

Tuesday – August 14, 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 Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF OLYMPICS SILVER MEDALIST WINNER LAUREN TAMAYO

On behalf of City Council, Mayor Bellamy was pleased to welcome home Olympics Silver Medalist Winner Lauren Tamayo and presented her with a key to the City.

B. RECOGNITION OF CHRISTINA MAXWELL AS DISTINGUISHED YOUNG WOMAN OF AMERICA

On behalf of City Council, Mayor Bellamy was pleased to recognize the Distinguished Young Woman of America, local teen Christina Maxwell, and presented her with a key to the City.

C. EMPLOYEE RECOGNITIONS

City Manager Jackson was pleased to recognize the following employees: (1) Erik Hagan (Building Safety), Maggie Ullman Finance/ Sustainability), Deb Messer (ITS), Wanda Burgess (ITS) and Jeff Reble (ITS) for their role in the Public Technology Institute Award; (2) Greg Shuler, Streets & Engineering Manager, for receiving the Robert S. Hopson Leadership Award for the N.C. Chapter of the American Public Works Association; (3) Sam Powers, Economic Development/Civic Center Director, for receiving the 2012 Economic Developer of the Year Award; and (4) from the Excellence in Public Service Awards - Continuous Improvement – Ivan Thomas (Water/Maintenance); Integrity – Jerry Hill (Public Works/Fleet); Diversity – Douglas Zuendt (Fire); Safety and Welfare – Michelle Massey-Smith (Water); Excellent Service – Chris Maloney (Public Works/Sanitation); Outstanding Leadership – Joy Ponder (Fire); Above and Beyond – Janet Dack (Economic Development); Rising Star – Zachary McTaggart (APD/Animal Services); and Outstanding Teamwork - Asheville U.S. Cellular Center Team (Civic Center) - Karen Gillespie, Dan Dover, Benita Wynn, Anne Stafford, Marcia Hart, JC Gillespie, Jim Smith, John Ball, Richard Quick, Jeanine Crum, Norbert Irvin, Ian Moye, William Hyde, Jody Beck, Chris Scott.

On behalf of City Council, Mayor Bellamy thanked these employees for their outstanding work and looked forward to hearing other great accomplishments by our employees.

D. PROCLAMATION PROCLAIMING AUGUST 18, 2012, AS “HONEY BEE AWARENESS DAY”

Mayor Bellamy read the proclamation proclaiming August 18, 2012, as "Honey Bee Awareness Day" in the City of Asheville. She presented the proclamation to Ms. Phyllis Stiles who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 24, 2012

B. ORDINANCE NO. 4103 - BUDGET AMENDMENT FROM THE NORTH CAROLINA ARTS COUNCIL FOR THE GRASSROOTS ARTS PROGRAM GRANT

Summary: The consideration of a budget amendment, in the amount of \$50,431, from the North Carolina Arts Council for the Grassroots Arts Program Grant.

The North Carolina Arts Council operates the Grassroots Arts Program Grant that provides per capita-based funding for arts programming to all 100 counties across North Carolina ensuring opportunities for citizens to experience the arts in their own communities. In counties without a “Designated County Partner”, the North Carolina Arts Council invites an organization to serve as a “Provisional County Partner” in order to manage the distribution of grant funds.

In 2011, As the Asheville Arts Council was going through an organizational restructuring. The City of Asheville was asked by the North Carolina Arts Council to be the “Provisional County Partner” to manage the distribution of Grassroots Arts Program funds as appropriated by the North Carolina Arts Council. We expect that once the North Carolina Arts Council and the Asheville Arts Council are done with organizational restructuring that the Asheville Arts Council will once again administer the grant program as they have done in the past.

The grant funds will be awarded to eligible organizations in Asheville and Buncombe County who will then provide community art programs. Per grant guidelines, the City may retain 10% of the grant funds to support administrative cost associated with the grant program.

The action complies with the City Council Strategic Plan in that it creates more collaborative and effective working partnerships between the City of Asheville, the business community, and other key organizations to effectively manage the city’s regulatory environment while accomplishing economic development goals and fiscal responsibility of exploring alternative for enhancing the city’s long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action also complies with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it enhances public confidence for and appreciation of the arts, and enhance facilitation and resources among arts interests.

Pro:

- Provides additional funds to support the arts in Asheville and Buncombe County

Con:

- None

The \$50,431 grant from the North Carolina Arts Council Grassroots Arts Program will be received by the City and passed on to the designated sub grantees. The grant will be budgeted in the General Fund.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget of \$50,431 for a grant from the North Carolina Arts Council Grassroots Arts Program Grant.

ORDINANCE BOOK NO. 27 – PAGE 426

C. RESOLUTION NO. 12-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH STRICKLAND WATERPROOFING CO. INC. FOR THE CLEANING AND GENERAL REPAIRS IN THE UPPER BALCONY SEATING AT THE U.S. CELLULAR CENTER

ORDINANCE NO. 4104 - BUDGET AMENDMENT TO FUND THE CONTRACT WITH STRICKLAND WATERPROOFING CO. INC.

Summary: The consideration of: 1) a resolution authorizing the City Manager to enter into a contract with Strickland Waterproofing Company, Inc. in the amount of \$ 117,000.00 plus a 20% contingency in the event additional services are required outside the original scope of the contract for general cleaning, stain removal and painting in the upper balcony seating area in the ExploreAsheville.com arena at the U.S. Cellular Center; and 2) a budget amendment in the amount of \$140,400 to fund the contract and contingency with proceeds from Buncombe County's FY 2012-13 contribution to the Southern Conference Renovations project.

This contract incorporates an additional component of the overall renovation of the arena consistent with the overall U.S. Cellular Center renovation plans. The overall renovations were started in preparation to host the Southern Conference Basketball Tournament beginning in March 2012 and through 2015. These renovations give patrons and promoters a much improved experience when attending or scheduling concerts, sporting events and other special events throughout the years to come.

The following bids were received:

- | | |
|---|--------------|
| • Strickland Waterproofing Co. Inc., Charlotte, NC: | \$117,000.00 |
| • Superior Painting Inc., Asheville, NC: | \$267,612.00 |

This action complies with the City Council Strategic Operating Plan's Fiscal Responsibility goal of developing strategic partnerships to leverage resources for infrastructure and CIP projects. This action also complies with the U.S. Cellular Center Commission Master Plan that encourages continuing renovations for the facility, and supports the goal of developing new partnerships. It has been reviewed and recommended by the Civic Center Commission.

Pros:

- Project provides for a much better experience for the patrons.
- Much needed attention that will prolong the life of possibly the most used seating section of the arena.
- Project bid is below budget.

Con:

- None.

As noted above, the amount of the contract and the 20% contingency is \$140,400. The City received funding from Buncombe County in July in the amount of \$340,000 for FY 2012-13 capital expenses associated with the Southern Conference Renovations project. A portion of this funding will be used for the Strickland Waterproofing contract and contingency budget.

City staff recommends City Council adopt 1) a resolution authorizing the City Manager to enter into a contract with Strickland Waterproofing Co. Inc., in the amount of \$117,000.00 plus

20% contingency, for a total of \$ 140,400.00, for the General Services of cleaning and refurbishing the upper seating balcony of the ExploreAsheville.com arena at the U.S. Cellular Center; and 2) a budget amendment in the amount of \$140,400 to fund the contract and contingency with proceeds from Buncombe County's FY 2012-13 contribution to the Southern Conference Renovations project.

**RESOLUTION BOOK NO. 35 – PAGE 40
ORDINANCE BOOK NO. 27 – PAGE 428**

D. ORDINANCE NO. 4105 - ORDINANCE AMENDING THE FEES AND CHARGES MANUAL FOR A CREDIT CARD FEE CONVENIENCE FEE FOR PARKING

Summary: The consideration of a proposal for Parking Division staff to test a pay-by-phone with validation system for on-street metered parking to enable customers to use credit or debit cards and an ordinance amending the Fees and Charges Manual for the addition of a convenience fee.

Parking Division staff constantly looks for ways to improve the overall parking experience in downtown Asheville for all of its customers. We are currently looking at options to enable customers to use credit or debit cards in addition to cash at the parking meters. One option that we would like to test for 90 days during the months of September, October, and November is a pay-by-phone with validation system. The system provides three convenient payment options including phone, text message, and mobile "app". The existing parking meters continue to function just like they do now and customers can continue to add coins. The only things added to the parking meters are stickers and/or signs giving instructions on how to use the pay-by-phone system. There is no initial capital outlay for the test. The vendor charges a \$0.25 per transaction fee (invoiced at the end of each month) and staff would like to pass that cost onto the customer as a convenience fee. The convenience fee would essentially keep all customers on the same "playing field" as to the current \$1.00 per hour parking meter fee. The current maximum time of two hours would not change.

Currently, there are about 740 metered on-street parking spaces in the Central Business District and for collection purposes, we have seven geographical zones. The test would be in Zone 6 which includes Haywood Street, Battery Park Avenue, Wall Street, and Hiwassee Street. Zone 6 has about 104 on-street metered parking spaces and averages about \$14,000 per month in revenue.

In addition to the pay-by-phone with validation system, we are working with our existing parking meter vendor to provide actual credit/debit card capability at each individual parking meter. We are a confirmed "test" city and we anticipate receiving the appropriate equipment in the next several months to install on 10 to 15 parking meters.

This action complies with the City Council's Strategic Operating Plan in the Fiscal Responsibility Area with the goal to operate the City of Asheville to the highest levels of fiscal responsibility.

This item was reviewed by the Council's Finance Committee on July 24, 2012, and has received the Committee's endorsement.

Pros:

- Enables customers to use credit or debit cards in addition to cash.
- Provides three convenient payment options to the customers.
- Provides validation enabling businesses an opportunity to validate a customer's parking experience.
- Requires no changes to the existing parking meters.

Con:

- \$0.25 per transaction convenience fee.

The total anticipated cost of the "test" is about \$4,200 assuming a 40% credit/debit card transaction rate. That amount is currently budgeted in the FY 2012-13 Parking Enterprise Fund Operating Budget but it would be recovered by the convenience fee.

Staff recommends that City Council approve a pay-by-phone with validation system for the on-street metered parking in Zone 6 for a period of 90 days to enable customers to use credit or debit cards and an ordinance amending the current Fees and Charges Manual for the addition of a convenience fee.

In response to Mayor Bellamy, Director of Transportation Ken Putnam explained in detail that this is a test project and how it will work. The individual will get a text message warning when they have 15 minutes left on the two-hour limit. The City has the technology in hand regarding enforcement. He said that before the end of the year he would provide Council with an update. He said they are always looking for ways to improve the customer service downtown.

ORDINANCE BOOK NO. 27 – PAGE 430

E. RESOLUTION NO. 12-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH SCHNABEL ENGINEERING FOR SUBSURFACE INVESTIGATIONS OF THE NORTH FORK DAM SITE

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of \$78,930.00 with Schnabel Engineering for Subsurface Investigations of the North Fork Dam Site for a total contract cost of \$268,230.00.

On October 25, 2011, City Council authorized Water Resources to enter into a professional services contract with Schnabel Engineering for the North Fork Water Treatment Plant Dam / Tunnel Evaluation project. Schnabel's current contract consists of: (1) evaluating alternatives to address the spillway capacity, (2) a structural evaluation of the outlet works conduit, (3) evaluating the North Fork Dam spillway gates by performing gate inspections and a structural analysis of the gates, and (4) conducting EAP training for plant staff.

During the initial evaluation, Schnabel Engineering discovered unexpected conditions regarding the stability of the dam that need to be addressed before continuing with the evaluation. To complete the initial scope of services, Schnabel needs to conduct further subsurface investigations of the North Fork dam, and potential alternate spillway. Prior to developing preliminary designs and cost estimates for the spillway alternatives, additional geotechnical and geophysical investigations need to be performed to determine the cost and design implications of the subsurface conditions. The scope of the change order consists of: (1) Task 1 – Geotechnical Investigations at a cost of \$53,830; (2) Task 2 – Geophysical Investigation at a cost of \$18,000; and (3) Task 3 – Geotechnical Data Report at a cost of \$7,100.

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

Pro:

- This change order will allow Schnabel to complete a thorough investigation of the North Fork dam site in order to ensure its stability.

Con:

- None.

The funding needed for the change order is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a change order in the amount of \$78,930.00 with Schnabel Engineering for Subsurface Investigations of the North Fork Dam Site for a total contract cost of \$268,230.00.

RESOLUTION BOOK NO. 35 – PAGE 41

F. RESOLUTION NO. 12-181 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A DONATION OF REAL PROPERTY FOR THE WILD CHERRY ROAD BRIDGE PROJECT

Summary: The consideration of a resolution authorizing the Mayor to accept donation and conveyance of real property on Wild Cherry Road.

Additional property is needed to construct the proposed replacement bridge at Wild Cherry Road. The following property owners agreed to donate portions of their property in fee simple to the City of Asheville:

Gated Communities of Asheville, LLC. - New Right of Way #1: (.083 Acres +/-);
PIN # 9740769648

Gated Communities of Asheville, LLC. - New Right of Way #2: (.01 Acres +/-);
PIN # 9740770484

Anna Lee Hill - New Right of Way #3: (.004 Acres +/-);
PIN # 9740873310

This action will help to comply with the City Council Strategic Operating Plan of Fiscal Responsibility and Multimodal Transportation in that it will be providing infrastructure maintenance and increasing the output of new sidewalks.

Pros:

- The acquisition will allow Public Works to pursue the construction of the proposed bridge and update a failing infrastructure item.
- Will be a step forward in meeting the City's Strategic Operating Plan and CIP goals.

Con:

- None

Since the parcels will be donated to the City, there is no additional fiscal impact to the City of Asheville.

Staff recommends that Asheville City Council adopt a resolution authorizing the Mayor to accept the donation and conveyance of real property on Wild Cherry Road.

RESOLUTION BOOK NO. 35 – PAGE 42

G. RESOLUTION NO. 12-182 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY A SANITARY SEWER EASEMENT AT MURPHY OAKLEY PARK TO THE METROPOLITAN SEWERAGE DISTRICT FOR THE LIBERTY STREET SEWER REHABILITATION PROJECT

Summary: The consideration of a resolution authorizing the Mayor to convey a sanitary sewer easement at the Murphy Oakley Park, identified as PIN # 965758112100000, to the Metropolitan Sewerage District for the Liberty Street Sewer Rehabilitation Project.

In 2010, the City of Asheville conveyed a series of sewer easements to the Metropolitan Sewerage District (MSD) at Murphy Oakley Park as part of the Liberty Street Sewer Rehabilitation Project. The project encompassed the replacement of several existing 6 and 8 inch clay lines in the park that were in poor condition. During construction, MSD discovered an additional line at the Murphy Oakley Park that required replacement. At this time, MSD is requesting a sewer easement for the additional line segment as described on the enclosed map. This easement measures approximately 2,141 square feet and is located at the southeast corner of the park.

This action supports the City of Asheville Parks, Recreation, Cultural Arts & Greenways Master Plan by addressing critical infrastructure needs of existing parks and facilities to meet community standards.

Pros

- Improved sanitary sewer service for the community
- Minimal impact to the park property
- Proposed line replaces the existing, poor line

Cons

- Easement is being dedicated

No monetary consideration involved in this conveyance.

City staff recommends City Council to adopt the resolution authorizing the conveyance a sanitary sewer easement at the Murphy Oakley Park to the Metropolitan Sewerage District for the Liberty Street Sewer Rehabilitation Project.

RESOLUTION BOOK NO. 35 – PAGE 43

H. ORDINANCE NO. 4106 - BUDGET AMENDMENT TO ENABLE THE SUB-GRANT TO THE ASHEVILLE HOUSING AUTHORITY OF A HUD EDI GRANT FOR THE REID CENTER

Summary: The consideration of a budget amendment, in the amount of \$137,200, to enable the sub-grant to the Asheville Housing Authority of a HUD EDI grant for the Reid Center.

In January 2011 Council Resolution 11-14 conditionally committed the Funds received from the EDI Special Projects Grant B-080SP-NC-0501 to the Housing Authority of the City of Asheville for renovation of the Reid Center dependent on final approval on the use of these funds by HUD.

HUD has agreed to allow the City of Asheville to sub-grant EDI Special Project funds to the Housing Authority for the renovation of the Reid Center. This budget amendment will allow the City of Asheville to fulfill its obligation and commitment to help preserve and renovate the Reid Center as a community education and training center.

This budget amendment supports the Council Strategic Goals of: (1) Safe, by supporting recreational and employment opportunities for youth at risk of gang exposure; and (2) Job Growth and Community Development, by supporting sustainable community investments in the East of the Riverway area.

Pro:

- Enables the use of EDI Special Project Grant funds for the renovation of the Reid Center

Con:

- None

When the City determined that the ongoing use of the Reid Center as a community recreation center was not feasible, the original purpose of this HUD grant would not have been able to be met, and the funds would have been returned to HUD. By supporting the Housing Authority's repurposing of the property, and committing these funds to that purpose, an additional \$3.9 million of HUD funding was obtained. No general funds are required for the project, and the City has been able to sell the Center to the Housing Authority.

City staff recommends the City Council adopt the budget amendment in the amount \$137,200 from HUD-federal grant funds, necessary for the City Manager to execute a subgrant agreement with the Housing Authority of the City of Asheville in the amount of \$137,200.

Mayor Bellamy was pleased that the City will be a partner in the initiative with the Housing Authority for a sustainability job training center in the WC Reid Center.

ORDINANCE BOOK NO. 27 – PAGE 432

I. RESOLUTION NO. 12-183 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH BROWN AND CALDWELL FOR PHASE II OF THE MAIN WATER TRANSMISSION LINE EVALUATION PROJECT

ORDINANCE NO. 4107 - BUDGET AMENDMENT FOR THE MAIN WATER TRANSMISSION LINE EVALUATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$2,379,432.00 with Brown and Caldwell for Phase II of the Main Water Transmission Line Evaluation Project for a total evaluation cost of \$2,698,450.00 (includes Phase I and II); and a budget amendment in the amount of \$2,021,932.00 from savings in other capital projects that were completed under budget.

In August of 2011, the City of Asheville Water Resources Department solicited the services of a qualified engineering firm to work with staff to develop an assessment of some of the City's main water transmission lines (about 19 miles) with an overall goal to develop long term planning solutions for the replacement of its most critical water infrastructure. It was determined that the project needed to be divided into two phases due to budgetary constraints and to better accommodate the task sequence for the evaluation process. In January 2012, City Council approved Resolution No. 12-20 to allow the City Manager to enter into a contract with Brown and Caldwell for engineering services required to complete Phase I of the Main Water Transmission Line Evaluation Project for the contract amount of \$319,018.00. Phase I of the project included: data gathering, meetings and a workshop, surveying, baseline mapping, right-of-way (easement) research, line walk and visual inspections, Level 1 External Corrosion analysis, Sub Utility Exploration (SUE), GIS updating, reporting, and planning for Phase II of the project. Phase I of the two-phase project has been completed. The entire project was taken out for bid at the same time, and Brown and Caldwell was awarded the full scope. Water Resources split the project into Phase I and II in order to allow time for more funding to become available.

The overall objective of this project is to promote the reliability of the transmission of finished water from the North Fork Water Treatment Plant to Haw Creek Junction where it is distributed to the overall water system. The main transmission lines are the 24-inch cast iron water main between Bee Tree and Haw Creek Junctions and the 36-inch steel water main that

begins at the North Fork Water Treatment Plant, interconnects with the 24-inch water main at Bee Tree Junction and continues to Haw Creek Junction. The Prestressed Concrete Cylinder Pipe (PCCP) water main is located at the North Fork WTP and connects the filters to the clear well and the transmission mains. After the break on the 36-inch water line on February 14, 2011, Water Resources staff discussed the need to perform a detailed analysis of the transmission lines in order to prevent a major break in the future.

The main reason why this project has such a drastic cost increase is because the engineer has to hire consultants who specialize in tapping into large size water pipe (24-inch and larger) under high pressures (200 psi or greater) and inserting cameras into the lines to take images of the pipe interior. This process can be dangerous, time consuming, and result in water outages if implemented incorrectly. The consultant that will be hired to do this work is the only consultant in the United States capable of performing this particular work. The amount for this specialized task is approximately \$1.2 million.

This contract represents Phase II of the two-phase project. The successful completion of this second phase will result in the completion of an internal corrosion investigation using a compact camera that records a visual of the inside of the pipes, accurate leak detection, GPS location of the buried line and important features (valves, external connections), and an external pipe inspection using specialized equipment that provides remaining pipe wall thicknesses at key locations along the pipe lines. These two investigations will allow the completion of the overall condition assessment from which alternatives analysis, preliminary design, cost estimating and financial planning and implementation of a data warehousing system for this and future condition assessment projects can be derived if deemed necessary.

Phase II of the project includes analysis of the following assets:

1. 67,500 Linear Feet (LF) of 36-inch diameter steel pipe water transmission main;
2. 31,400 LF of 24-inch diameter cast iron pipe (CIP) water transmission main; and
3. 700 LF of 36-inch diameter precast concrete cylinder pipe (PCCP) finished water main at the North Fork WTP.

Pros:

- Brown and Caldwell successfully completed Phase I of the evaluation project and in the past, have provided Engineering Services on numerous water system projects for the City of Asheville. Their experience and knowledge of our water system will continue to minimize staff support and input during the process.
- This project will provide the City of Asheville with the remaining information and tools necessary to ultimately make sound decisions for planning and replacement of its most critical water infrastructure.

Con:

- Failure to award an engineering services contract would prevent the Water Resources Department from completing the necessary planning and replacement of critical water infrastructure in a timely manner.

The Water Resources Department currently has \$676,518.00 budgeted for this project. The remaining funds of \$2,021,932.00 needed for this 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.

Current Amount in Main Transmission Line Eval. Proj.	\$ 676,518.00
<u>Budget Amendment Amount Needed</u>	<u>\$2,021,932.00</u>
Total Amount	\$2,698,450.00

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 resolution authorizing the City Manager to execute a contract in the amount of \$2,379,432.00 with Brown and Caldwell for Phase II of the Main Water Transmission Line Evaluation Project for a total evaluation cost of \$2,698,450.00 (includes Phase I and II); and a budget amendment in the amount of \$2,021,932.00 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 35 – PAGE 44
ORDINANCE BOOK NO. 27 – PAGE 434**

J. RESOLUTION NO. 12-184 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE PURCHASING/INTERLOCAL AGREEMENT WITH HOUSTON-GALVESTON AREA COUNCIL TO UTILIZE THEIR COOPERATIVE PURCHASING PROGRAM

Summary: The consideration of a resolution authorizing the Mayor to enter into a Cooperative Purchasing/Interlocal Agreement with Houston-Galveston Area Council (H-GAC) to utilize their Cooperative Purchasing Program.

Cooperative Purchasing programs are formally organized programs that offer goods and services to at least two or more public agencies that have been competitively bid at discount prices. These programs allow local governments the opportunity to purchase at a much better price due to volume than if bid individually and offer highly technical equipment and heavy machinery which require strong product expertise to develop specifications and bids.

The Houston-Galveston Area Council (H-GAC) is a cooperative purchasing program that is an organized unit of local government assisting other local governments to make the governmental procurement process more efficient by establishing competitively priced contracts for goods and services, and providing the customer service necessary to help its members achieve their procurement goals. All contracts available to members of H-GAC have been awarded by virtue of a public competitive procurement process compliant with state statutes. Since this is also a unit of government, H-GAC requires an interlocal agreement to be signed in order to use this cooperative purchasing agreement.

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:

- Opportunity to Leverage Purchase Power due to Volume
- Availability of Respected/Proven products
- Benefit of Strong Technical Specifications
- Immediate Purchase for Quick Response Time

Con:

- None

This program may yield future cost savings on purchases.

City staff recommends City Council adopt a resolution authorizing the Mayor to enter into a Cooperative Purchasing/Interlocal Agreement with Houston-Galveston Area Council.

RESOLUTION BOOK NO. 35 – PAGE 45

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

III. PRESENTATIONS & REPORTS:

A. HAYWOOD STREET PROPERTIES UPDATE

Mayor Bellamy noted that this is a staff update only. At the August 28, 2012, meeting there will be a resolution setting a public hearing on this issue for September 11, 2012.

Economic Development/Civic Center Director Sam Powers said that this presentation in response to Mayor Bellamy's request for a timeline of events for the City-owned Haywood Street property.

In an effort to provide current Council members relevant history on the evolution of this process, he briefly outlined the following key actions and updates relating to the City-owned, Haywood Street property.

September 20, 2005 City Council Meeting

Planning and Development Director Scott Shuford shared a map of downtown, City-owned properties with City Council. City Council discussed the scarcity of affordable housing for people in the service sector and asked staff to conduct a review of City-owned properties to determine if some of our land may represent good opportunities for community redevelopment, especially redevelopment that significantly adds to our base of workforce housing.

The City Manager asked for the opportunity to do some further examination and bring back some candidate evaluations and identify properties with the greatest potential.

January 17, 2006 City Council Meeting

Planning and Development Director Shuford summarized City-owned properties, the development potential for each and the selection criteria for reuse or redevelopment. City Council agreed to allow for staff to refine the report for specific Council action, with the following comments made:

- Work cooperatively with Buncombe County on a possible joint partnership
- Consider ways to reach the nearby property owners of City-owned parcels
- Consider affordable housing components in the process

November 21, 2006 City Council Meeting

Staff requested policy guidance prior to crafting the Request for Qualifications (RFQ) for redevelopment of City-owned properties. Council's feedback consisted of the following:

- Eliminate parking garages from the RFQ process.
- Bring the Civic Center issue back for further discussion.
- Include the Coxe Avenue transit station and Hunt Hill building in the RFQ process.
- Regarding the Charlotte Street property, craft the RFQ to say that we have very valuable buildings and facilities that we want to retain but that that we are willing to entertain opportunities that are place-making in nature.

January 9, 2007 City Council Meeting

City Council approves a resolution to enter into an agreement with Real Estate Research Consultants for the project management and marketing of an RFQ for the redevelopment of City-owned property.

February 13, 2007 Planning and Economic Development Committee Meeting

The Committee received a report on the legal review of the contract for project management assistance for the RFQ process.

February 27, 2007 City Council Meeting

City Council approves a resolution to enter into an agreement with Real Estate Research Consultants, Inc. for project management on the City Owned Property RFQ.

April 11, 2007 Planning and Economic Development Committee Meeting

Sam Powers updated the committee that the consultants would be presenting information to City Council during the May 2007 meeting.

May 22, 2007 City Council Meeting

Resolution approved to release an RFQ for the development of City-owned properties, including the Haywood Street properties, the Eagle Market Street properties, Office of Economic Development properties and Park Maintenance properties.

July 11, 2007 Planning and Economic Development Committee Meeting

Sam Powers presented a status report on City Property RFQ's; Phase II RFQ for Haywood Street/Page properties presented. The RFQ was sent to 500 firms; the report included a milestone timeline.

August 21, 2007 City Council Meeting

Resolution authorizing an agreement with Real Estate Research Consultants for the Request for Proposals (RFP) phase of project management for the development of a short list of firms who responded to the request for proposals.

August 24, 2007 Downtown Commission

Sam Powers provided a status report on the RFQ/RFP process.

October 16, 2007 City Council Meeting

City Council approved a short list of pre-qualified developers to be invited to submit a proposal.

February 19, 2008 City Council Meeting

City Council approved a resolution to amend the agreement with Real Estate research Consultants for an expanded scope of services. This allowed the project manager to assist in detailed negotiations with the firms submitting proposals.

April 22, 2008 City Council Meeting

City Council directed staff to enter into negotiations with the McKibbon Hotel Group to draft a development agreement for City Council review and approval.

May 14, 2008 Planning and Economic Development Committee Meeting

Sam Powers presented a report on the City Owned Property RFP. Council authorized staff to begin looking at components that would be included in a draft development agreement regarding the Haywood Street/Civic Center site.

June 11, 2008 Planning and Economic Development Committee Meeting

Sam Powers gave an update on the City Owned Property RFP; April 22, 2008 Council approved moving forward with negotiations on a draft development agreement. Staff stated that they would present draft agreement to Council in August 2008.

It was also reported that a meeting between the Basilica and McKibbon representatives occurred to discuss the letter written by the Mayor requesting a partnership to include both properties in the development of a new public space. McKibbon stated that it is committed to a "gateway" project.

July 9, 2008 Planning and Economic Development Committee Meeting

Sam Powers presented the update on the City Owned Property RFP; the process was on schedule. At that time McKibbon was not looking to include public parking, but was still investigating public/private partnership on the public space.

August 20, 2008 Planning and Economic Development Committee Meeting

Sam Powers presented an update on the City Owned Property RFP; the City received a revised letter of intent from the McKibbon Hotel Group on September 12, 2008. A meeting with Basilica representatives, the City and the developer was to take place to discuss possible public space on the triangle of land at Page Avenue and Haywood Street

November 19, 2008 Planning and Economic Development Committee Meeting

Sam Powers presented update on RFP for the Haywood Street Property; the McKibbon proposal included a Westin Element hotel. The City was finishing a due diligence on the offer and on the covenants and conditions of the sale to ensure development was to occur in the manner that the City envisioned.

January 21, 2009 Planning and Economic Development Committee Meeting

Sam Powers presented update on RFP for the Haywood Street Property; staff was negotiating agreement with McKibbon Hotel Group. A letter was sent to Bud Hansbury reinforcing Council's invitation to partner with the Basilica to develop the public space owned by the Basilica

March 11, 2009 Planning and Economic Development Committee Meeting

Sam Powers presented the update on the RFP for the Haywood Street Property. The city attorney was in the process of drafting a development agreement for review by the McKibbon Hotel Group; staff conducted outreach to stakeholders in the area to update them on the project. The City continued to entertain partnership opportunities on developing the public space on Basilica property. Once the draft development agreement was reviewed by McKibbon, staff would meet with Council in small groups to update them.

April 8, 2009 Planning and Economic Development Committee Meeting

Sam Powers presented the update on the RFP for the Haywood Street Property. City was still in the process of working on the development agreement with the intent of presenting it to the McKibbon Group once it was completed. Multiple meetings were held with McKibbon and the Basilica at the invitation of the City to partner on the development of public space on land owned by the Basilica. The City was in the process of updating the appraisal.

A motion was made that the Haywood Street Property issue be moved to Council in the form of a development agreement; the motion was passed unanimously.

May 13, 2009 Planning and Economic Development Committee Meeting

Sam Powers presented the update on the RFP for the Haywood Street Property. The City was preparing a draft purchase and sale agreement, and was following up with McKibbon Hotels representative Wes Townsend.

June 10, 2009 Planning and Economic Development Committee Meeting

Sam Powers provided a summary of correspondence with the Basilica to help clarify discussions on the public space.

July 15, 2009 Planning and Economic Development Committee Meeting

Stephanie Monson provided an update on the site modeling in conjunction with RENC I

August 12, 2009 Planning and Economic Development Committee Meeting

Stephanie Monson provided another update on the site modeling project in conjunction with RENCi.

September 9, 2009 Planning and Economic Development Committee Meeting

Sam Powers gave a report on the modeling project in conjunction with RENCi.

November 11, 2009 Planning and Economic Development Committee Meeting

Stephanie Monson presented site models developed by RENCi. The Committee directed staff to continue working under the intent of Council's initial request and discontinue the modeling system for this purpose.

April 19, 2011 Planning and Economic Development Committee Meeting

Bob Oast provided a summary of progress relating to the McKibbon Hotel Group negotiations. The Committee directed Mr. Oast to move forward with McKibbon Hotel Group on a formal track.

June 21, 2011 Planning and Economic Development Committee Meeting

Bob Oast gave an update on negotiations with the McKibbon Hotel Group, who had asked for an additional 20 – 60 days to look at their previous offer. Mr. Oast planned to work on the development agreement during that time. Additionally, he stated that much of the design of the structure had been defined with the adoption of the Downtown Master Plan.

January 10, 2012 City Council Meeting

City Council heard a presentation on a December 2011 proposal made on behalf of The Office of the Bishop of the Roman Catholic Diocese of Charlotte for the purchase of the City-owned, Haywood Street properties.

January 17, 2012 Planning and Economic Development Committee Meeting

At the direction of Council, the Planning and Economic Development Committee considered the proposal made on behalf of The Office of the Bishop of the Roman Catholic Diocese of Charlotte. At that meeting, committee members reaffirmed Council's commitment to the Request for Proposals process approved by Council and managed by city staff in 2007/2008.

January 30, 2012 Letter

The City of Asheville responded to the proposal from the Basilica of St. Lawrence.

February 21, 2012 Planning and Economic Development Committee Meeting

The Committee received an update on the drafting of the purchase agreement and shared staff's intent to receive the formal committee direction at their March meeting.

March 20, 2012 Planning and Economic Development Committee Meeting

The Committee received an update on from (i) City Attorney Bob Oast on the purchase contract for the McKibbon Hotel Group (MHG), and (ii) received a presentation from MHG on the elements, terms and the plan in which they wish to proceed, which would be incorporated into the development agreement. The Committee directed the item to go the full City Council. The following next steps were also discussed:

- The project would not be considered by full Council for at least a month;
- Talk to the Asheville Design Center regarding their expectations;
- Seek consultation from development attorneys on how to structure the additional processes Planning and Economic Development Committee suggested;
- Reach out to representatives of the Basilica and other neighbors to advise them that there would be an opportunity for additional input from them in this process as it moved forward in addition to just the ordinance requirements that Council puts on any property;

- Have additional consultation/conversations with the MHG on how the terms could be further analyzed to include greater clarity.

May 10, 2012 City Staff Participation in Collaborative Design meeting

City staff attended a meeting with representatives from the Asheville Design Center (ADC), the Basilica, and McKibbon at the offices of McGuire, Wood, and Bisette.

May 15, 2012 Planning and Economic Development Committee Meeting

The Committee received a brief update that City Attorney Bob Oast is reviewing the role for the Asheville Design Center on the project.

May 31, 2012 City Staff Participation in Collaborative Design meeting

City staff attended a meeting with representatives from the ADC, the Basilica, and McKibbon at City Hall.

June 14, 2012 City Staff Participation in Collaborative Design meeting

City staff attended a meeting with representatives from the ADC, the Basilica, and McKibbon at City Hall.

July 5, 2012 McGuire, Wood & Bisette letter

The City of Asheville received a letter from Attorney Louis Bisette representing the Basilica, outlining the following points:

- The Basilica had concluded the only way for it to protect itself and meet its interest is to have control on the city owned Haywood Street property.
- The Basilica was pulling out of the collaborative design discussions.
- The Basilica requested the Mayor put this development issue on the city council's agenda for determination.

July 31, 2012 City Staff Participation in Collaborative Design meeting

City staff attended a meeting with representatives from the ADC at the Civic Center.

August 1, 2012 City Staff Participation in Collaborative Design meeting

City staff attended a meeting with representatives from the ADC and McKibbon at City Hall.

A supplement memorandum was provided by the City Attorney outlining the state statutory process for completing a public real estate sale by a request for proposal process.

The following is the fiscal note: The purpose of this fiscal note is to provide City Council with financial considerations associated with the properties located at Haywood Street and Page Avenue. As City Council evaluates offers to purchase the property, staff recommends Council consider from a financial perspective:

- The City's financial history with the site, including its investment in the purchase of the land and previous project costs that have already been incurred and cannot be recovered (Section A);
- The most recent property appraisal, and (Section B);
- The property tax return on possible redevelopment scenarios (Section C);

(A) Financial History

In FY 2000, a budget was adopted for the "Battery Park parking project," a parking project contemplated at the property located ay Haywood Street and Page Avenue. While the project was active, the following revenues and expenses were recorded to the project:

Revenues:

Parking Transfer	\$341,000
Rent	\$44,000

Expenses:

Land	\$2.7 million
Professional Services	\$1.3 million
Utilities, Legal, Other	\$62,000

Project Balance: (\$3.66 million)

The land associated with this project was purchased by the Parking Fund, and it is recorded as a fixed asset in that fund. If the land is sold, the proceeds from the sale would be returned to the Parking Fund. The negative project balance shown above has already been netted out of current Parking Fund fund balance projections, and so proceeds from the sale would add to the fund's reserves.

The original parking project considered at this site was not completed, and the project was deferred. Later, in 2006, City Council directed staff to include the site in the RFQ process for redevelopment proposals.

The original project has been inactive since 2006. Staff will close the project this fiscal year.

(B) Property Appraisal

Based on an appraisal completed on February 22, 2012, the market value of the assembled properties (three parcels and an alley) was \$2,526,000.

(C) Property Tax Projections

Based on real estate comparables for a full service hotel with 100-125 rooms, an average annual property tax payment of \$61,000 could be expected by the City of Asheville. The City of Asheville owns the properties at 68 Haywood, 76 Haywood, and 33 Page, thus there is no property tax revenue currently generated from those properties.

In response to Councilman Hunt, City Attorney Oast said the statute pursuant to which we have been proceeding is an economic development statute which allows us to convey property pursuant to private negotiation and sale, which is what we are doing in this case. That can only be done after a public hearing. At that public hearing, Council will receive information related to such things as the number of jobs that will be created, the tax value that will be added to the property, and other kinds of economic development information to ensure that the purpose of the economic development statute are being met by the proposed development. The statute specifically authorizes Council to impose conditions on the transfer to ensure that the public interest will be met. The public hearing on September 11 will be to authorize a contract which will be available for review before that time. There may be some things Council will want to add to the contract at that time and we would finalize it subject to Council's comments. Based upon what we know about the project now, it is a Level II project, which means that it would undergo design review at the Downtown Commission level and that any permits/approvals issued pursuant to the process would be incorporated into the development agreement.

Councilman Bothwell noted that the Planning & Economic Development (PED) Committee did not endorse this plan – they advanced it to Council. When it was discussed in January, he felt we should terminate this plan, because the agreement that was signed in 2008 stipulated that the project would be substantially complete within 2-3 years and Council never

voted to extend that agreement. That is the reason why he objects to continuing the project because the agreement has expired. When he voted in June to advance it to Council was because it was not going to be resolved in the PED Committee.

In response to Councilman Bothwell, City Attorney Oast said that there has been no signed contract to date but in the contract it will be specified that the project has to be complete within a certain amount of time, and that time will likely be 3 years or less.

Councilman Bothwell briefly offered another timeline about the history of some other projects in the City. The City bought the land with the intent to build a parking garage, but the citizens reacted very badly to that idea. In 2005 over 3,000 people signed a petition saying they wanted a public park or a public space at that location. Over 1,000 people signed onto a Citizen-Times one-page ad at the same time asking for the same thing. An organization he is involved with (People Advocating Real Conservancy) hired a polling company to do a phone poll of people who voted for this Council and of those people polled 78% did not want a hotel on this property. These indicate the will of the people.

Councilman Hunt felt we needed to move forward to the public hearing to see what kind of project that might yield and decide how to proceed at that point. Not that he is in favor of any of the following, but the property has several options including, but not limited to (1) surface parking; (2) creation of a public park; (3) a mixed use development that includes a pocket park/plaza; or (4) end the RFP process and begin negotiations with representatives of the Basilica.

In response to Councilman Smith, Director of Finance and Management Services said that the Parking Fund actually purchased the property. Proceeds from the land sale would be returned to the parking fund. However, it would add to the Fund Balance in that Fund and Council could choose to direct that money toward capital needs for parking or for other priorities as determined by the Council. City Manager Jackson also noted that in 2005 the minutes reflect that some benefit of this land development process should be to bring in more resources for affordable and workforce housing.

Councilman Smith was surprised to see one intent of the RFP was to establish more affordable and workforce housing. Creating affordable housing downtown is extraordinary difficult and he did not support creating affordable housing at this site. However, he would be interested in seeing how a developer might work with Council on how to achieve its strategic goals, which might be an allocation from the proceeds of the land sale into the Affordable Housing Trust Fund. He noted that the City has already spent \$68,000 on the RFP process. Noting ways the Asheville Design Center has helped the process along, he hoped we can retain them through the rest of this process.

Councilman Davis recalled that Council was trying to find ways to make it affordable to live in the City by possibly converting land just sitting there. This property was added to that grouping and was not thought of from that standpoint. Regarding the poll, he appreciated the effort of PARC, but felt the poll was biased.

Mayor Bellamy said that at the public hearing there will be the opportunity for the public to address Council first-hand. She reiterated that on August 28, City Council will place on their consent agenda a resolution setting the public hearing for September 11, 2012. On September 11, Council will hear all comments and decide whether to move forward or start over.

B. WATER RESOURCES UPDATE

Water Resources Director Steve Shoaf briefly updated Council on the Water Resources events as follows:

At the July 31, 2012, City Council worksession (1) Overview of COA Water Resources; (2) Overview of MSD Impact Study; (3) Raftelis to review of governance models; and (4) Discussed options for Council interaction with MSD and North Carolina legislature - Suggestion to appoint a Process Manager to provide regular updates to Council.

On August 1, there was a meeting with MSD and Malcolm Pirnie/Arcadis to review project scope, establish timelines for study concerning Impact on MSD Rate Payers of Proposed Consolidation/Merger (1) November 2012 – report on potential impacts to MSD ratepayers of merger with Asheville; and (2) January 2013 – report on potential impacts to MSD ratepayers of merger with other systems in the region.

On August 7, there was a meeting of Ad Hoc City Council committee to discuss next steps for Council consideration.

On August 8, there was a meeting of COA Impact Analysis Team (Finance, WR, IT, HR, Admin) as part of internal review. Established sub-task work groups (1) MSD merger study relations; (2) Internal financial analysis; (3) Asset fair market value; (4) Governance models; and (5) Internal and external communications.

In response to Councilman Bothwell, Mr. Shoaf said that staff will provide Council with an estimate of cost for the analysis work when he brings the contract with Raftelis to Council on August 28.

Vice-Mayor Manheimer and Councilman Davis briefly updated Council on their ad hoc committee meeting, noting that they will be fairly static until the work of Raftelis is completed. The Committee will have a preliminary meeting with representatives from MSD to let them know how the ad hoc committee came to be but that the Committee is waiting for more information before we can have substantive conversations. Mayor Bellamy asked that the ad hoc Committee be prepared to report on their meetings during these bi-weekly updates.

Regarding the City's joint meeting with the legislative delegation on August 27, Mayor Bellamy said that Senator Apodaca, Rep. Keever and Rep. Moffitt will be unable to attend the meeting. Rep. Fisher, Rep. McGrady and Senator Nesbitt are able to attend. She asked for Council consensus on whether the meeting should take place or not, given that this is the second time we have tried to find a suitable date for all involved and the original intent of the meeting was to get clarification from Rep. Moffitt about whether we were proceeding in a fashion that aligned with the Legislative Study Committee mandate of good faith and how our broad efforts would go along with that.

After a brief discussion, it was the consensus of Council to extend a third invitation to our legislators get at least a majority attendance because she wants to make sure we do all we can to try to save our system. She felt strongly that the body of Council hear the same thing as it relates to House Bill 1009 as well as other issues. If that third meeting does not come to fruition, she would continue to try other ways to meet with them as a body.

Vice-Mayor Manheimer hoped the City would consider renewing the contract with Jack Cozort in an effort to help facilitate our legislative interactions. City Attorney Oast said that this will come back to Council as a budget amendment and we will make sure that he discusses Council's expectations with Mr. Cozort. Mayor Bellamy said that the budget amendment would be placed under New Business.

Mayor Bellamy asked for guidance from Council on whether to move forward with a meeting with water and sewer service providers. She provided Council with a listing of those invited and their response to date. That meeting would be to talk about if we are looking at consolidation, it's not just City and MSD, but looking at what does that look like for the region, if it is truly a regional effort. She felt it was important for these bodies to come together because she

felt we should reach out to them and let them know the status of what is happening in the City of Asheville, our process and our possible governance structure. She did not want any other body blindsided like Asheville was.

After a brief discussion, it was the consensus of Council to keep the lines of communication open in as many ways as possible including at the management level. Mayor Bellamy did not support not trying to meet with the surrounding water and sewer providers as she continued to believe that Council should hear all the same information at the same time.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 80 HARDESTY ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INDUSTRIAL DISTRICT/ CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF A TYPE III COMPOST FACILITY UTILIZING THREE IN VESSEL COMPOST ROLL-OFFS

ORDINANCE NO. 4108 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 80 HARDESTY ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INDUSTRIAL DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF A TYPE III COMPOST FACILITY UTILIZING THREE IN VESSEL COMPOST ROLL-OFFS

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone from RS-2 Residential Single-Family Low Density District to Industrial District/Conditional Zoning for a project identified as Danny's Dumpster Compost Facility located on a portion of 80 Hardesty Road, to allow for the operation of a Type III compost facility utilizing three in vessel compost roll-offs, and a modification request to property line buffer standards as required in Section 7-11-3(d)(1) of the Unified Development Ordinance. This public hearing was advertised on August 3 and 10, 2012.

Ms. Fields said that the subject property is located off of Hardesty Lane in East Asheville. Hardesty Lane is a private drive into City-owned property located off of Azalea Road East. The site has recently been addressed as 120 Hardesty Lane. The subject property is an approximately 5.5 acre portion of a 33.48 acre site owned by the City of Asheville. The larger City-owned property is currently used for gardening/farming and is the location of the City's beneficial fill site.

The applicant, Danny's Dumpster (Danny Keaton), is requesting a conditional zoning amendment from RS2 (Residential Single-Family Low Density District) to INDCZ (Industrial Conditional Zoning District), in order to develop and operate a compost facility on this property. It is proposed that the operations would include the hauling of compostable materials (not vegetable oil) to the facility and the collection of leaves and wood chips at the site. All materials will be mixed and processed into finished compost/quality topsoil as a by-product. The process will require an employee to be on site only four hours per day, five days per week. The site abuts a Norfolk Southern Railway line and a small portion is in a flood protected area. Three "in-vessel roll-off structures" will be located on the site. No potable water is available onsite. Fire suppression will be provided via a dry hydrant/existing retention pond on the larger parcel.

A modification is requested to waive the property line buffer standards as set forth in Section 7-11-3(d)(1) due to the nature of the location on the site and the nature of the operation and surrounding uses.

In addition to the standard conditions, staff recommends that a condition be added to require all traffic to and from the site to be routed off of Azalea Road East via Tunnel Road and

not through the recreation complex. The Planning and Zoning Commission, at a meeting on July 19, 2012, expressed support for this condition and recommended an additional condition that the operation be an in-vessel compost process only.

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 the technical standards set forth in the City's Unified Development Ordinance and Standards and Specifications Manual. The existing site plan shows compliance with most applicable development standards.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed use would be located in a low lying area between the Swannanoa River and the I-240 right-of-way and Norfolk Southern rail line. Topographically and due to significant vegetation the site is not visible from many surrounding areas.

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

The site is proposed to be located on a portion of a larger site that hosts a landfill for structural and debris fill and gardening and farming sites. The proposed operation will be compatible with these uses and is far removed from other land uses off of Azalea Road.

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

No permanent, habitable structures will be placed on the site. Three in-vessel roll-off structures will be placed on the site to accommodate the composting operation. The operation will be in harmony with the abutting uses on the same large parcel.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The proposed use supports the comprehensive plan goal of diverting solid waste and organic materials from landfill disposal through creative/innovative measures. Additionally, it aligns with Council's strategic planning objective of supporting opportunities for reducing city-wide solid waste.

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

There is no potable water needed for this operation. Fire suppression will be handled via a dry hydrant/existing retention pond on the larger parcel. A portable toilet will be required on site. All other technical aspects of this project have or can be met by the applicant.

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

The use will be located on a drive that experiences little traffic. A proposed condition would require that traffic to the site be routed off of Azalea Road East via Tunnel Road

and not through the recreation complex located on Azalea to the west. No new drive will be created for this use.

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

This conditional zoning request was recommended for approval by a 4-0 vote of the Planning and Zoning Commission; the only person to speak at the commission meeting was the applicant.

Pros:

- The proposed use provides for a much needed facility in Asheville which will support City goals for diverting waste from landfill disposal.
- The proposed use is located on currently unused City property and is compatible with other uses on that property.

Con:

- None noted.

Staff and the Planning and Zoning Commission recommend approval to a modification to waive the property line buffer standards as set forth in Section 7-11-3(d)(1) and subject to the standard conditions listed below and the following additional conditions: (1) That traffic to and from the site be routed off of Azalea Road East via Tunnel Road and not through the recreation complex located on Azalea to the west; and (2) That the operation be an in-vessel compost process only.

Mayor Bellamy opened the public hearing at 7:23 p.m. and when no one spoke, she closed it.

In response to Councilman Davis, Mr. Danny Keaton said that because of continuous air being pumped through the material, there would be no odor.

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

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No.4108, to conditionally zone to consider conditional zoning from RS-2 Residential Single-Family Low Density District to Industrial District/Conditional Zoning for a project identified as Danny's Dumpster Compost Facility located on a portion of 80 Hardesty Road, to allow for the operation of a Type III compost facility utilizing three in vessel compost roll-offs, and approval of the modification request to waive the property line buffer standards as required in Section 7-11-3(d)(1) of the Unified Development Ordinance, 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. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (6) That traffic to and from the site be routed off of Azalea Road East via Tunnel Road and not through the recreation complex located on Azalea to the west; and (7) That the operation be an in-vessel

compost process only. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 27 – PAGE 436

B. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR CORPORATION

RESOLUTION BOOK NO. 12-185 - RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR CORPORATION FOR PHASE II EXPANSION

ORDINANCE NO. 4109 - BUDGET AMENDMENT FOR FIRST YEAR ECONOMIC DEVELOPMENT PAYMENT

This public hearing was advertised on August 3, 2012.

Economic Development/Civic Center Director Sam Powers said that this is the consideration of a resolution approving a \$1,000,000 economic development incentive grant for Linamar Corporation and the corresponding budget amendment in the amount of \$200,000 from property tax revenue for the estimated first year's installment of this five-year economic development incentive grant.

This is consideration for an economic development incentive grant under the City of Asheville Economic Development Incentive policy. Linamar Corporation is a world-class designer and diversified manufacturer of precision metallic components and systems for the automotive industry, energy and mobile industrial markets. The company is proposing new, taxable, capital investment of \$75,000,000 for additional production equipment and facility improvements at the local facility in South Asheville, and has requested consideration of a cash grant under the City of Asheville Economic Development Incentive policy. The purpose of this investment is to allow Linamar to expand its operations, and is projected to result in the creation of a substantial number of jobs that pay at or above the median average wage for Buncombe County.

Linamar has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The City proposes to offer Linamar a performance-based grant not to exceed \$1,000,000. The performance-based grant will be paid over a five (5) year period. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment. The amount of the annual payment will take into consideration the estimated annual ad valorem property tax revenue attributable to the capital improvements, and each annual payment is projected to equal 75% of said estimated revenue. Any amounts paid to Linamar pursuant to the Agreement are subject to adjustment or recapture if the terms and conditions of the Agreement as to investment and job creation are not fulfilled.

The City will fund the payments from the general fund. The purpose of the proposed cash grant is to encourage Linamar to proceed with its proposed expansion. Staff believes that the project will further the economic interests of the area served by the City in several ways, including, but not limited to: (a) creating a substantial number of jobs having a wage at or above the median average wage for Buncombe County; (b) enhancing the City's tax base and the City's tax revenues; and (c) encouraging the retention and expansion of a major industrial operation in an existing facility.

The economic development incentive grant ties into City Council's Strategic Operating Plan as it addresses multiple focus areas of the Plan.

Pros:

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

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

Con:

- Grant is formulated based on use of approximately 75% of the value of new incremental tax revenue for a five year period.

The project has a 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 tax revenues from the project. After five years, the City will henceforth capture 100% of the new taxes.

City staff recommends Council approve the resolution authorizing an economic development incentive grant for Linamar Corporation not to exceed \$1,000,000 and also the corresponding budget amendment in the amount of \$200,000 from property tax revenue for the estimated first year's installment of this economic development incentive grant.

Mayor Bellamy opened the public hearing at 7:34 p.m.

Mr. Ben Teague, representing the Economic Development Coalition, read a letter from executives of Linamar who were unable to attend this meeting. They appreciated the support of the City and felt it was a privilege to be a part of the Asheville community. They hoped to be an exemplary citizen for many years to come.

Mayor Bellamy closed the public hearing at 7:36 p.m.

Mayor Bellamy conveyed her appreciation of having 250 new jobs coming to our community paying above Buncombe County wage. She was also excited about the fact that they are partnering with A-B Technical Community College for training many Asheville and Buncombe County residents.

Councilman Hunt, liaison to the Economic Development Coalition, highlighted how adding jobs don't happen by accident, but with community leadership. He thanked the Economic Development Coalition for their hard work on bringing Linamar to Asheville.

Councilman Bothwell said we live in a business culture in which large corporations extort this kind of money from communities, or they would locate elsewhere. He could not support this action.

Mayor Bellamy said that in the multi-decade model, the investment of incentives more than pay for themselves, and if Asheville is not going to offer incentives, then she felt it would put us out of the competitive field.

Mayor Bellamy said that members of Council have previously received copies of the resolution and ordinance and they would not be read.

Councilman Hunt moved for the adoption of Resolution No. 12-185. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no."

RESOLUTION BOOK NO. 35 – PAGE 46

Vice-Mayor Manheimer moved for the adoption of Ordinance No. 4109. This motion was seconded by Councilman Hunt and carried on a 6-1 vote, with Councilman Bothwell voting "no."

ORDINANCE BOOK NO. 27 – PAGE

V. UNFINISHED BUSINESS:

A. COUNCIL TO DETERMINE WHO TO INTERVIEW FOR THE PLANNING & ZONING COMMISSION

It was the consensus of Council to interview Joe Minicozzi, Abigail Emison (the two individuals who completed the required essay questions) and the two seated members Mark Brooks and Holly Shriner.

VI. NEW BUSINESS:

A. RESOLUTION NO. 12-186 - RESOLUTION CALLING FOR A SPECIAL ELECTION ON THE QUESTION OF WHETHER THE CITY SHOULD SELL OR LEASE ITS WATER SYSTEM

City Attorney Oast said that this is the consideration of a resolution requesting referendum on the sale or lease of the City's water system.

The general law in North Carolina is that there must be specific authority to conduct an election or referendum on any matter. Municipalities are authorized, if not required, by general law to hold referenda or special elections for certain purposes. One of the purposes for which a special election or referendum is authorized is in regard to the sale, lease or discontinuation of its water system. N.C.G.S. 160A-321 provides as follows:

- (a) A city is authorized to sell or lease as lessor any enterprise that it may own upon any terms and conditions that the Council may deem best. However, except as to transfer to another governmental entity pursuant to G.S. 160A-274 or as provided in subsection (b) of this section, a city-owned enterprise shall not be sold, leased to another, or discontinued unless the proposal to sell, lease or discontinue is first submitted to a vote of the people and approved by a majority of those who vote thereon. Voter approval shall not be required for the sale, lease, or discontinuance of airports, off-street parking systems and facilities, or solid waste collection and disposal systems.
- (b) For the sale, lease or discontinuance of water treatment systems, water distribution systems, or wastewater collection and treatment systems, a city may, but is not required to, submit to its voters the question of whether such sale, lease, or discontinuance shall be undertaken. The referendum is to be conducted pursuant to the general and local laws applicable to special elections in such city.

As Council knows, a legislative study committee that met during the winter and spring of 2012 made several recommendations. One of the recommendations was that the water system and sewer system be merged or consolidated.

Pursuant to N.C.G.S. 163-287, the City has the authority to call a special election "as permitted by law." Subsection (b) of N.C.G.S. 160A-321, which was added to the statute in 2011, permits, but does not require, a city to seek voter approval for the sale, lease, or discontinuance of water treatment and distribution systems. To the extent that the consolidation could include a sale or lease of the system, N.C.G.S. 160A-321 allows the City to seek voter approval. The Council must first adopt a resolution specifying the details of the election, and specifying the date. The date proposed is November 6, the date of the upcoming general election. The details of the

election would include the language of the question to be put to the voters, reading substantially as follows:

“Shall the City of Asheville undertake the sale or lease of its water treatment system and water distribution system, including the reservoirs, watershed lands, water lines, pump stations, storage tanks and other facilities used by the City of Asheville for the treatment and distribution of water?”

This language is a suggestion, and may be revised, but should be consistent with the statutory authorization.

The language of the statute limits the voters eligible to participate in such a referendum to City voters. The results of the referendum would be binding such that, if the vote was “no,” the system could not be sold or leased.

He provided Council with a resolution for Council's consideration calling for a special election pursuant to N.C.G.S. 160A-321 on November 6, 2012, and setting out the question to be put to the voters.

A cost estimate for this election has been requested from the Board of Elections.

If Council desires to call for special election, adoption of the resolution is recommended.

Vice-Mayor Manheimer said that at the July 31 worksession she introduced the idea of conducting a referendum in the November election regarding the potential sale or transfer of our water system. In compliance with the Legislative Study Committee report, the City has put together a group to begin to talk to MSD and explore all our options. As a body, we are not in favor of any legislation transferring our water system.

In response to Councilman Bothwell, City Attorney Oast said that if the vote is not in favor of selling or leasing the water system, the vote would be binding.

Mayor Bellamy asked if we hold a referendum and the citizens say they don't want the City to sell or lease the water system but the State makes us give it away, do we negate the opportunity to be compensated. She didn't want to do anything to stop Asheville from being compensated. City Attorney Oast said that the use of sale or lease in the statute contemplates a voluntary transaction. The statute does not address a situation where the City was forced to transfer its assets involuntarily.

Councilman Hunt suggested an amendment to the language on the ballot; however, after a brief discussion he withdrew his suggestion.

Councilman Pelly suggested a friendly amendment to his motion for the language on the ballot to read “Shall the City of Asheville undertake the sale or lease of its water treatment system?” Vice-Mayor Manheimer accepted the friendly amendment.

In response to Councilman Davis, City Attorney Oast said the only City voters will be allowed to vote on this question, not all water ratepayers.

Councilman Davis said that he would support this resolution as he felt it was important to be united in this effort, but he had some reservations about this being the best thing.

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 Pelly moved for the adoption of Resolution No. 12-186. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 47

B. DISCUSSION OF N.C. LEAGUE OF MUNICIPALITIES' LEGISLATIVE AGENDA

City Attorney Bob Oast said that the N.C. League of Municipalities (NCLM) is developing its legislative advocacy agenda for 2012-13. The NCLM is requesting input from member municipalities, and has asked for that input to be provided by August 31. This continues a process that the NCLM began in 2010 for 2011-13 Session of the North Carolina General Assembly

NCLM's legislative agenda is oriented to matters of importance to municipalities across the State, not to any particular municipality. Individual cities, including Asheville, develop and pursue their own legislative agendas. When the NCLM can help with their individual agendas, they do.

For guidance on the kinds of subjects that the NCLM is seeking input on, he provided Council with a copy of the current NCLM legislative advocacy agenda.

The purpose of having this item on the agenda today is to start the discussion. The item will appear again on August 28 for action. As Council knows, we anticipate meeting with some of our legislators on August 27, and this meeting should provide some useful information about what to expect in the next session, which begins in January.

He would be glad to obtain more information on any legislative matter for Council, or to talk with NCLM staff about a particular matter

Mayor Bellamy asked two issues be added to our state legislative agenda, because they have a statewide impact and are not our issues to govern (1) the state law for women to go topless; and (2) issues around mopeds. She felt we needed to refer these to the NCLM to add to their agenda.

Councilman Hunt said there is a movement to make it so that most, if not all, debt issued by a municipality would be subject to a general referendum of voters. That would make our lives very difficult to finance capital projects. There are others, especially on the fiscal front, that municipalities are increasingly limited on their ability to conduct business. At Mayor Bellamy's suggestion, Councilman Hunt said that he would be happy to consider serving on a NCLM committee that looks at these issues.

Councilman Smith asked that they consider legislation that would allow cities and counties to be able to set the occupancy tax rates for hotels/motels within their borders.

At the August 28 meeting, she urged Council to bring up any of their statewide issues which we can forward onto the NCLM.

C. BOARDS & COMMISSIONS

Regarding the Civic Center Commission, the following individuals applied for the vacancy: Deanna Reeder, Grant Millin, Angela Rutledge, Chris Bubenik, Antonio Hinton, Arthur Ollendorff, Elizabeth Franks and Suzanne Rice. It was the consensus of Council to instruct City Clerk Burleson to arrange interviews for Chris Bubenik, Antonio Hinton and Arthur Ollendorff.

Regarding the Noise Ordinance Appeals Board alternate seat, the following individuals applied for the vacancy: James Reato, Jessica Byrd and Elizabeth Franks. Because of the revisions to the noise ordinance currently being advertised, it was the consensus of Council to re-advertise for the alternate seat.

Regarding the Airport Authority, Mayor Bellamy was concerned about City representation on the Authority. She was also concerned that the Airport Authority will be meeting on August 17; however, it was her understanding that the Authority will not seat her as a member of the Authority, even though City Council appointed her on June 26, 2012. City Attorney Oast said that Mayor Bellamy can attend the meeting as a member of the public; however, our communication with the Authority indicates that she will not be seated.

RESOLUTION NO. 12-187 - RESOLUTION APPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Americans with Disabilities Act (ADA) Compliance Committee.

The terms of Julie Fulwood (representing the business or non-profit sector) and Teresa Foster-Moorefield (representing the education & the health/medical profession) expire on August 22, 2012. In addition, there currently exists a vacancy for a representative of the disabled community, whose term will expire August 22, 2013.

The following individuals have applied for a vacancy on the ADA Compliance Committee: Florence Bannon and Daniel Bridges.

It was the recommendation of the Boards & Commissions Committee, at the suggestion of City Attorney Oast, that (1) the Committee remain in existence, and that the committee members stay on in an "inactive" status; and (2) appoint Florence Bannon (representing the disabled committee) to the Committee to serve in an "inactive" status. In the event that a hearing is required, or the Committee is required to transact other business, the Committee members will be contacted by the Secretary to the Committee.

Councilman Smith moved to (1) reappoint Julie Fulwood and Teresa Foster-Moorefield to the ADA Compliance Act Compliance Committee on an "inactive" status; and (2) appoint Florence Bannon to an "inactive" status and in the event that a hearing is required, or the Committee is required to transact other business, the members would be contacted by the Secretary to the Committee. This motion was seconded by Councilman Davis and carried unanimously.

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RESOLUTION NO. 12-188 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the HUB Community Economic Development Alliance.

The terms of Steve Cochran, Richard Stiles, Cheryl McMurray and Scott Dedman, members of the Alliance expire on August 22, 2012.

The following individuals have applied for a vacancy: Antonio Hinton, Kelly Erin-Spinney, Julie Mayfield and Grant Millin.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Richard Stiles, appoint Julie Mayfield and interview for the remaining vacancies.

Councilman Hunt moved to (1) reappoint Richard Stiles to serve an additional three-year term, term to expire August 22, 2015, or until his successor has been appointed; (2) appoint Julie Mayfield to serve a three year term, term to expire August 22, 2015, or until her successor has been appointed; and (3) re-advertise for the remaining two vacancies. This motion was seconded by Councilman Smith and carried unanimously.

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RESOLUTION NO. 12-189 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Police Officers and Firefighters Disability Review Board.

The terms of Stephanie Cooper, Dr. Steven Hulkower and Maggie Burleson expired on July 19, 2012.

It was the recommendation of the Boards & Commissions Committee, at the suggestion of City Attorney Oast, that the Board remain in existence, and that the board members stay on in an "inactive" status. Board members Stephanie Cooper, Dr. Steven Hulkower and Maggie Burleson have agreed. In the event that a hearing is required, or the Board is required to transact other business, the Board members will be contacted by the Secretary to the Board.

Councilman Bothwell moved to reappoint Stephanie Cooper, Dr. Hulkower and Maggie Burleson to the Police Officers and Firefighters Disability Review Board on an "inactive" status, and in the unlikely event that a hearing is required, or the Board is required to transact other business, the members would be contacted by the Secretary to the Board. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 50

RESOLUTION NO. 12-190 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Buncombe County Tourism Development Authority.

The term of Bob Patel, representing an owner or operator of a hotel, motel or other taxable tourist accommodation with more than 100 rental units) expire on August 30, 2012.

No individuals have applied for this vacancy.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Patel.

Mayor Bellamy moved to reappoint Mr. Bob Patel (representing an owner or operator of a hotel, motel or other taxable tourist accommodation with more than 100 rental units) expire on August 30, 2012) to serve an additional three-year term, term to expire August 30, 2015, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Bellamy reminded the public that the first day of Asheville City Schools starts on August 15 and the County Schools on August 16. She urged everyone to slow down, especially in school zones. She also noted that on August 15 the Smoky Park Bridge will be dedicated to Fire Captain Jeffrey Bowen.

Councilman Smith was pleased to announce the Land-of-Sky Regional Council was awarded a grant for agriventures which is going to utilize the agriculture talent and potential that we have in the region to serve as a business incubator.

The following individuals expressed concerns about management at the Asheville-Buncombe Community Christian Ministry (ABCCM), citing discrimination of women veterans in the ABCCM's Steadfast House: Mr. Monroe Gilmour, coordinator of Western North Carolina Citizens Ending Institutional Bigotry (provided council with his comments); Ms. Alyce Knaflich (provided Council with a brochure on veterans rights); Ms. Browne Hollowell; Ms. Marlene J. Perry; Mr. Anthony C. Hamilton; and Ms. Darlene Minton. City Manager Jackson said that he would gather background information on this matter, talk to Mr. Gilmour and report to the Housing & Community Development Committee (prior to City Council) on if there is a role for the City to play in this process.

Ms. Patricia Dockery was concerned that she received a letter outlining community meetings for revisions to the current noise ordinance; however, no locations were disclosed. City Manager Jackson said that he will provide Council and Ms. Dockery the communication plan by the end of the week.

Rev. Lisa Landis said that on November 5, 2011, she was arrested for exercising her first amendment rights (in which she was found not guilty), and said she would seek a lawsuit against the City for falsely prosecuting her if the City would not settle with her. Mayor Bellamy referred Ms. Landis to City Attorney Oast and suggested she put her request in writing.

Mr. Victor Ochoa said it was important that Asheville take a stand on not losing our water system. He read a draft rights-based ordinance which would make it illegal for MSD or any private corporation to take control of our water system.

Closed Session

At 8:37 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: The Institute of Southern Studies, Inc., d/b/a Carolina Public Press, Gannett Pacific Corporation, d/b/a Asheville Citizen-Times, Green Line Media, Inc., d/b/a Mountain Xpress, Western North Carolina Public Radio, Inc., d/b/a WCQS, and Sinclair Broadcast Group, Inc., d/b/a WLOS TV, the City of Asheville; Buncombe County District Attorney's Office; William Hogan; Brian Hogan; Cheryl Intveld; Stony Gonce and Mary Ann Wilcox. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 9:19 p.m., Vice-Mayor Manheimer moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT.

Mayor Bellamy adjourned the meeting at 9:19 p.m.

CITY CLERK

MAYOR