

Tuesday – October 9, 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; Assistant City Attorney Martha McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 25, 2012, AND THE SPECIAL MEETING HELD ON OCTOBER 2, 2012**
- B. ORDINANCE NO. 4124 - FIRST READING OF AN ORDINANCE AMENDING TO THE FRANCHISE AGREEMENT WITH THE EDUCATION RESEARCH CONSORTIUM**

Summary: The consideration of an ordinance amending the City of Asheville's franchise agreement with the Education Research Consortium.

Pursuant to City Ordinance No. 3056, which provides for the granting of franchises to install telecommunications facilities within the City of Asheville's right-of-ways, the City and ERC entered into a telecommunications franchise in June of 2004.

In October of 2009, based on changes in state law, the City's cable television franchise was terminated. This cable television franchise allowed for the provisioning of a public purpose fiber optic network known as the "institutional network," which served public safety stations and other city premises. Because it was financially infeasible to continue to use the cable television fiber optic network, City staff discontinued use and built a lower-fidelity wireless network to provision fire stations. Because certain locations continue to experience difficulty with the lower-fidelity network, city staff continued to work to replace the fiber optic network. In 2011, the City of Asheville also analyzed the capital cost of building its own fiber optic network via staff and a third party, with highest estimates at \$4,902,890.

ERC received grant funding in 2012 for the purposes of building fiber optic in the region, as well as anchor institutions like fire and police stations. Moreover, the City of Asheville and the ERC continue to partner to connect other premises such as the Armory.

To govern these new builds, and to provide a value exchange that is satisfactory both to city staff and ERC staff, an amendment to the ERC franchise agreement is proposed. The

amendment allows the City to waive the collection of franchise fees from ERC in exchange for access to its broadband network.

This action will provide greater capacity and redundancy for public safety stations as well as other city facilities.

This action complies with the City Council Strategic Operating Plan goal to “Leverage internal and external partnerships for pursuing capital improvements and infrastructure projects,” as well as “Safe: Asheville will be one of the safest and most secure communities when compared to similar cities.”

Pros:

- Increased primary data networking capacity to fire stations, police stations, and other city facilities.
- Leverages external partnership to pursue infrastructure project.
- Cost effective method for utilizing fiber optic network.

Con:

- None.

The franchise amendment allow the City of Asheville to exchange the collection of franchise fees for use of a portion of the ERC broadband network. The value of the waived franchise fees is equal to or less than the value of accessing the broadband network. The arrangement also allows the City to avoid the cost of installing its own fiber infrastructure at an estimated cost of more than \$4.9 million.

City staff recommends City Council approve the amendment to the ERC franchise agreement. The statute authorizing the granting of franchises requires that franchises be amended by ordinance, and that any ordinance granting or amending a franchise be passed at two regular meetings. Accordingly, this same item will appear on Council's agenda for the October 23 meeting.

ORDINANCE BOOK NO. 27 – PAGE

C. RESOLUTION NO. 12-228 - RESOLUTION APPROVING THE N.C. DEPT. OF CULTURAL RESOURCE'S UPDATED MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE ISSUED SEPTEMBER 10, 2012

Summary: The consideration of a resolution approving the N.C. Dept. of Cultural Resource's updated Municipal Records Retention and Disposition schedule issued September 10, 2012.

N.C. Gen. Stat. sec. 121-5 mandates that records defined under Chapter 132 may be disposed of only in accordance with an official records retention schedule. The N.C. Dept. of Cultural Resources, Division of Archives and History, has updated the 2009 Municipal Records Retention and Disposition Schedule.

This updated Schedule provides that records listed may be destroyed after the specified retention periods without further approval from the City or the N.C. Dept. of Cultural Resources provided, the governing body has authorized the records listed for destruction to be destroyed through its blanket approval of the Retention and Disposition Schedule.

Pros:

- Will allow records listed to be destroyed after specified retention period
- Will free up storage space

Con:

- None noted.

City staff recommends City Council adopt the resolution approving the N.C. Dept. of Cultural Resource's updated Municipal Records Retention and Disposition schedule issued September 10, 2012.

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D. ORDINANCE NO. 4125 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF N.C. STATE DRUG SEIZURE FUNDS

Summary: The consideration of a budget amendment, in the amount of \$44,900, to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of Emergency Response Team (ERT) 13 ballistic vests and to adjust the supply account line for previous expenditure overage.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

The City of Asheville Police Department has received \$44,900 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to fund the purchase of Emergency Response Team (ERT) tactical ballistic vests.

This action complies with City Council's Strategic Operating Plan in the Focus Areas - Safe - Asheville will be one of the safest and most secure communities when compared to similar cities and Fiscal Responsibility – The City of Asheville will support a stronger, more prosperous community by making smart investments that accomplish lasting, tangible returns.

Pros:

- North Carolina State drug seizure revenues used to fund 13 ballistic vests for ERT
- Making adjustments for the supplies account line previous expenditure overage

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the APD allowing us to better equip our employees. There is no impact to the General Fund budget.

City staff recommends City Council adopt a budget amendment in the amount of \$44,900 authorizing the use of North Carolina State Drug Seizure Funds to fund the purchase of Emergency Response Team (ERT) ballistic vests.

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E. RESOLUTION NO. 12-229 - RESOLUTION ADOPTING CHANGES TO THE CITY OF ASHEVILLE'S FINANCIAL POLICY TO INCLUDE AN AUDIT PROCUREMENT POLICY

Summary: The consideration of a resolution adopting changes to the City of Asheville's Financial Policy to include an Audit Procurement Policy.

Best Practices

The Government Finance Officer's Association (GFOA) has made the following recommendations, among others, regarding the selection of auditing services:

- Governmental entities should enter into multiyear agreements of at least five years in duration when obtaining the services of independent auditors. Such multiyear agreements can take a variety of different forms (e.g., a series of single-year contracts) and allow for greater continuity and help minimize the potential for disruption in connection with the independent audit. Multiyear agreements can also help to reduce audit costs by allowing auditors to recover certain "startup" costs over several years, rather than over a single year.
- Governmental entities should undertake a full-scale competitive process for the selection of independent auditors at the end of the term of each audit contract, consistent with applicable legal requirements. Ideally, auditor independence would be enhanced by a policy requiring that the independent auditor be replaced at the end of the audit contract, as is often the case in the private sector. Unfortunately, the frequent lack of competition among audit firms fully qualified to perform public-sector audits could make a policy of mandatory auditor rotation counterproductive. In such cases, it is recommended that a governmental entity actively seek the participation of all qualified firms, including the current auditors, assuming that the past performance of the current auditors has proven satisfactory.

History

The City of Asheville has utilized Dixon Hughes Goodman LLP (Dixon Hughes) for auditing services for the last seven fiscal years under single-year contracts. The City retained the services of Martin Starnes & Associates for the FY 2004-2005 fiscal year audit and utilized Crisp Hughes Evans for several years prior to FY 2005. Crisp Hughes Evans merged with a Dixon Hughes predecessor firm in 2004.

The City's long term relationship with Dixon Hughes is likely related to several factors, including the fact that it is the largest CPA firm in the southeast with a local office in Asheville. During the last four years, Dixon Hughes worked with Asheville as the City transitioned to a more complex financial system through the implementation of the enterprise resource planning (ERP) software Munis. At the same time, the City's Finance Department experienced staff turn over in key positions, and continuity in the independent auditor's role has been essential to timely completion of the audit. As a result, Dixon Hughes has extensive experience auditing the City's financial systems, accounts and records, including valuable insight and understanding of the financial system's processes and controls.

In 2011, City Council expressed an interest in pursuing a competitive process for the selection of independent auditors. Staff was prepared to launch a Request for Proposals (RFP) but requested that the City delay the RFP process for an additional year to permit a relatively new team in the Finance Department the optimal opportunity to complete the audit by October 31, 2012, a deadline that was adopted by City Council as part of the City's Financial Policy.

City Council approved staff's recommendation, and the services of Dixon Hughes were retained for a single, final year to conduct the audit of the city's accounts for the fiscal year ending June 30, 2012. Staff recommended that the City issue an RFP in the November/December 2012 timeframe for audit services for FY 2013.

City of Asheville Financial Policy

Staff believes an RFP for audit services would generate sufficient competition among firms due to the size, scope and duration of the engagement. Given GFOA's recommended best practices, staff recommends City Council adopt the following statement as part of the City's Financial Policy:

Audit Procurement Policy: When obtaining the services of independent auditors, the City of Asheville shall enter into multiyear agreements of at least five years in duration through a series of single-year contracts as consistent with North Carolina State law. The City shall undertake a full-scale competitive process for the selection of independent auditors at the end of the term of each audit contract, consistent with applicable legal requirements. It is the City of Asheville's policy that the independent auditor be replaced at the end of the five-year engagement to enhance auditor independence unless lack of competition among audit firms fully qualified to perform public-sector audits make mandatory rotation counterproductive. The principal factor in the selection of an independent auditor is the auditor's ability to perform a quality audit. In no case should price be allowed to serve as the sole criterion for the selection of an independent auditor.

If adopted, the City's current audit service firm could not compete in the RFP process for FY13 since it has been working with the City for a period greater than five years. The policy, as drafted, would prevent consecutive contract awards, unless the City determines rotation would be counterproductive.

Timeline

- RFP development and release: November 2012
- Staff evaluation of responses: December 2012
- Finance Committee review: January 2013
- Contract award: February 2013

The City Council Finance Committee unanimously approved this policy at its September 25, 2012, meeting.

Adoption of this policy support the City's strategic goal to operate to the highest levels of fiscal responsibility.

Transitioning to a new audit firm will require additional time to get the auditors familiar with Asheville's financial systems, processes and controls. As illustration, according to a survey of the public accounting firms and Fortune 1000 public companies (United States General Accounting Office 2003), auditors' initial year audit costs increase by more than 20 percent over subsequent year costs to acquire the necessary knowledge of the client. In addition, their marketing costs also increase by more than 1 percent. Additionally, the survey found that clients will incur additional auditor selection costs and auditor support costs of at least 17 percent of initial-year audit fees.

For FY 2012, the City of Asheville executed an audit contract with Dixon Hughes for \$109,000. Staff would estimate that the first year of an engagement with a new firm would range from \$110,000-\$145,000.

Staff recommends approval of resolution to adopt an Audit Procurement Policy in the City of Asheville's Financial Policy. Staff also recommends that Council direct staff to execute an RFP for audit services according to the timeline presented for the FY13 audit.

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

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

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

III. PRESENTATIONS & REPORTS:

A. BUNCOMBE COUNTY TAX COLLECTOR

Buncombe County Tax Collector Gary Roberts briefly provided Council information on collections, the new motor vehicle law and the next reappraisal. He provided Council with a chart of the history of the collection rates for the City of Asheville from 2008 – 99.13% through 2012 – 99.31%. The state average for municipalities with population of 50,000 and greater is 98.25%.

Mr. Roberts responded to various questions/comments from Council related mostly to the next reappraisal.

On behalf of City Council, Mayor Bellamy thanked Mr. Roberts for providing Council an update on the activities of his office.

B. BOARD OF ADJUSTMENT UPDATE

Mr. David Brown, Chairman of the Board of Adjustment, briefly updated the Council on the mission of the Board of Adjustment, their membership and their goals.

On behalf of City Council, Mayor Bellamy thanked Mr. Brown and the entire Board of Adjustment for their hard work to help reduce possible litigation.

At the suggestion of Mayor Bellamy, it was the consensus of Council to have the Planning & Economic Development Committee review the sign ordinance (exclusive of the digital signs which have recently been reviewed).

C. CITIZENS-POLICE ADVISORY COMMITTEE UPDATE

Mr. Charlie Hume, Chairman of the Citizens-Police Advisory Committee, briefly updated Council on the Citizens-Police Advisory Committee. He outlined their mission, membership, goals, accomplishments and their initiative of "Taking It To The Streets."

On behalf of City Council, Mayor Bellamy thanked Mr. Hume for his leadership and the entire Citizens-Police Advisory Committee for their hard work.

D. WATER RESOURCES UPDATE

Project Manager Phil Kleisler updated City Council on the Water Resources process update from September 25 – October 9, 2012. He said that the internal financial analysis/governance models meeting has been moved from October 16, 2012, to October 30 in the U.S. Cellular Center Arena Meeting Room. We have invited 16 entities to this meeting. He mentioned the MSD study key dates; and regarding the asset value, appraiser interviews to determine the feasibility of an asset review. He then provided Council with the information sharing between the City and MSD.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH PLASTICARD LOCKTECH INTERNATIONAL

RESOLUTION NO. 12-230 - RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR PLASTICARD-LOCKTECH INTERNATIONAL EXPANSION

ORDINANCE NO. 4126 - BUDGET AMENDMENT FOR PLASTICARD-LOCKTECH INTERNATIONAL EXPANSION

Economic Development/Civic Center Director Sam Powers said that this is the consideration of a resolution approving a \$67,000 economic development incentive grant for Plasticard-Locktech International (PLI) and the corresponding budget amendment in the amount of \$13,400 from property tax revenue for the estimated first year's installment of this five-year economic development incentive grant. This public hearing was advertised on September 28, 2012.

Plasticard-Locktech International (PLI) was founded in 1988 in Asheville, NC. From that beginning, PLI has grown to become the world's largest hotel keycard manufacturer and a leading specialty printer of plastic and paper products. The company is planning a \$4,600,000 expansion on its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. The company will create 42 new jobs within three years, with an average wage of \$12.50/hour and offers comprehensive benefits to its employees. The City of Asheville is considering offering a performance-based grant totaling \$67,000.

The purpose of this investment is to allow PLI 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.

PLI has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The City proposes to offer PLI a performance-based grant not to exceed \$67,000. The performance-based grant will be paid in increments 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 PLI 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 PLI to proceed with its proposed expansion in the City of Asheville. The company conducted an extensive site search in several states and this grant meets the requirements of the "But For" test. 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 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 Plasticard-Locktech International not to exceed \$67,000 and also the corresponding budget amendment in the amount of \$13,400 from property tax revenue for the estimated first year's installment of this economic development incentive grant.

Mayor Bellamy opened the public hearing at 5:50 p.m.

Rev. Christopher Chiaromonte was opposed to City Council approving this grant since they are the world's largest hotel keycard manufacturer and they made a lot of profit.

Mr. Alan Ditmore saw no particular reason to focus an economic incentive grant to just one business.

Mr. Peter Krause, representing PLI, said that the expansion will invest over \$4 million to expand the physical existing location and in the process they will be creating 46 new jobs. They have also recently acquired a 44,000 square foot additional building in the Sweeten Creek Industrial Park and that, in combination with the physical expansion, hopes recognize the commitment they have to the Asheville area. With that additional building, they are now anticipating adding 80 new jobs to the area. He hoped for City Council support.

Mayor Bellamy closed the public hearing at 5:58 p.m.

Mayor Bellamy spoke in support of their expansion in our community. They are paying salaries above minimum wage and was pleased to hear about their expansion.

Councilman Smith said that there is discussion about how we can better support smaller local industry.

Councilman Bothwell was pleased to see that PLI is doing well, but could not support this action. He felt if a business is committed to the community, they should not be asking for a grant from the City.

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

Councilman Davis moved for the adoption of Resolution No. 12-230. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting "no."

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Councilman Hunt moved for the adoption of Ordinance No. 4126. This motion was seconded by Councilman Pelly and carried on a 6-1 vote with Councilman Bothwell voting “no.”

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B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE BILTMORE PARK TOWN CENTER SIGNAGE PLAN FOR OFFICE TENANT SIGNAGE AND RETAIL TENANT IDENTIFICATION SIGNS

ORDINANCE NO. 4127 - ORDINANCE AMENDING THE BILTMORE PARK TOWN CENTER SIGNAGE PLAN FOR OFFICE TENANT SIGNAGE

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Biltmore Park Town Center signage plan. This public hearing was advertised on September 28 and October 5, 2012.

In July 2007, City Council approved a signage plan for the Biltmore Park Town Square (BPTS) urban village project. Comprehensive signage plans are allowed by ordinance to enable larger development sites to develop a custom plan for signage that addresses unique needs and contexts in a comprehensive and harmonious manner.

The signage plan option for BPTS plan was the City’s first and most comprehensive. But as individual buildings have opened for business and more and more housing units and commercial/office space has become available, the signage needs at BPTS are becoming better understood, leading for proposals to modify the approved signage plan. In June 2009 an amendment was approved. A second amendment is now being requested affecting retail and office tenants. The BPTS development is nearly complete and almost fully leased and Biltmore Farms is requesting the amendment to the approved signage plan to allow for additional signage to assist in identification and leasing of their remaining office and commercial space.

A summary of both the original proposal and the subsequent amendment are offered below. More detailed information may be found in the complete reports which are included as an attachment to this report.

Original 2007 Signage Plan Request

- Project Identity (monument, wall mounted, gateway, rooftop)
- Tenant Identity (major tenant, minor tenant, wall or window mounted)
- Traffic Control (customized & enhanced traffic and street signs)
- Directional (vehicular, pedestrian, parking, valet)
- Residential & Office Identity
- Service

The most notable elements of the original request were, in part, the volume of signs proposed that comprised a very comprehensive and thoroughly assembled application. In addition, the amount and number of tenant identity signs including eight (8) “Major Tenant” identification signs (that can be as large as 200 s.f. each). This allowance is significantly more than what is normally permitted for the Urban Village or other more urban zoning designations and is more than what is allowed for most single tenant signs in other commercial districts (where they are typically limited to 125 s.f.).

That proposal also included a request for a rooftop project sign and tenant identification signage on the back walls of the parking deck and movie theater adjacent to, and visible from, I-

26. Those last two requests were not approved as part of the original package; however, a 350 s.f. wall mounted project identity sign was approved to be located on the back side of the parking structure instead of the rooftop sign.

2009 Signage Plan Amendment

- A new 650 s.f. temporary banner advertising BPTS with the simple text message of “Apartments, Condos, Retail shops, Office Space”. This banner remained up for over 1 year.
- Larger Project/Site Identity Sign – the 350 s.f. BPTS site identity sign on the back of the parking deck was replaced with a new 510 s.f. sign.
- Larger Monument sign – replaced two smaller 60 s.f. monument signs with a single new larger 188 s.f. sign that is 15 ½ feet tall, located at the entrance to the Park/Square.

All three of these requests were supported and approved.

2012 Signage Plan Amendment – current proposal

There are two separate amendments being proposed. The first amendment is related to the amount and size of signage for major office tenants; the second amendment revives the original request for tenant identification signage on the backside of the parking deck and movie theater, visible from I-26.

1) Office Signage

The current plan limits the amount of office signage to one, 125 square foot attached sign per building, with only two signs total for the entire development. The proposal is to allow up to three signs per building, each at 125 s.f., with no more than two signs per façade. The four office buildings included are 1 & 2 Town Square, and Buildings 2B & 7C.

Considerations: The limit on the number of signs per development was based on an estimate for the number of major office tenants. It is now apparent that there is a better market for major office tenants than had previously been recognized and the total number of signs should be increased appropriately. Additionally, these mixed use buildings are quite large and range in size from 60,000 square feet up to 75,000 square feet with the office space occupying approximately 75% of these buildings and the height and mass of the buildings can aesthetically support several larger signs. Lastly, the signs also help identify the location of these major office tenants for employees and especially visitors to the center.

2) Retail Tenant ID Signage

The original submittal in 2007 included a request for retail tenant identity signage on the back of the parking structure and movie theater visible from Interstate 26. This request was not supported by City Council in 2007; however, the applicant has supplied new information for the Council’s consideration. The current request, identical to the 2007 request, is to allow up to four tenant identification signs on both the parking structure and the movie theater for a total of eight tenant identification signs. The letters for the sign text would be 4’ tall and the signs would be internally illuminated. No maximum length for these signs is proposed.

Considerations: As a frame of reference, the letters on the BPTS sign are 7 ½ feet tall; the letters for the Hilton are 4 feet tall; and the letters for the Regal Cinema are 3 feet tall. Because the limiting factor for the sign is the size of the letter, the overall size of each tenant sign cannot be determined and will be based on the size of the letters, the number of letters in the name, and the space between each letter. This could result in signage that has an overall square footage greater than many of our standard tenant identification signs and when added together cumulatively, would be larger than most interstate billboards.

Analysis: Staff feels that the unique context and nature of this large urban project does warrant special consideration. There are no significant concerns for the office tenant signage which is located internally to the site, does not overwhelm the architecture with signage, and provides important identification and wayfinding. The request for the tenant identification signage is of concern given staff understanding of the purpose and intent of the Urban Village zoning and associated development standards. The stated purpose of the Urban Village Zoning is to create a mixed-use development that is economically strong but which is also pedestrian-oriented with innovative, high quality site design and architecture which contributes to, or enhances, Asheville's placemaking character. Accordingly, the approved signage plan was designed to primarily highlight and identify the Town Square as a "place", with very limited advertising for individual tenants (thus far limited to the hotel and the theater which have frontage along the interstate). If off-site visibility is to now be provided for retail tenants, the purpose of the signage would change from being identification to advertising. Supporting this request also has the potential for establishing a precedent that could open the door for similar requests.

Despite these concerns, the applicant's statement of need for this change presents important information regarding the evolving economics of the current market and this development type. Considering a sustainable economic model for a large mixed-use town center is very important; and therefore the larger part of the staff concern is centered on the magnitude of the request. We believe the request is somewhat excessive (both in size and number of signs requested) and perhaps more than what is necessary to afford relief.

Additionally, the proposed signs are very large and the requested locations appear visually awkward and not well integrated into the design of the very large Town Square identity sign, or other attached signage on the movie theater. Sign structures such as these are structurally very significant and, if approved, it would be reasonable to expect these (or similar signs for other retail tenants) to remain in place for a very long period of time and the opportunity to creatively address needs through a harmonious design will most likely have passed. For reference, the stated purpose of the signage plan is:

. . . . to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development.

This proposal does not appear to uphold the stated purpose of the sign plan in that it does not provide a creative solution that addresses pedestrian-orientation or wayfinding. The underlying purpose of the signage is to provide recognition and advertising for the retail tenants located in the town square development for those driving on Interstate 26.

This proposal most closely supports the goal of *sustainability* through improved identity and advertisement opportunities that would support the economic viability of the overall project.

Pros:

- Addresses a specific economic need for a very large private investment
- Provides enhanced retail tenant identification from interstate to the motoring public
- Provides improved identification and wayfinding of key office tenants to visitors

Cons:

- Proposed number of tenant identification signs may be in excess of what is needed to achieve the purpose of store recognition
- Size of tenant identification sign appears out of scale with structures and other signs
- Signs are long-lasting and reduces opportunity for more creative solutions in the future
- May establish a concerning precedent

No direct fiscal impact to the City. There is the potential that improved or increased signage will contribute to the sale and leasing of available space along with improved identity, providing a positive fiscal impact through new property and sales tax.

Staff recommends: (1) Approval of the office tenant signs, and (2) Denial of the tenant identification signs, as proposed.

Should Council members have interest in supporting a revised plan for tenant identification signs along the interstate, staff would recommend that the applicant be provided feedback on recommended changes and return with a revised sign concept at a later date.

Mayor Bellamy opened the public hearing at 6:15 p.m.

Mr. Paul Szurek, CEO of Biltmore Farms, said that this amendment is about identification, not advertising. For the office tenant ID signs, (1) the signs on each façade would contribute to the urban grain and aesthetic appeal of the Biltmore Park Town Center; (2) help customers and visitors find these major destinations and minimize traffic confusion and congestion; and (3) these office ID signs will help promote economic development in Asheville. The goal of the major tenant interstate-facing identity signs is to ensure that passersby on Interstate 26 are aware of the quality retail nature of the Biltmore Park Town Square. He explained the very important reasons for this amendment, those being sustainability, the retail tenant needs, fairness and the City's tax base.

Mayor Bellamy closed the public hearing at 6:22 p.m.

In response to Councilman Hunt, Ms. Tuch said there are existing billboards in the vicinity along I-26 in both directions and an option would be for them to advertise the entire center.

Councilman Bothwell moved to approve the Office tenant signs, 125 square feet each, no more than three per building and no more than two per façade. Office tenant signs shall be limited to only those buildings supporting the office uses and buildings shall be a minimum of 60,000 s.f. in overall size and contain a minimum of three stories. This motion was seconded by Councilman Pelly and carried unanimously.

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In response to Councilman Smith, Mr. Szurek said that the retail space is approximately 75% occupied. The more visible components – office and apartments – are both more than 97% leased. If Council approved the retail tenant ID signage, he believed we would get the retail space to 92-95% occupied.

Ms. Tuch responded to Mayor Bellamy regarding multi-tenant signage. She noted there is a free standing multi-tenant sign as you enter Biltmore Park Town Square close to Long Shoals Road.

Councilman Davis said that the City has partnered with Biltmore Park from the start of this project and would like to see this succeed. He understood that every customer that comes in to visit a large business is a potential customer for each of the local and regional retailers. However, he wondered if Mr. Szurek would be willing to have a 5-year amortization period of the signs and if during those five years the retail occupancy rises, that the signs would sunset.

Mr. Szurek felt they would not be able to attract retailers if the signage goes away after they hit a target occupancy rate. He said the consumer needs to associate the availability of certain products and services with an actual physical location. He felt that if we make an urban village model work and support the parking decks, they need to have that identification signage

as long as we have an urban village at that location. He provided Council with some pictures of what the retail ID signage might look like on the buildings facing the interstate.

Councilman Hunt felt we have too much signage overall in the City now and would like to see tighter control. He was very appreciative of Biltmore Park's commitment to the urban village concept. He wondered if the developer and staff could find a balanced approach with some adjustment to the 510 sq ft sign to allow for the retail id signage.

Councilman Smith moved to direct City staff to work with the developer to show an accurate representation of the exterior retail ID signage for the Biltmore Park Town Square which could support the success of the retail occupancy and bring that back to City Council for review. This motion was seconded by Councilman Davis.

When Mayor Bellamy questioned if this would need to come back to Council for approval if the developer and staff come to an agreeable plan, Assistant City Attorney McGlohon said that since this would be a variance, Council cannot delegate that approval to City staff.

Mr. Szurek said that the existing Regal and Hilton signs are consistent with the City's standards and that would be the quality of the retail tenant ID signage.

Councilman Hunt asked for a friendly amendment to the motion to allow the amendment be more substantive in terms of size of lettering related to the existing signage; however, after a brief discussion, he withdrew the amendment.

Planning & Development Director Judy Daniel clarified that Council's intent is that City staff work with the developer for a modification to their sign package that is more aesthetically representative of what Council intended with this project and yet supports their retail, including the ability to work on options for modifications as to how the signage is presented, size, coloring, etc.

The motion made by Councilman Smith and seconded by Councilman Davis carried on a 6-1 vote, with Councilman Bothwell voting "no".

When Mayor Bellamy asked when this matter would be back before Council, Mr. Szurek said they should be ready in approximately one month.

Closed Session

At 6:53 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The location of the property is 80-91 Riverside Drive. The statutory authorization is contained in G.S. 143-318.11 (a) (5); (2) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or initial employment of an individual prospective public officer or employee. The statutory authorization is contained in G.S. 143-318.11 (a) (3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11 (a) (6); and (3) To prevent the disclosure of information that is privileged or 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 laws that make the information privileged or confidential are N.C. Gen. Stat. sec. 143-318.10 (e). The statutory authorization is contained in N.C. Gen. Stat. sec. 143-318.11 (a) (1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:26 p.m., Councilman Smith moved to recess the closed session to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting. This motion was seconded by Councilman Bothwell and carried unanimously.

C. CONTINUANCE OF PUBLIC HEARING TO CONSIDER A MUNICIPAL SERVICE DISTRICT FOR DOWNTOWN ASHEVILLE

RESOLUTION NO. 12-231 - RESOLUTION CREATING A DOWNTOWN MUNICIPAL SERVICE DISTRICT, ALSO KNOWN AS A BUSINESS IMPROVEMENT DISTRICT, IN DOWNTOWN ASHEVILLE

Project Manager for the Asheville Downtown Master Plan Sasha Vrtunski said that this is the consideration of a resolution creating a downtown Municipal Service District, also known as a Business Improvement District (BID), in downtown Asheville. This public hearing was opened on June 12, 2012, continued to September 25, 2012, and then continued to October 9, 2012.

She provided Council with the following staff report:

“The Interim Board for the Downtown Asheville Business Improvement District is bringing forward a proposal for a district after spending over two years working on the proposal as recommended in the Downtown Master Plan, and more recently, preparing responses to the issues outlined by City Council on June 12.

The Downtown Master Plan recommended that Asheville explore a business improvement district to help manage and coordinate the public realm in downtown. A Subcommittee to explore a Downtown Management entity began meeting in December, 2009 several months after Council adoption of the Master Plan. A large forum was held June 2, 2011 and a series of smaller meetings were held during the fall of that year. As firm ideas for a proposal began to take shape, an “Interim Board” was formed in January 2012 to continue moving the idea forward. After further work and honing ideas, another series of meetings were held in Spring, 2012 to discuss with interested stakeholders the draft of a proposal that would be presented to City Council. That proposal was for a District that would provide “clean”, “safe”, “advocacy”, and coordination services.

On June 12, City Council held a public hearing on the proposal for a business improvement district. The proposal at that time was for a 7 cent rate (per \$100 value), with boundaries to be the same as the Central Business District (CBD). The proposal was for “Clean and Safe” services to be provided by a sub-contractor, and coordination and advocacy services to be performed by the District staff. After hearing substantial public input, City Council members raised issues and questions they felt needed to be answered before they could reach a decision. The public hearing was continued to September 25, 2012. On September 25, 2012, the public hearing was then continued to October 9, 2012.

Following the June 12 public hearing, staff worked with the Interim Board to develop a 90 day Action Plan. In their review of the Council questions and concerns, the Interim Board split into three subcommittees: Budget; Bylaws; and Board structure. On July 17 a public forum was held to get input on the specific issues that Council had raised: Ambassadors (general assistance/safety personnel), general BID Services, Board Composition, and the Board Selection Process.

A list of public meetings held:

Date	Event	Location
June 2, 2011	Public Forum/ Panel Discussion	U.S. Cellular Center
October 27, 2011	Presentation and discussion	Olive or Twist

November 1, 2011	Presentation and discussion	NC Stage Co.
November 9, 2011	Presentation and discussion	Lexington Ave. Brewery
November 10, 2011	Presentation and discussion	City Bakery
November 14, 2011	Presentation and discussion	60 N. Market
November 29, 2011	Presentation and discussion	Grove Arcade
January 2012	Interim Board Formed	
March 15, 2012	Presentation and discussion	Pack Place Board Room
March 20, 2012	Presentation and discussion	Pack Place Board Room
March 21, 2012	Presentation and discussion	Lord Auditorium, Pack Library
March 22, 2012	Presentation and discussion	Grove Arcade
June 12, 2012	City Council Public Hearing	City Hall
July 17, 2012	Public Forum	U.S. Cellular Center

The Interim Board took that feedback, did additional research, and formulated a revised proposal outlined in their report to City Council. The following address these items:

Boundaries: A question was raised about the boundaries of the proposed District at the June 12 public hearing. Specifically, Council mentioned the area east of Charlotte Street, as this area currently is predominantly a more suburban form of building without retail feel or potential as found in the rest of the CBD. The Interim Board now proposes to pull the district back to the west side of Charlotte Street. The Interim Board also spent time in June and July looking at another version of a smaller core district, but the majority of the board felt strongly that the larger district was more viable and services could help propel the other areas in revitalization.

Budget: City Council expressed a desire to have more detail concerning the budget for the BID. In response, the Interim Board has provided more budget detail in the report. On Page 11 of the Report, the year 1 budget totals \$537,825 and the year 2 budget, with safety ambassadors included, totals \$705,894. The Interim Board “believes the objectives of the proposed BID can be met with a tax rate increase between 5 and 7 cents per \$100, depending on local government participation.”

Services and Ambassador Program: There were many concerns raised at the June 12 public hearing about the safety ambassador section of the improvement district proposal. Two of the potential service providers were made aware of these concerns and responded that they work successfully in communities similar to Asheville (Boulder, Berkeley) where there were also initial concerns. In addition, the Interim Board asked these contractors for estimates for their services without the safety ambassador aspect of the program. As the concern in Asheville is substantial and this service is a substantial expense, the Interim Board decided to delay proposing implementation of a safety ambassador program until it can be more closely examined by an Advisory Committee made up of a larger constituency. The Interim Board is providing information on two scenarios: one with safety ambassador services in year 2 & 3, and one with clean and green services only for years 1-3. The decision would be made by the new, permanent board on which of these scenarios to recommend, although ultimately City Council agreement would be needed on the services to be provided.

Board Composition: City Council expressed concerns about the Board composition as proposed in June. Comments included ideas about opening it up, and possibly including a social service agency or homeless agency representative on the Board. The Interim Board looked closely at the Board composition issue and decided to add at-large seats and to make previously non-voting seats, voting seats. This proposed composition is similar to other larger cities’ boards, and builds on what was proposed in June 2012 by having slotted seats for different types of property and business owners and residents.

The Interim Board decided that the Advisory Committees were the best way to address Council's remaining concerns. These committees will give input to the Board from all types of stakeholders, including homeless advocates, social service agencies, and citizens who have a passion about downtown, but may not necessarily own a business or property downtown.

Board Selection: The Interim Board considered several methods for selecting the Board: election through a balloting process; Board election process, and Council appointment process. The Interim Board felt strongly that the best process would be a Board election process. This is similar to many mid-size and larger cities. It is viewed that the slotted seats (major property owner, small property owner, retail store, etc) are the mechanism to give the Board the necessary diversity while maintaining a majority of property owners.

The Interim Board is, however, asking that City Council approve the slate for the first board. There are a few members of the Interim Board interested in continuing, but a number of them are concluding their service. The Interim Board recommends that a nominating committee be formed, including non-Interim Board members and a City Council member. This committee would accept nominations from qualified downtown stakeholders and bring a slate to City Council for approval.

Bylaws: City Council was interested in having a draft set of bylaws put forward. Several attorneys on the Interim Board used some other cities as models, and have drafted a set of bylaws, included in the Appendix. The bylaws reflect the decisions made regarding board composition and selection process outlined above.

City Oversight: In June, 2012, there were some Council concerns expressed in regards to City Council oversight of the BID. The Business Improvement District would be different than other boards in that the City Council will have annual approval of the budget and will set the tax rate. Because tax monies are being used, there would be a contract between the City and the BID that clearly outlines the services to be provided, and the duties and responsibilities of the Board and District. This contract could be approved annually along with the budget. In some cities this is done automatically to keep the contract in force – but both parties review the contract to ensure compliance. The Interim Board has proposed a yearly independent audit and an quarterly report to City Council or to one of the Council committees.

These topics and how they have been modified are summarized below:

Topic	Original Proposal	Revised Proposal
Boundaries	Entire CBD	CBD west of Charlotte Street
Budget	\$ 750,000 - \$800,000	\$537,825, year 1; \$705,894 with safety if added in year 2. -reductions primarily via cuts to overhead cost estimates
Ambassador Service	Starting year 1	Starting year 2 or 4
Board Composition	Seats for Major Stakeholders, some non-voting seats	At large seats added; all seats vote. Advisory committees to advise Board
Board Selection	Board –Elected Membership	First Board approved by City Council, then Board elected via nominations for stakeholder seats.
Bylaws	Not written	Bylaws proposed reflecting proposals for Board composition and selection process

City Oversight	Contract between BID and City Council renewed annually; yearly independent audit and quarterly report to City Council.	Same. City Council Board member (or appointee) now a voting seat.
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As proposed, the BID service objectives would require a tax rate increase within the district in a range between 5 and 7 cents per hundred. The revenue plan as proposed would also require city general fund allocations per year between \$46,063 and \$64,488. Likewise, county participation is expected in the range of \$118,932 and \$166,505.

The Interim Board asks “that City Council approve the district immediately so we (Interim Board) can begin the work on a final bid and contract.” A resolution establishing the district boundaries and services is attached. In addition to establishing the district as proposed, the resolution communicates Council’s intent to levy an additional tax on property within the district, in an amount to be determined and included in the City’s annual budget, beginning in Fiscal Year 2013-14.”

Mayor Bellamy said that this public hearing was opened on June 12, 2012, and continued until this date. She then continued the public hearing at 7:34 p.m.

Mr. Peter Alberice, Co-Chair of the Interim Board (downtown resident and property owner), then reviewed a PowerPoint presentation while providing Council with a detailed overview of the Interim Board’s work and their proposal. Since the June 12, 2012, City Council meeting, the Interim Board worked on another public meeting; boundaries; services/ ambassadors; budget based on RFIs; by-laws; board composition and representation; board selection process; advisory committees; and city oversight and agreements. He asked for Council’s support to approve the resolution allowing the formation of the BID Tax District. City Council will still retain authority to approve the Board of Directors, approve the by-laws, approve the Tax Assessment Rate, and approve the annual budget. There will also be a 3-year sunset clause. If Council does approve the BID formation, the next phase will include (1) approve a permanent Board no later than December 15, 2012; (2) direct the Board to work with City staff on an RFQ for services to be released in winter, 2013; (3) direct the Board to submit a proposed budget and services plan no later than May 2, 2013; (4) Board members and staff will draft a contract outlining the relationship, duties and responsibilities of the City and the BID; and (5) City Council has review and approval of the BID budget and tax rate, which would be set during the 2013-14 budget process. He asked for Council’s support and affirmative vote for the downtown BID.

The following individuals spoke in support of the downtown BID for several reasons, some being, but are not limited to: BID’s exist in over 1,000 cities nationwide and we can learn from these cities; we have leaders in our community that can lead this non-profit board to make some creative changes; a BID will help create smaller businesses to grow; the BID will improve services downtown; the City can’t meet some of the burden on infrastructure from visitors and residents; the BID Report has been worked on for 3 years; there are many, many benefits of a downtown BID; the BID Report is the result of thousands of hours of work by dedicated citizen volunteers who love downtown; the money for the BID will be for the entire downtown; the permanent board can work with non-profits and governmental agencies to see if they would be willing to help participate with a payment in lieu of taxes to assist with this effort; streets and sidewalks are not offensive to tourists and these are basic City services; we can’t attract more businesses to a decaying downtown; and BID is the best way to protect the health and welfare of downtown:

- Ms. Franzi Charen, Director of the Asheville Grown Business Alliance and member of the Interim Board
- Ms. Rebecca Hecht, representing two small downtown businesses

Ms. Kim MacQueen, Co-Chair of the Interim Board (resident and property owner downtown)
Ms. Pam Weinkler, Secretary of DARN (resident and property owner downtown)
Mr. Larry Holt, property owner and downtown resident
Mr. John McKibbon, owner of Aloft Hotel
Mr. Adrian Vassallo, President of the Asheville Downtown Association
Ms. Susan Griffin, member of the Interim Board
Ms. Sally Cannon, downtown resident and former business owner
Mr. David Nutter, resident of Montford Area and former Director of the Denver, Colorado, BID at the time of it's formation and initial expansion

The following individuals spoke in opposition of the downtown BID for several reasons, some being, but are not limited to: BID Board does not represent small business owners; small businesses have struggled downtown during the recession and don't need additional taxes; it's not fair to place a 7-cent tax on small businesses in this economy; the BID report has changed so many times, small businesses have not had the opportunity to review it again and should be allowed to have input; don't let the BID hire a private security firm; it's not fair that one resident inside the BID district has to pay a fee and one resident in the block outside the BID district does not; suggestion to charge a small amount to everyone in the City to generate enough money to take care of the BID budget; no one is against making downtown a beautiful safer city, but issue is how it's to be funded; property values for residential units are much higher than commercial units; most small businesses and residents already take care of their property by removing snow, removing graffiti, keeping the lots clean, etc.; Asheville is unique by not being able to charge differential rates for water and our daytime population is twice that of our taxpaying population so our residents are already paying more; the large number of medical and non-profit agencies don't pay taxes so you have a small number of people in downtown paying more than their fair share of taxes already; the BID report shows that the average BID rate in the state is 15% so as time goes on there is the possibility of the 7-cent tax being increased; downtown residents should not be taxed as this is a "business" improvement district; adding this tax on small businesses downtown will make them raise their prices which will be a disaster to the homeless; is there no longer any City or County participation; small businesses are already taxed to the hilt; 58% of the people owning the property value will have to pay this tax because 42% are tax exempt and non-profit organizations that will not participate; what is the return on investment since property values are already starting to rise; opposed to putting taxpayer money in the hands of private individuals; has not seen a survey of the 300 small businesses downtown to ask if they want this tax; how is the success of the BID going to be measured; property owners will have to pass the tax increase down to their tenants; suggest a referendum so residents can vote for or against the BID; and suggestion that the money be given to Asheville Greenworks as they have done a wonderful job downtown:

Mr. Chris Peterson, downtown small business owner
Rev. Christopher Chiaromonte
Mr. Ray Connaway, downtown resident
Mr. Colgate Darden, downtown resident
Ms. Leslee Kulba
Mr. James Challen, downtown resident
"Rage", homeless person
Mr. Alan Ditmore
Mr. Tom Flora, business and property owner downtown
Ms. Renee Owen
Ms. Christina Jiles, homeless person
Mr. Hunt Mallet, downtown business property owner and resident
Mr. Andrew Craig, small business and property owner downtown
Mr. Russell Thomas, co-owner of the Flat Iron Building
Mr. Bill McElvy, downtown business and building owner and representative of Patton Wall Condominium Association

At 8:39 p.m., Mayor Bellamy closed the public hearing.

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

On behalf of City Council, Mayor Bellamy thanked the Interim Board for their work on this project over the last three years. We know that the work was a labor of love and without you we would not have a lot of the things downtown, including the cleanliness of Pritchard Park, Downtown After Five, Oktoberfest, etc. And, she also thanked Project Manager Sasha Vrtunski for her leadership as well.

Councilman Bothwell felt that whether one favors the BID or not, this is a bad time to implement a new downtown tax. The County will be doing a revaluation and we don't know how that will affect the City. We have also been dealing with the struggles outlined in the City Manager's White Paper a few years ago. Restrictions on water rates and restrictions on growth of the City are causing serious revenue problems for the City. If the City has to raise taxes for the major city-wide projects, downtown residents and property owners will be very upset. Other reasons we should reject the BID is that Asheville is not dangerous or dirty. Crime statistics show that Asheville is safer than other cities our size in the state. A street sweeper would be nice, but that is a huge capital investment that the BID does not address. The BID proponents not only want to raise taxes on their downtown neighbors, they want to get money from general revenues from the City and County and the Fire Districts across the County. And, it is wrong to give tax money to an unelected board, as seen by the Pack Square Conservancy and the Grove Arcade Public Market Foundation.

Vice-Mayor Manheimer made it clear of what Council is considering – the results of a grassroots effort (a body of downtown folks who wanted to propose a BID and brought the proposal before Council). At this meeting, City Council is being asked to adopt a resolution that designates the geographic boundary of a BID, designates the potential services a BID could provide, roughly states how the permanent board would be made up, and states the intention that this BID be funded through, among other things, a property tax. The resolution doesn't ask for the tax to be implemented at this time. The resolution is to implement the shell of something that will later have to be funded. The proposal is a 7-cent property tax increase on the City property taxes. An example would be if you have a \$500,000 property that would be \$350 a year.

Vice-Mayor Manheimer moved to adopt the resolution creating a downtown Municipal Service District, also known as a Business Improvement District, in downtown Asheville, with the following amendments: (1) addition of two services that could be provided: recycling and sidewalk repair over and above what is already provided downtown; (2) if the resolution passes, it would authorize the City to enter into contract negotiations with the entity that is formed (Asheville Downtown Incorporated) and the contract would have to include the list of services to be provided and also in that process you would have to figure out the exact cost of those services; (3) because the resolution states "that a permanent board of directors for the municipal service district be appointed not later than December 15, 2012," it doesn't state how the initial permanent board of directors would come into being and therefore, she suggested we create a nominating committee of two Council members and three Interim Board members and the five of those appoint two additional people to bring a recommended slate of initial permanent board members to City Council (prior to December 15, 2012); and (4) If the resolution is adopted and a contract were to be negotiated, she would include in her motion that in order for that contract to be amended in the future that City Council would have to vote on that and that the by-laws of the entity (Asheville Downtown Incorporated) be attached to the contract and that if the by-laws are amended that would also have to be approved by City Council. The by-laws will include the board make-up within its text.

Assistant City Attorney McGlohon said that the only issue she sees, as it pertains to the resolution, is that the law says that “the resolution defining a service district shall take effect at the beginning of a fiscal year, commencing after its passage.” She did not think it would have an impact on the ability of the permanent board to be appointed not later than December 15, 2012.

Vice-Mayor Manheimer said that what is included in the resolution is that Council is not funding the district yet and it’s not the intention to consider the funding until our normal fiscal cycle, which would put it in place effective July 1, 2013.

The motion made by Vice-Mayor Manheimer was seconded by Councilman Pelly.

Councilman Hunt asked for a friendly amendment that would specify that City Council would appoint no less than 1/3 of the permanent board members after the initial Board members terms have expired. Vice-Mayor Manheimer accepted the friendly amendment in that the permanent board make-up after the initial board will be included in the by-laws which can be further vetted through the City Council Boards & Commissions Committee. Councilman Pelly also accepted the friendly amendment.

Mayor Bellamy could not support establishing a BID at this time. If it is going to be considered, it should be considered with the budget process. Council’s Strategic Operating Plan over the last 4 years doesn’t address all of the needs brought forward. We have made major investments in our top priorities, i.e. Eagle-Market Streets Redevelopment, riverfront redevelopment, sustainability efforts, transit system, etc. We have not put in a comprehensive look at our Downtown Master Plan. We have not put in the resources to see it fully implemented. She believed that when it comes to streets and sidewalks, City staff will do a great job opposed to contracting with another group. She challenged the City Manager’s Office to work on a budget to address these issues. Staff pulls together resources for City Council top priority items. She felt that we have done the downtown a disservice by not having it as a true priority. Thinking holistically, we don’t know what is going to happen to our water system (how it will impact our budget), we don’t know the bottom line of the RADTIP, we don’t know how the County’s revaluation will impact our taxes, etc. In addition, she could not support an independent board. The City has paid off two parking decks in downtown Asheville and paid off the debt service on Pack Place in downtown Asheville. That alone should help us find some revenue to help with downtown services. Downtown is a major driver of our property tax for the entire City. We need to give some of that money back for clean, green and safe. She was given a list of places to call regarding their BIDS and talked to the mayors of those cities. She said most of the BIDs were created to help spur redevelopment – ours is clean, green and safe. The other major issue they have used the BID for is for safety and enhanced services. If the Ambassador program is off the table, then the only reason for the BID is clean and green. She believed we should challenge our staff to look at our priorities and make the downtown a priority for a cleaner, greener and safer above the services we currently provide. She felt those services are a basic City service and it’s our responsibility.

Councilman Smith agreed that we have some big challenges over the next year’s budget, including salaries, affordable housing, transportation efforts, infrastructure needs, the riverfront redevelopment, downtown, and not knowing the budget projections. He was not sold on the need for the ambassador program, but neglecting downtown is not an option. When an area generates 75% of the sale tax for the County then we have to do what it takes to make sure that we are valuing it. As to return on investments, he will look forward to seeing what those measurements would be. He would look to see if it would increase sales tax revenues, graffiti reduced, and recycling and trash pick-up improved. He felt Council should legitimize the BID board for them to move forward and do more preparatory work in order for this Council to make wise budget decisions next year. He asked for a menu of options for an array of possible revenues. Until we see what we are working with, he was not comfortable with committing to any tax increase.

Councilman Pelly said it is never easy to consider a proposal to increase taxes, especially for a select group. Regarding putting public dollars in private hands, the amendment was that at least 1/3 of the permanent board members would be approved by City Council. And, City Council will be approving the tax rate for the BID. It's important to note that there is a 3 year sunset clause that if this is not working, the BID will go away unless it's renewed. He too was interested in how do we measure success with the BID. He would look for the BID Board to provide a matrix at the end of each year to see how that is happening. He said the clean, green downtown will benefit not only businesses, but residents. If the resolution passes we will be creating the skeleton for the BID and the tax rate will be determined at a later date. For those who are opposed to the BID, and if it passes, he encouraged their participation to help define the way the BID moves forward.

Councilman Davis said that 28 years ago he invested in downtown. City Council did authorize the Downtown Master Plan and the BID is a part of the Master Plan. We owe it to the people who worked hard to get this to this point, he would be willing to make that commitment for three years.

The amended motion made by Vice-Mayor Manheimer and seconded by Councilman Pelly carried on a 5-2 vote, with Mayor Bellamy and Councilman Bothwell voting "no."

Vice-Mayor Manheimer moved to appoint Councilman Davis and Councilman Hunt to the nominating committee for appointments to the initial Board. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 25 – PAGE 112

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 12-232 - RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Homeless Initiative Advisory Committee.

The terms of Richard Letterman and Celeste Collins expire on November 1, 2012. In addition, Chris Sullivan has resigned, thus leaving an unexpired term until November 1, 2014.

The following individuals have applied for a vacancy: Debbie Metcalf, Timothy Sadler, Charles Rosenblum, John Spears, Charles Barber, Shana Roberts and Cynthia J. Sellers.

It was the consensus of the Boards & Commissions Committee, at the suggestion of the Homeless Initiative Advisory Committee, to reappoint Mr. Letterman and Ms. Collins and appoint Mr. Charles Rosenblum.

Councilman Bothwell moved to reappoint Richard Letterman and Celeste Collins to each serve an additional three-year term, terms to expire November 1, 2015, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

Because Mayor Bellamy felt there should be more diversity on this Committee, it was the consensus of Council to arrange interviews for Charles Barber and Charles Rosenblum. If the City Clerk could not reach Mr. Barber for an interview, it was then the consensus of Council to re-advertise for the vacancy.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte spoke about the homeless issue in Asheville.

In response to Ms. Shirley Dozier, who asked that the City to close on the property (Tract 3) that the City sold to them in 1997, Mayor Bellamy said that the City Attorney's Office would investigate and respond to her request.

Mayor Bellamy thanked City Manager Jackson for the City's assistance when Vice-President Biden spoke in Asheville, during the Democratic National Convention held in Charlotte, and their upcoming assistance with Governor Romney's visit to Asheville.

Closed Session

At 9:25 p.m., (end of the formal meeting), it was the consensus of Council to go back into closed session.

At 9:31 pm., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Hunt and carried unanimously.

VIII. ADJOURNMENT:

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

CITY CLERK

MAYOR