging policy and program must be implemented to get the inventory of the facility under control and to prevent the inventory from outgrowing the storage capacity. Since items of critical importance were found throughout the facility, the entire facility must be scanned and searched in order to definitely state that an item is missing. The evidence from the new evidence facility cannot be combined with the evidence from the existing facility until sufficient purging has occurred to allow the new evidence to be stored separately and until such time as the district attorney and SBI have reviewed the facilities and approved the plan for combining the facilities. It is the recommendation of Blueline that the City employ a minimum staff of 4 persons, and preferably 6 persons, dedicated to restoring the old property room to proper order. We believe it could take two years to accomplish the following tasks: complete the inventory; file and organize and research the existing paperwork; verify and update the computer records; research and purge the existing inventory by the following actions: (a) return the items to the owner if appropriate and possible; (b) research and carry out the orders of the court and the district attorney, if any; (c) auction off and destroy items as required; and (d) preserve and retain evidence involved in an existing or unsolved case. To prevent a reoccurrence of any of the problems which have plagued the old property room, Council should see that the Police Department has adequate staff, resources and facilities to operate the new property room in accordance with nationally accepted standards. The recommended staff level for the new property room is 4-6 persons. Considering both property rooms, that would be a total staffing level of 8-12 persons and all property and evidence staff should receive specialized training in property and evidence management and in software. Blueline has performed the work in the APD facility with an eye for the future laying the foundation for a system which will make future internal audits, purging and operational issues more accurate and efficient. Blueline staff will be available for a transition period when the new property and evidence staff transitions back into the facility to familiarize them with the new computer system, document management functions and shelf-numbering layout.

"Blueline received excellent cooperation and logistical support from APD and the City of Asheville staff and has received excellent support from the Buncombe County IT and CJIS staff in hardware configuration and the development of a specialized software application. This application can be used for APD's internal audit process in the future."

Mayor Bellamy said that it is appalling to look at the situation in the evidence room. Our police officers work hard and to put their hard work in the evidence room in that situation is disheartening. She hoped Council would support her by giving the Police Chief the tools he needs to be successful in creating an evidence room that we can all have faith in and support.

When Councilman Bothwell asked if the mishandling has been consistent, Mr. Wright said that at certain periods of time the handling was perfect and at some times the handling was not so close to the standards. It basically runs to different areas of the facility rather than to either one of the software systems. One thing that contributes to it is the fact that evidence is collected 24/7 and occasionally after a major crime or an event with a lot of arrests a bulk of evidence comes in and overwhelms the staff. Also, another thing that contributes to this is it's hard to purge the evidence. Purging is not an easy process. You can bring a piece of evidence in five minutes but to get rid of a piece of evidence you have to research the state court records, which

are in no way computer linked with any local agency records, and the state uses different case numbers to refer to the property. If a person is arrested and property is taken, they may be arrested several times over a few months and have property under his name under several arrests. Those cases might be consolidated for judgment. When the orders from the court come over, they simply state the case involving that person has been adjudicated and the evidence may be destroyed or released. It then turns into a research project for the staff to research what pieces of evidence might be associated with that. There is also a danger that the evidence might be associated with another defendant – if two people were in a call and robbed a store and the gun is involved in both cases. If one case is adjudicated, it's possible that the gun could be released or destroyed without being linked to the other case. Some software work needs to be done and a committee of the stakeholders at the Police Department, the court system, the DA's office and the City, County and State IT people need to work together to establish a system that makes purging evidence more straightforward.

When Councilman Bothwell noted that Blueline paid particular attention to the more serious items (guns, drugs and money), he asked if those items were in better or worse disarray than other evidence. Mr. Wright said that they were about the same as the rest of the facility. He said those types of things are more densely packed. The areas Blueline has already completed are your densely packed areas. Those are areas that there are hundreds of envelopes in a box. In the areas that are not scanned yet, there are a lot of bulky items, like a bed pillow wrapped up in brown paper, or a cash register from a store, or a tire, etc. He believed Blueline has made contact with most of the evidence because the items in the area they were unable to get to during the term of the contract are more bulky materials, not to say there couldn't be something of value in that area. The bulk of the evidence has been handled. In the auction destruction room, a full examination, either by Blueline or by the SBI with their assistance, was conducted of a good portion of the evidence in that facility. They worked with the SBI for approximately 100 hours since this was completed.

In response to Councilman Hunt when he asked if the new and old evidence rooms could be merged after the old property room is brought up to order, Mr. Wright replied that they can. He said that if the recordkeeping in the old room is brought up to code and is accurate there is no reason evidence couldn't be handled in one facility. In informal talks with the new evidence room staff, he believed that they have overcome most of the problems. One thing that also contributed to confusion in the old evidence room is the duplication of numbers. City staff has assured him that they have corrected that in the way they are using the software now in the new evidence room. However, there is a duplication of numbers between the two systems, and that has contributed to some confusion in previous internal audits.

Councilman Pelly said that there has been a lot of pressure on City Council to direct the district attorney to release the results of the finding, but what he understands from this report is that this audit is still not complete. Mr. Wright said that was correct. He said the City authorized \$175,000 for the audit. When they approached that deadline they waited until someone let them know how they want to proceed. It was decided that the City continue the rest of the audit. We were informed to keep custody of it for while until the SBI decided how they were going to proceed and until they had finished their investigation. At some point we handed it back over to the City. Blueline gave the new property room staff about ½ day of orientation and they are available for more orientation if needed. If the City would like Blueline to complete the task, they could do that with another contract negotiation or the City could finish it.

Mayor Bellamy noted that Police Chief William Anderson took office on March 1, 2012, and had no part of this process but he inherited it. When she asked what the process is going forward, Chief Anderson said we are advertising for a new property manager and should have that person on board near the end of August. As far as the old property room, it was turned back to the APD's custody. Basically that room is still sealed with the exception of having to go in there to retrieve evidence for court cases. We have suspended all disposal of any item until we have a chance to review the audit and the new property manager is on board. We will have to

start from scratch and touch every single piece of evidence in both the new and old property rooms. We will go through the entire rooms, re-organize, catalogue items, and follow-up on the recommendations of Blueline. We will work with the DA's office to establish clear policies when it comes to the disposal of evidence.

In response to Mayor Bellamy, Chief Anderson said they will be looking at a total redesign of the room, how evidence is collected and stored in what areas, and the whole process for cataloging and retrieval. They will be working with the International Association of Property Managers. The President of that Association came to Asheville, looked at their facility and will be providing recommendations. All of it will be reorganized.

When Mayor Bellamy asked for a timeline for completion, Chief Anderson said they will start as soon as the new property manager is hired. The estimate of two years is on the conservative side. He felt it would take longer than that to go through that room and completely do what we need to do to get it in proper perspective, as it should be. We can initially start, but we need to keep in mind is that in order for us to establish credibility and to ensure that this operation is operating in a manner that it should, we will touch every piece of evidence again. That will take some time.

In response to Mayor Bellamy, Chief Anderson said that one of the delays that we may keep in mind is that in order for us to move forward in getting the new property manager in place, we really need to see the audit that is in the custody of the DA. We need to look at all the recommendations in that audit and look at exactly the findings that Blueline identified. That basically will be the roadmap to take us where we need to go.

Mayor Bellamy said that one way the Council can help in this process is for City Council to write a letter requesting the audit in order to help Chief Anderson complete this task.

Mayor Bellamy asked for a quarterly update on the progress of the evidence room. City Manager Jackson said that a separate update will be given during the quarterly reports.

Councilman Bothwell noted that the state court system uses a different numbering system and suggested that as part of our legislative agenda next year to ask that the legislature fix that system for the entire state. This is not just Asheville's problem. Chief Anderson responded that this is something they can look at with the DA's office. We have already entered into discussions about how we can streamline the system and come up with a more productive system to where maybe those two case numbers can be combined. We are also looking at the destruction process of how we can be on the forefront of getting rid of some evidence instead of having it stored for a long time in the evidence room. We have already started discussions with the DA's office on how to fine tune some of these issues.

In response to Councilman Hunt, Chief Anderson said they will look at the inventory system established by Blueline and see if that system is what we need to accomplish the goals of getting this room back on track. Regardless of what system we use, we will have to go through every piece of evidence and work with the DA's office to issue destruction orders for items that need to be discarded. The work that Blueline has done has been very helpful.

In response to Councilman Smith, Chief Anderson said that when a piece of evidence comes in, it is logged into evidence and then taken by the evidence custodian to be stored in the new property room. In the new evidence room we have 6 officers, although 3 are returning to road duty, which will leave us with 3 officers and a sergeant assigned to the property room. All employees who were present when problems were on-going are not still employed with the Police Department. Any prosecutions are up to the DA's office. Basically, he has been told by the DA is that audit has not been released because of the ongoing SBI investigation. The DA has not indicated one way or the other where there is any case in jeopardy.

In response to Councilman Smith, Chief Anderson said that part of the discussions with the DA's office is the purging system and how we can streamline it and make it more efficient.

In response to Councilman Bothwell, Mr. Wright said regarding the thousands of loose papers, he recommended the City contract with some document management expert company to see if there is an optical character recognition that can pick up on the words. Most of those documents are hand written and some are in carbon paper form. They will be difficult to deal with. If an item is missing out of the evidence room, it might have been released and there could be a form filed in one of those cabinets that is not in order. The document management function is almost a separate problem.

Mr. Wright said that the International Association for Property Evidence recommends that most of your property management systems be able to export the data in a CSV format. Blueline has put this in that format so it can be imported. The City's software is made by Sungard OSSI. Sungard OSSI for a fee can write a special program to make it work on a customized basis for the particular situation. He neglected to mention that there is a field on the existing software that he didn't think was being using in the distant past, but since this problem came to light there has been some effort to have the magistrates and the APD officers coordinate that case number at the inception of the case. Some progress may have been made in that area. Another thing, when things go to district court hundreds of cases are disposed of a day and the ADA and the Court Clerk may not know there is evidence (may be a backpack the defendant had when arrested but did not pick up when released) in the case and no order is every issued by the Court to deal with that evidence. That needs attention also. If you can deal with the massive flow of evidence and get it moved out in a timely manner that would prevent it from outgrowing the facility.

In response to Councilman Davis, Mr. Wright said the sensitive parts are done. He thought the SBI is satisfied that the Police Department could take the evidence room back over. The APD can certainly finish this and Blueline can train them how to do it. The software system Blueline put in place is not a permanent total fix. The software package the City has is perfectly capable of managing the entire operation, it's just a matter of the fact that since incorrect information was put into it to begin with, or no information was put into it about the disposition of some items, and since the shelves were not numbered, we had to have a specific way of finding those things. Since items were placed in there with a description of "main room" with no bin location, a lot of search time would be involved in finding it. The only efficient way to proceed was to number the shelves, number the cardboard boxes and scan everything in there.

In response to Councilman Davis, Mr. Wright said that the APD is capable of assembling the vest old inventory to be disposed of (most expeditious way is to take one shelf at a time), research each item, ask the DA to sign off that they are ready to be disposed off and potentially a court order might have to be signed.

When Councilman Davis asked if there was any way of expediting the process of getting personal property back to victims of crimes, Chief Anderson said that would be part of the disposal process. There are two types of property – property found or property turned in with no connection to a criminal case. We can review those and make every attempt to locate the owner and dispose of those items we can't locate an owner. Evidence that is tied to a criminal case, we would have to research that evidence and those cases we may need to get a court order.

When Councilman Hunt asked if some of the recommendations would affect our current operating budget, City Manager Jackson said we are currently staffing two property rooms now and hope to be able to scale that down once we merge the two rooms. We still have the investments in the software system and the renovation and redesign of the building. Chief Anderson agreed and said that once we get the new property manager hired and evaluate the process, they will make a determination as far as staffing, but they expect to do that within their existing numbers.

Mayor Bellamy suggested contracting with City Clerk Maggie Burleson as she has extensive experience with documents that need to be scanned and indexed in an efficient and effective manner. Over the years she has done that for the City's history. As you look at a plan to get those documents in order, she felt she would do a wonderful job.

At Mayor Bellamy's suggestion, it was the consensus of Council to instruct the City Attorney to draft a letter requesting the District Attorney recommendations based on the information received from Blueline regarding future management practices for the police evidence room.

When Mayor Bellamy asked if Ms. Leann Melton, Buncombe County Public Defender, would like to speak, she said that because she has a pending case now, the Rules of Professional Conduct prohibit her from making any specific comments.

Vice-Mayor Manheimer clarified that what is going on presently is we have a streamline intake procedure now for all currently occurring cases and we have a new evidence room. What we are talking about here is all of the evidence that exists for prior cases which most cases have probably been disposed of. There may be a few still pending and those are the very important ones where cataloguing all this evidence is imperative so that the integrity of the evidence can be maintained for the handling of those suits. It is a two-part situation where we have evidence concerning past cases and then the current in-take procedures. She wanted to make it clear that this is absolutely and completely addressed for anything that has recently occurred and going forward and we are talking now about how to finalize the clean-up of the past cases and evidence that pertains to them.

Vice-Mayor Manheimer also clarified that the section of the evidence room where there are funds designated for the school board. In North Carolina, fines must be remitted for funding of the school system. She felt that's why there would be funds designated in that way.

On behalf of City Council, Mayor Bellamy thanked Mr. Wright for his informative update and his services on behalf of the citizens of Asheville.

B. REVIEW OF LAND USE INCENTIVE POLICY

Community Development Director Jeff Staudinger said that in March of 2011, City Council adopted a Land Use Incentive Policy that provided incentives "to encourage development projects that fulfill important public purposes... directly addressing annual strategic goals set by Council. It offers discretionary approval of incentives that Council may choose to grant projects they believe best achieve their goals." Council directed that the Policy be reviewed one year after its adoption.

In the one and a half years since the policy was initially approved, two applications for the Land Use Incentive Grant have been received and approved. One of the projects is nearing the end of construction; the other has not begun construction.

The existing policy has been reviewed and discussed by the Housing and Community Development Committee, the SACEE Committee, the development subcommittee of the Riverfront Redevelopment Commission, and others. Generally, these groups agree that most elements of the existing policy, without evidence to the contrary, should remain in place until a larger review of policy direction regarding land use incentives occurs. Some short term suggested changes are:

1. Include certain additional major routes- such as Swannanoa River Road from Hendersonville Road to Tunnel Road- as eligible areas for the incentive.

2. Target other areas strategically chosen for development or redevelopment- The River Arts District, for example.
3. The HCD Committee suggests that staff develop a proposal for extension of the LUIP to targeted areas that are related to the bicycle and pedestrian master plan, and other relevant master plans.
4. Use information developed by The Center for Neighborhood Technology, in their report Location Efficient Affordable Housing for a More Sustainable Asheville, to additionally identify "location efficient" areas in Asheville.
5. Assign Brownfield Redevelopment a higher point award to strategically target incentives for the redevelopment of these parcels.
6. Staff provide a cost-benefit analysis to determine the relationship between the allowable grant under the policy and the costs of providing City services to the proposed development.

More importantly, the review of the Land Use Incentive Program leads staff to consider the larger question of incentives and development. Questions include:

- What growth, in what locations, can be spurred by incentives?
- What are the specific outcomes sought by the City in its growth strategies?
- What incentives have proven successful in creating desired growth outcomes?
- What incentives are already available? Are they effective? Are they transparent, manageable, accessible?

Staff recommends that continued revision of the Land Use Incentive Policy, to reflect priority development areas as determined by Council, be made as needed; and that the staff review of projects for Council consideration include a cost of services estimate as part of the fiscal impact review.

Staff proposes to develop additional information for Council to consider regarding development incentives, for presentation at a later date.

Mr. Staudinger responded to Councilman Hunt regarding the medium area income vs. average wage pay.

Councilman Smith hoped that as the credit markets loosen up, they will see this is a very useful tool. Some short-term suggested changes, he would be in favor of learning more about those so we can continue to adjust to them. He was also interested, at some point, to re-visiting some of the density issues in residential areas.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING HUNTER APARTMENTS, LOCATED AT 25 & 27 WASHINGTON ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE REMODEL OF TWO EXISTING RESIDENTIAL STRUCTURES INTO TWO DUPLEX STRUCTURES FOR A TOTAL OF FOUR APARTMENTS

Urban Planner Julia Fields said that this public hearing was continued from June 12, 2012, and that this is the consideration of an ordinance to conditionally zone Hunter Apartments, located at 25 & 27 Washington Road from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning, to allow for the remodel of two existing residential structures into two duplex structures for a total of four apartments. This public hearing was advertised on June 1 and 8, 2012.

City Attorney Oast said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

Ms. Fields said that Ervin and Barbara Hunter, owners/petitioners, through their agent David Straub, have submitted an application for conditional zoning for the property located at 25 and 27 Washington Street (corner of Washington and Broad). The request is for rezoning from RM8 (Residential Multi-Family Medium Density) District to RM16CZ (Residential Multi-Family High Density Conditional Zoning) District to allow for the creation of four dwelling units in two existing residential buildings on the property. One of the dwellings is a three story structure (27 Washington Road). The other (25 Washington) is a two story structure.

The property, .33 acres in size, has by all indications been used for apartments in the past although the buildings have been vacant for some time. Meter account records obtained from Progress Energy and dated August of 2011 confirm that there were six meters on this property at that time. Proposed renovations to the buildings were begun approximately sixteen months ago without permits being obtained by the building contractor. The City issued stop work orders and the applicants now wish to proceed to make the apartments conforming, working with a new contractor. RM8 zoning would only allow for two units on the property. The conditional zoning is necessary to allow for four units. While not proposing to come under the City's affordable housing programs, the rental price points planned for the units are comparable.

A mix of uses is found in the area around Washington Road and Broad Street. Offices, institutional uses, and single-family and multi-family residences are all found in close proximity to 25 and 27 Washington Road.

A modification to the side setback on the southern property boundary is needed. One of the existing structures extends two feet into the required six foot side setback. Because the structures are existing staff is supportive of this request.

At a meeting on April 16, 2012, the Technical Review Committee reviewed and approved with conditions the conditional zoning application. The applicant has resubmitted since that time and addressed many of the comments.

On May 2, 2012, the Asheville Planning and Zoning Commission reviewed this application and voted 5-2 to recommend it for approval. Concerns were expressed by several area residents related to occupancy (duration and numbers) and management of the property. Since that time Mrs. Hunter and representatives working with the Hunters on this application met with neighborhood residents and property owners to discuss their concerns.

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 project, if approved, must meet all the technical standards set forth in the City's Unified Development Ordinance and Standards and Specifications Manual with regard to 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.**
There are no significant natural features on the site that warrant mitigation. The buildings being rehabilitated are existing buildings.

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

The buildings being rehabilitated for the apartments previously contained multiple units. The buildings are in disrepair and the proposed improvements should positively impact property values in the area.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The buildings being renovated are existing buildings and very much in character with other residential structures in the vicinity. There are a number of larger office and institutional uses in close proximity as well.

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.

This development supports the goal of promoting adaptive reuse of vacant structures while ensuring that neighborhood compatibility is met. It also supports the goal of producing affordable housing in convenient locations. Additionally, it supports Council's objective of creating affordable rental opportunities and the objective of promoting sustainable, higher-density, infill growth that makes efficient use of existing resources.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed use is in a location convenient to transit routes and employment/business centers. TRC indicated no issues with service provision at the meeting on April 16.

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

Only four units are proposed in this development.

Pros:

- The proposed development meets a number of Council objectives and goals established in the comprehensive plan.
- The proposed development renovates two dilapidated structures.
- The suggested price points for the development are comparable to those established by the City for affordable rental housing.

Con:

- The development will contain two units more than would be allowed under the current zoning.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable with the conditions listed as follows, and with the setback modification requested. At a meeting on May 2, 2012, the Asheville Planning and Zoning Commission voted 5-2 to recommend this application to you. (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) 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 this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) 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.

Mayor Bellamy opened the public hearing at 6:48 p.m.

The following individuals spoke in support of the conditional zoning for various reasons, some being, but are not limited to: applicant did not know their contractor did not have a license to do the work until they received a Notice of Violation from the City; applicant is in the process of trying to get the houses fixed up; property manager has formed a team of an engineer and builder to rehabilitate the houses so they can become a viable part of the community; the applicant wants to build four units of affordable housing; the project will be costly and the applicant is willing to invest in the property; the applicant is currently taxed almost \$5,000 a year letting it sit there; need for more affordable housing; the applicant has demonstrated good faith in repairing the stabilizing the wall; the applicant is willing to spend money to fix the houses which are eyesores, abandoned and dilapidated which will in turn bring in a return on their investment; and if the property is not conditionally zoned the neighborhood will be stuck with the dilapidated houses:

Ms. Barbara Hunter, applicant and owner of 25 and 27 Washington Road

Ms. Lisa Roberts Allen, property manager for 25 and 27 Washington Road

Pastor Victor Burgin

Mr. Dave Smith, representing the firm which was retained to provide repairs to the existing all, a site design to meet the City's standards and rehabilitation plans to restore the homes

Ms. Sophie Dixon

Mr. Brian Anderson

Mr. Saul Chase, Broad Street resident

Ms. Claudia Tucker, West Chapel Road resident

The following individuals spoke in opposition of the conditional zoning for various reasons, some being, but are not limited to: applicant should fix the houses back to what they were – single family homes; the neighborhood is threatened by commercial sprawl; the homes might be converted into another low income group home which they already have in their area; the houses have been inhabitable for years with only pigeons and rats living there; request for more single family homes with young children; present zoning already allows for the appropriate use of these properties; property owners have demonstrated by past practices that they are not capable of managing these properties as multi-family units; neighborhood has no confidence that the current property owners can properly complete the proposed restoration and they have no confidence that the project would thereafter be managed properly; RM-16 zoning is not appropriate on the corner in this neighborhood; and the property has been dilapidated for 20 years and the property owners have not taken care of it:

Rev. Christopher Chiaromonte

Mr. Paul Conrad, Broad Street resident

Ms. Kate Fisher, Madison Avenue resident (presented Council with a petition containing 38 signatures)

Mr. Jim Siemens, Washington Road resident

Mayor Bellamy closed the public hearing at 7:18 p.m.

In response to Councilman Hunt, Ms. Fields said that the conditional zoning is for apartments and not a group home. A group home would need an entirely separate permit and they would have to undo the conditional zoning. She believed what is in the area are family care homes, which are small homes addressing a lot of the same kind of issues as family care homes. Per state law, family care homes are allowed in every residential district. Assistant Planning & Development Director Shannon Tuch explained the differences between a family care home and a group home. It is possible that one of these units could become a family care home if it complied with all the other standards and one of the primary standards that we have is it has to be 600 feet from another family care home.

In response to Councilman Bothwell, Ms. Tuch said that if the lot line were changed from one lot to two, there could be two single-family homes each with an accessory apartment.

In response to Councilman Pelly about off-street parking, Ms. Tuch said that per the Unified Development Ordinance (UDO), the requirement for off-street parking is based on the number of bedrooms. However, this property is within ½ mile of the Central Business District which doesn't require any off-street parking. What is shown complies with our minimum standards.

Ms. Fields responded to questions raised by Councilman Pelly regarding the zoning prior to the UDO which was adopted in 1997.

In response to Councilman Pelly, Ms. Fields said that with conditional zoning, you have to start construction work within two years or it reverts back to the previous zoning. They would have to get permits and initiate work. Once they get permits there are all kinds of triggers for maintaining that permit based on continuing work.

Mayor Bellamy confirmed that one structure looks like it had 2 units in it and the other structure is a single-family house. Ms. Fields said that the applicant is applying for 4 units: two units in one structure – one with four bedrooms and one with two bedrooms; and two units in the other structure – both with two bedrooms.

Councilman Smith agreed that the house is dilapidated. Because it is a diverse neighborhood, room behind the house for parking, nice new retaining wall, multi-family across the street, and close to downtown he felt this sounds like a great candidate for the kind of infill that we are looking for, especially since the property owners are seeking grants to ensure that this will be affordable housing. He felt the neighbors are concerned that if this moves forward, there will be the kind of management that they can be confident in and uphold the neighborhood.

In response to Councilman Smith about how the property will be managed, Ms. Roberts-Allen said that she would be managing the property. They will be adhering to the normal lease requirements and running background checks. They will make sure that the people who live in the units will adhere to the community.

When Councilman Smith asked what would happen to the property should Council not approve the conditional zoning, Ms. Roberts-Allen said the property will continue to sit as it is. She said that when Mr. and Mrs. Hunter invested in the property there were 5 or more units. They were rented on a continuous basis. Mr. Hunter then got sick and they were not able to do anything with the property. They have now complied a team to make the property a benefit to the neighborhood.

When Councilman Smith asked if the builders be amenable to limiting the construction to four units, Ms. Roberts-Allen replied yes. She said they will limit the non-related tenants to 3, not 5.

Mayor Bellamy 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. 4104, to conditionally zone Hunter Apartments, located at 25 & 27 Washington Road from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning, with the requested setback modification, to allow for the remodel of

two existing residential structures into two duplex structures for a total of four apartments, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) 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 this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application; and (6) The number of units be limited to four. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Hunt.

City Attorney Oast said that if the property is rezoned, the rezoning follows the property. Council needs to make their decision based on appropriate land use consideration and not on the basis of who may be operating the facility. Also information was presented that if the rezoning is not grant, the project will sit vacant. He did not think Council should consider that information in making their decision.

Councilman Davis expressed concern with the valid protest petition. He recalled when the RS-8 zoning was restored to the area. There are certain things zoning protects and even as we strive for greater density it is already a fairly dense neighborhood. He felt the property will have value if restored to its prior use.

Councilman Pelly didn't take the petition filed lightly and understood the concerns of the neighborhood. At the same time he sees a proposal to renovate two houses on their existing footprints. As a Realtor, he knows that abandon houses depress surrounding property values and a renovation will raise values for the entire neighborhood and get rid of an eyesore. This was previously multi-family housing with a higher density zoning prior to adoption of the UDO.

Vice-Mayor Manheimer is familiar with this neighborhood and sees the struggle where every other house is a single family home and then rental properties and some family care homes. She is concerned that this application is caught in the cross-fire of what is really the problem and that's the issue of the family care homes, which have a high level of legal protection that City Council can't address. She was concerned that if we move this into a multi-family rental that we may impact the trajectory of this neighborhood recovery. On the other hand, people have moved into the neighborhood where there are clearly commercial uses throughout the neighborhood. If Council does not approve the conditional zoning, she hoped there would be some effort to find some other remedies to get the properties fixed up.

Due to a valid protest petition, the motion made by Councilman Smith and seconded by Councilman Hunt failed on a 5-2 vote, with Vice-Mayor Manheimer and Councilman Davis voting "no".

At 7:48 p.m., Mayor Bellamy announced a short recess.

ORDINANCE BOOK NO. 27 – PAGE 428

- B. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING FOR WHITE OAK GROVE APARTMENTS LOCATED AT 275 AND 281 HAZEL MILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 92 APARTMENT UNITS HOUSED IN THREE BUILDINGS**

On June 26, 2012, Mr. Robert Grasso, applicant, requested City Council to continue his public hearing until July 24, 2012, since a valid protest petition has been received which required 6 out of 7 Council members to vote in favor of his application and Councilman Hunt was absent from that meeting.

On July 19, 2012, Mr. Robert Grasso, applicant, requested City Council to table the proposed apartment project indefinitely. Therefore, Councilman Hunt moved to table the conditional zoning for White Oak Grove Apartments located at 275 and 281 Hazel Mill Road indefinitely. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4096 - ORDINANCE AMENDING THE CURRENT SKATEBOARD ORDINANCE TO PERMIT SKATEBOARDING ON DESIGNATED CITY-MAINTAINED ROADWAYS AND CROSSWALKS IN THE DOWNTOWN CENTRAL BUSINESS DISTRICT

Assistant City Attorney Kelly Whitlock said that this is the consideration of an ordinance amending the current skateboard ordinance to permit skateboarding on designated City-maintained roadways and crosswalks in the downtown Central Business District (CBD).

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 district in which the roadway is located. The current ordinance also prohibits skateboarding upon any sidewalk in a business district. This particular prohibition applies in business districts only; skateboarding is allowed on sidewalks in all other districts. The language contained in the City's skateboarding ordinance has remained unchanged since the City's Code of Ordinances was codified in 1965.

At the April 24, 2012, City Council meeting, Council requested staff to draft an ordinance to allow the use of skateboards for transportation, using the four wheels down model on roadways, crosswalks and bike lanes (where available) within the CBD for Council consideration. Council also requested information about cities nationwide that permit skateboarding in their downtown areas and whether that permission expanded to streets outside the downtown area. City staff identified the following cities which allow skateboarding in some form:

Benchmark National Cities:

- Portland, Oregon: Allows skateboarding on sidewalks and roadways except for certain streets and sidewalks in the downtown area with the following restrictions: 1) persons under the age of 16 must wear protective headgear; 2) operator must be equipped with lighting equipment between hours of sunset and sunrise and 3) operators are granted all rights and responsibilities applicable to bicyclists
- Grand Haven, MI: Allows skateboarding on roadways unless used in an intentional, reckless, careless or negligent manner which causes or could cause any injury to the rider, to any other person, or cause damage to any property; no skateboarding on the boardwalk or on sidewalks along Washington Avenue (within the CBD) from May to Labor Day
- Oxford Village, MI: allows skateboarding in downtown area and other roads but operators are prohibited from obstructing any street, sidewalk, parking area, public place/building or any other place or building by impeding the passage of vehicles, traffic or pedestrian
- Columbia, MO: prohibits skateboarding on sidewalks in downtown area; allows skateboarding on all streets in downtown areas (CBD) unless the use is prohibited; operators granted all rights and duties applicable to bicyclists including duty to obey all traffic control devices and signs and subject to the following conditions: 1) stay to the far right of the road 2) operate the device with the flow of traffic; 3) operate the device in

- careful and prudent manner; 4) wear reflective clothing and 5) be equipped with a front facing lamp and rear facing red reflector at night
- Tacoma, WA: allows skateboarding on roadways and sidewalks; helmet required
- Lake Havasu, AZ: allows skateboarding on public roadways with less than four lanes or with speed limits less than 35 mph; on sidewalks outside the CBD and on public property where allowed, subject to the following conditions: 1) abide by all traffic control signals and devices; 2) operate at close proximity to the curb or outer portion of the roadway; 3) signal turns; 4) yield to pedestrians; 5) persons under age of 16 must wear protective helmets and 6) safety gear must be worn from dusk to dawn.
- NCSU Raleigh, NC: Skateboarding is allowed on campus; grinding (i.e. frictional contact between any part of the skateboard and a ledge, plant, or bench) and reckless operation prohibited

Highways (synonymous with streets) are defined by state law as property or right-of-way lines that are open to the use of the public as a matter of right for the purposes of vehicular traffic. Vehicles are defined by state law as every device in which any person may be transported upon a highway, excepting devices moved by human power; provided bicycles are deemed vehicles. Accordingly, the North Carolina Department of Transportation (NCDOT) takes the position that skateboarding is not allowed along state-maintained highways and streets as skateboards are not considered vehicles by state law.

Furthermore, pursuant to N.C.G.S. §160A-296(a), cities have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority is vested in the Board of Transportation. Therefore, the City does not have the authority to regulate the use of skateboards on state-maintained streets. The City's CBD contains the following state-maintained streets:

- SR 3548 (Clingman Avenue) from Hilliard Avenue to Patton Avenue
- SR 3602 (Haywood Street) from Patton Avenue to I-240 Eastbound on-ramp
- I-240 Westbound and Eastbound on/off ramps located west of Clingman Avenue
- US 25 (Southside Avenue) from Coxe Avenue to SR 3214 (Biltmore Avenue)
- SR 3214 (Biltmore Avenue) from Short Coxe Avenue to US 25 (Southside Avenue)
- US 25 (Biltmore Avenue) from US 25 (Southside Avenue) to Patton Avenue
- US 25 (Broadway) from Patton Avenue to Woodfin Street
- SR 3284 (South Charlotte Street) from US 25 (Southside Avenue) to US 70-74A (College Street)
- US 70-74A (Charlotte Street) from SR 3284 (South Charlotte Street) to Woodfin Place
- US 70-74A (College Street) from SR 3284 (South Charlotte Street) to the Beaucatcher Tunnel
- NC 694 (Town Mountain Road) from US 70-74A (College Street) to College Place

Transportation staff also reviewed and identified several streets in the CBD that have high vehicular and pedestrian traffic, on-street parking, bus routes, narrow widths, and street conditions that may contribute to safety concerns of pedestrians and skateboarders. In order to avoid off-limit state-maintained streets and to minimize safety concerns along those identified streets in the CBD, staff recommends allowing skateboarding on the following designated City-maintained streets which would form a skateboarding transportation network within the CBD:

- South Lexington Avenue and North Lexington Avenue from US 25 (Southside Avenue) to I-240
- Coxe Avenue from US 25 (Southside Avenue) to Patton Avenue
- Asheland Avenue from Hilliard Avenue to Patton Avenue
- South French Broad Avenue and North French Broad Avenue from Hilliard Avenue to Haywood Street
- South Market Street from US 25 (Biltmore Avenue) to South Pack Square

- Church Street from South Lexington Avenue to Hilliard Avenue
- South Spruce Street and North Spruce Street from Eagle Street to Walnut Street
- Flint Street from Hiwassee Street to Haywood Street
- Rankin Avenue from Walnut Street to Hiwassee Street
- Walnut Street from Rankin Avenue to North Spruce Street
- Hiwassee Street from Flint Street to Rankin Avenue
- Haywood Street from North French Broad Avenue to Flint Street
- Eagle Street from South Market Street to South Spruce Street
- Hilliard Avenue from SR 3548 (Clingman Avenue) to US 25 (Biltmore Avenue)
- College Street from North Spruce Street to US 70-74A (College Street)

If the subject action is approved, the Transportation Department and the Asheville Police Department would work closely together to come up with a suitable method to physically designate the allowable streets which could include signs and/or pavement markings.

The ordinance is subject to the following provisions: (1) Operators shall wear an American National Standard Institute approved helmets while operating; (2) Operators shall obey all traffic laws and shall keep to the right of the lane of travel, using bike lanes where available; (3) Operators shall yield the right-of-way to pedestrians; (4) Operators shall have all wheels of a skateboard in contact with the ground at all times while operating; and (5) Operators shall not operate a skateboard after sunset or before sunrise.

This action complies with the City Council Strategic Plan in the focus area of "Multi-modal Transportation" by expanding multi-modal opportunities for citizens throughout downtown but conflicts with the focus area of "safe" due to the increased traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.

Pros:

- Expanded multi-modal opportunities for citizens throughout downtown.
- High vehicular and pedestrian traffic, on-street parking, narrow widths and street conditions considered in designation of certain City-maintained streets in order to minimize safety concerns

Cons:

- Traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.
- Topography of designated City-maintained streets contribute to traffic safety dangers
- Potential conflict with bicyclists in designated bike lanes

The signs and/or pavement markings that would be needed to identify the designated streets that can be used by skateboarding would be the only fiscal impact and is currently estimated to be about \$1,000.00. This money is included in the current Transportation Department's operating budget.

If Council approves of the proposed changes, adoption of the ordinance is recommended.

In response to Councilman Smith, Director of Transportation Ken Putnam showed Council a sample sign to be used to alert motorists that skateboarding is allowed on that particular street.

In response to Councilman Smith, Police Chief William Anderson said it would be difficult to enforce the four wheels down rule. The action would have to be witnessed by the officer in

order to issue a citation and make sure that we have knowledge of the exact streets that skateboarding is allowed on.

Councilman Smith said that there is a lot of interest among the people who are skateboard commuting. The map of the designated City-maintained streets which would form a skateboarding transportation network within the CBD doesn't have a lot of connectivity. He hoped the skateboarding community would use various strategies to educate the skateboarders. He would like to adopt the ordinance for a trial period of six months to see if it's successful or not.

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

Councilman Smith moved for the adoption of an ordinance to allow skateboarding in the Central Business District per the recommendations in the staff report with a City Council review in six months. This motion was seconded by Councilman Pelly.

The following individuals spoke in support of the ordinance:

Owner of Push Skate Shop in downtown Asheville
Rev. Christopher Chiaromonte
A skateboarder in downtown
Mr. Kevin Haney

In response to Councilman Bothwell, Mr. Putnam said that as we extend the bike lane system the intent would be to extend the skateboard system too.

Councilman Bothwell suggested plain clothed police officers on skateboards, which would be cheaper than cars and bikes.

Councilman Hunt could not support the ordinance from a safety standpoint. He felt the challenges for police enforcement of the ordinance would be too difficult.

Councilman Pelly felt that some enforcement would be easily identified, such as someone not wearing a helmet or someone riding after sunset or before sunrise. He too had concerns about safety; however, he felt we need to give it a chance for the six-month trial period. He would look to the leaders in the skateboard community to set an example and get the message out about adhering to the standards.

In response to Councilman Bothwell, Mr. Putnam said that he would need approximately 60 days to make sure the signs are made and installed. City Attorney suggested Council may wish to give a delayed effective date of the ordinance.

Councilman Smith and Councilman Pelly both agreed to the friendly amendment made by Councilman Bothwell to delay the effective date for 60 days.

Councilman Davis agreed with Councilman Hunt that this is a safety issue. He understands the passion of skateboarders, but regrettably he couldn't see skateboarding as transportation as much as an opportunity for recreation in a densely populated area.

The amended motion made by Councilman Smith and seconded by Councilman Pelly failed on a 3-4 vote, with Mayor Bellamy, Vice-Mayor Manheimer, Councilman Davis and Councilman Hunt voting "no."

B. CONFIRMATION OF PLANNING & ZONING COMMISSION CANDIDATE QUESTIONS

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that the Committee reviewed questions submitted by Council members and asked for confirmation of the following five questions: (1) Please take time to review the City's 2025 Plan land use plan. How strongly does your own vision align with that plan, and in what ways might it differ?; (2) Do you believe Asheville has taken an approach that is too "pro-growth" or "anti-growth" over the past 5-6 years? What do the terms "pro-growth" and "anti-growth" mean to you? Please share your reasoning; (3) How strictly should interpretation and application of the Unified Development Ordinance be applied?; (4) Name one Planning & Zoning Commission decision in the last 18 months you've agreed with and one you've disagreed with or would have struggled with. Please explain your rationale for each; and (5) What are some of the positive or negative effects of Asheville's zoning regulations.

It was the consensus of Council to accept the five questions outlined above to send to all Planning & Zoning Commission candidates.

VI. NEW BUSINESS:

A. RESOLUTION NO. 12-161 - RESOLUTION REALLOCATING FAIR HOUSING ASSISTANCE PROGRAM FUNDS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL TO PERFORM FAIR HOUSING MARKETING, TRAINING AND OUTREACH

Community Development Director Jeff Staudinger said that this is the consideration of a resolution to reallocate Fair Housing Assistance Program Funds from a request by the Asheville-Buncombe Community Relations Council (ABCRC) for \$15,000 in Fair Housing Assistance program funding to perform fair housing marketing, training and outreach.

For a number of years, the Asheville Buncombe Community Relations Council served as the designated Fair Housing investigatory and enforcement agency for the City of Asheville. Their services were funded, in part, through HUD's Fair Housing Assistance Program (FHAP). These funds were granted to the City of Asheville; the City then passed the funds on to ABCRC. The amount of funds allocated were based upon the number of fair housing cases closed in the prior year, as well as an administrative and travel/training allocation. Last year, the City of Asheville received these funds, but did not pass them through to ABCRC, because that agency was no longer the designated agency for fair housing for the City.

HUD was informed of this action, and told staff that the City could retain the funds but that they needed to be spent to "affirmatively further fair housing." The deadline for use of the funds is July, 2017. The amount of FHAP funds was \$43,316. Of that amount, \$11,000 has been expended on the Analysis of Impediments to Fair Housing. A balance of \$32,316 remains.

ABCRC seeks to reinstate its position as the first agency point of contact for Asheville residents who have fair housing concerns, and to lead the community work to educate and inform Asheville residents about their fair housing rights and recourse if those rights have been violated. They seek \$15,000 in FHAP funds to primarily conduct community information and education activities about fair housing, and to conduct fair housing training in Asheville. If successful, ABCRC indicates they are likely to make a similar request later this year to use FHAP for a Phase 2 element which would focus on honing their outreach plan and implementing it in the community.

Since the North Carolina Human Relations Commission was designated as the City's Fair Housing agency, it appears that fair housing complaints have been fewer in number. This could be attributed to a number of factors, including inadequate public education about fair housing.

The project directly supports the City's Strategic Operating Goal of *Affordable*: The project proposal is supportive of the City's goal for all citizens to have access to safe, sufficient and affordable housing.

Pros:

- Reestablishes a local point of contact for fair housing information for consumers.
- Fair housing training will assist private and public sector landlords comply with the law.
- ABCRC is developing a collaborative working relationship with State Human Relations Commission.

Cons:

- Agency is rebuilding, staff monitoring of the proposed activities will be important to determine whether this is the best use of limited FHAP funds.

The federal FHAP funds must be allocated to affirmatively further fair housing. The use of the funds for the proposed purpose meets that requirement. The funding will come from the FHAP budget that was approved in FY11-12. There is no impact to the General Fund.

The Housing and Community Development Committee recommends the approval of \$15,000 in federal Fair Housing Assistance Program funds to ABCRC to develop and implement fair housing marketing, outreach and training, as proposed.

Ms. Staudinger responded to Vice-Mayor Manheimer's question regarding the tax issues that the ABCRC was experiencing.

Mayor Bellamy said that we are seeing an increase in people complaining about the minimum housing code not being sufficient to address their concerns with their landlords. She hoped the ABCRC will also use these funds to assist individuals in understanding their rights as well as connecting them to the resources in City government.

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

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

Councilman Bothwell moved for the adoption of Resolution No. 12-181. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 4

B. MOTION TO REITERATE THE ASHEVILLE CITY COUNCIL'S POSITION THAT IT OPPOSES ANY ATTEMPT BY THE STATE LEGISLATURE TO STRIP ASHEVILLE AND ITS CITIZENS OF ITS WATER SYSTEM

MOTION ASKING THE GOVERNOR TO VETO HOUSE BILL 1009

Mayor Bellamy asked that this item be placed on the agenda because she was not comfortable with the legislature stating that we had to sit down with other governments to consider consolidating our water system with Metropolitan Sewerage District (MSD). She talked to the staff in the Governor's Office to ask, as Mayor (not representing City Council) the Governor to veto the bill. She felt we can participate in the process and invite other governments to talk about this issue and we are in the process of trying to arrange a meeting with our legislators, but she felt wrong, as Mayor, not to say she doesn't like the bill and therefore wanted to ask the Governor to veto the bill. The way the bill is written is not just talking about our system. Other mayors are nervous because the bill can apply to other municipal services across the state, including other water systems. What she is asking for Council is not only for Asheville, but also

other municipalities who are fearful of their system being consolidated. If we are going to give up our water system it should be because this body of elected individuals believes it is the right thing to do. She felt the water system is worth fighting for and we should ask the Governor to veto this bill that we did not ask for.

Vice-Mayor Manheimer said that the House Bill 1009 does two things. The first part of the bill amends the current legislation that governs the MSD. At this time, MSD can take in additional systems and when it does that their board make-up changes. Now, due to the way the statute is worded, is if a portion of Henderson County were to come into MSD (MSD does treat the Cane Creek area of Henderson County), Asheville would lose two of their three seats on the MSD Board. The first part of this bill would be helpful in that it addresses that current problem by ensuring that if Henderson County were to come into MSD that Asheville would retain three seats. That is somewhat problematic for us because most of MSD customers now reside within the City of Asheville. The second part of this bill authorizes MSD to run a water system. She felt it was important for us to reiterate that we are opposed to any move by the legislature to strip us and our citizens of Asheville's water system.

Vice-Mayor Manheimer moved that the Asheville City Council reiterate its position that it opposes any attempt by the state legislature to strip Asheville and its citizens of its water system. This motion was seconded by Councilman Hunt.

Councilman Smith confirmed that the motion is also a reaffirmation of when Council reiterated this same sentiment before because we were not consulted, that we felt a lot of the facts were left out, and the overwhelming public opposition to this move.

Mayor Bellamy supported the motion but also believed we need to send a message that we don't support House Bill 1009 and ask the Governor to veto the bill. Even if the bill has some good to it, the intent is laying the foundation to take our system, and that is not okay for her. The consultants that MSD approved, when asked whether the existing ratepayers of the City's water system, if expanded to Henderson County, would see an increase, they said they would. If this system is expanded to take in Henderson County, Asheville ratepayers will see an increase. If our water system is taken from the City of Asheville, Asheville ratepayers will see an increase. It is not fair. She felt she would be doing the citizens of Asheville a disservice in not saying this is wrong. We should not be asked, forced or required to give our system to an independent authority.

In response to Councilman Smith, Mayor Bellamy said that she spoke to the City's government relations consultant, and the League of Municipalities who said that it is important that we show we don't want this. Otherwise, silence is approval. This begins the process of legislation to take our water system.

Councilman Smith said strategically as far as we are trying to figure out how we are going to see this process through and do right by the Asheville ratepayers, what weighs in his mind is whether to call on the Governor to veto a bill that received a veto-proof majority upon its first passage and is therefore very likely to be overridden again and whether that aids our cause of retaining the system or whether it might in fact further injure our cause.

Mayor Bellamy felt that some of the people who voted for it didn't under the impact of what they were voting for. She said the super majority of our delegation did not support this bill.

Councilman Davis was very supportive of reiterating our motion.

When Vice-Mayor Manheimer asked if she had a sense of whether or not the Governor would be willing to veto, Mayor Bellamy said that the Governor has already dismissed approximately 75% of the bills and she is waiting to hear officially from our community. If we vote

unanimously to request her to veto the bill, she would take that to mean that the citizens of Asheville do not support the bill.

Councilman Pelly agreed that we should ask the Governor to veto the bill. This is a public bill and if it is allowed to move forward and passes, the bill that would allow the system to be transferred to MSD could be a local bill that would not require the Governor's signature at all. He felt this is our last opportunity to send that statement to the Governor.

Mr. Barry Summers felt that if Council doesn't urge a veto of this bill, they are essentially acquiescing. He didn't think this can get worse as the study that MSD is proposing is going forward.

Rev. Christopher Chiaromonte spoke about the poor treatment of the homeless.

Mayor Bellamy said that by reaffirming our position and/or asking for the Governor to veto the bill doesn't mean that the Governor will do ask we ask. But, as Mayor, she felt responsible to at least ask as she doesn't support the bill. While the bill may have a good portion, she felt the ultimate goal is not beneficial to the citizens of Asheville.

The motion made by Vice-Mayor Manheimer and seconded by Councilman Hunt carried unanimously.

Councilman Pelly moved to ask the Governor to veto House Bill 1009. This motion was seconded by Councilman Davis.

Councilman Bothwell reminded our citizens that we raised commercial water bills to make it more equitable for the residential users.

In response to Vice-Mayor Manheimer regarding a possible conflict of interest due to her appointment to the MSD Board, City Attorney Oast said that he realizes that she is serving in two capacities; however, she would be voting as a Council member. To the extent there is a conflict between her two responsibilities, he did not think it was a conflict to disqualify her from voting.

The motion made by Councilman Pelly and seconded by Councilman Davis carried unanimously.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Grant Millin said that the Bloomberg Philanthropies Mayors Challenge application process is clear that citizens, businesses and nonprofits are authorized to design the application outcome strategy and participate in directing the distribution funds in a "people's Budget" formula. He urged Council to direct the City Manager to organize an open innovation process to find the pulse of the city for an Asheville Mayors Challenge response and offered his services to help with that process.

After Ms. Patricia Dockery expressed her concern about the delay in public meetings regarding the noise ordinance, City Manager Jackson said that he would be happy to provide Council and Ms. Dockery with a report on the process to make sure we have a comprehensive noise ordinance.

Rev. Christopher Chiaromonte spoke about the homeless issue in Asheville and urged Council to provide a camp for them.

Ms. Deborah Gurriere, representative of the owners of Ardmion Park Association Condominiums, questioned Council's approval of the use of Ardmion Park Road for the Beaucatcher Mountain greenway. The Association has received information from a surveyor and

from the City that their private driveway is being considered as a vital part of the greenway allowing for public pedestrian and non-motorized vehicular use. It is the opinion of the homeowners and their legal counsel that this is an encroachment on their private properties which would result in issues of safety, privacy and personal liability. She provided the Council with a letter from their attorney to City Attorney Oast. Mayor Bellamy said that City Attorney Oast would be discussing the matter with their attorney, Mr. Albert Sneed.

Councilman Smith was pleased to announce that Homeward Bound broke their single year record for housing homeless people in Asheville. They housed 250 people this year.

At Mayor Bellamy's request, it was the consensus of Council to ask the City Manager to provide a report on the process the City is making towards homelessness.

Councilman Smith invited the public to attend the Bele Chere Festival this weekend.

It was the consensus of Council to hold a water worksession on July 31, 2012, from 3:30-5:00 p.m. in the First Floor North Conference to discuss items such as the Main Water Transmission Line project, a report on the MSD merger study, an overview of the calculations being performed by staff of the impact on the General Fund and CIP of MSD/Water merger scenarios.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:31 p.m.

CITY CLERK

MAYOR