

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

Worksession

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

Absent: Mayor Terry M. Bellamy (illness)

Legislative Issues

City Attorney Oast provided Council information from last year as a guide. We still remain interested in the Airport and water issues. The Legislature convenes on January 30 for business purposes. There are two issues on the Chamber's state legislative agenda that the City will be interested in - Job Creation, I-26 and wireless infrastructure. Mayor Bellamy felt it was important to work on our relationships with our legislators - not only by City Council, but also our legislative representation.

Throughout discussion, the following items were brought up for legislative discussion (with the Airport and water issues still of major importance): (1) support initiatives in the wireless technology; (2) enabling legislation (a) to change the distribution of the occupancy tax rate; and (b) the City and the TDA determine that rate; (3) completion of the I-26 Connector Project; (4) ask state to fund the bus routes to Weaverville and Black Mountain; (5) partnership to have bus route that would serve MAHEC and Mission Hospitals; (6) do not burden cities with funding responsibilities for bridges and County roads; (7) increase bus service to Airport; (8) River Arts District; (9) PACE program to help homeowners make energy efficiency in their homes; (10) concern of forced consolidation of school districts; (11) assistance in mental health area that will help alleviate pressure on our first responders; and (12) support tax incentives tools for job creation.

Councilman Bothwell said that the Retreat Committee will be meeting again to firm up a December 7 morning meeting (regarding legislative relationships) and the other morning meeting will be held in March (regarding finances). As soon as those dates are firmed up, Council will be notified. Our legislative representation will be invited.

Council asked City Attorney Oat to update Council on Senate Bill 305 that would have amended the charter of the Town of Carrboro to allow them to adopt ordinances prohibiting housing discrimination on the basis of sexual orientation, gender identification and gender expression.

At the suggestion of Mr. Dennis Wicker, Councilman Pelly moved to appoint Vice-Mayor Manheimer as the City Council liaison to our legislative representatives. This motion was seconded by Councilman Hunt and carried unanimously.

At 4:21 p.m., Vice-Mayor Manheimer adjourned the worksession.

Tuesday – November 27, 2012 - 5:00 p.m.

Regular Meeting

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

Absent: Mayor Terry M. Bellamy (illness)

PLEDGE OF ALLEGIANCE

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

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING DECEMBER 1, 2012, AS "WORLD AIDS DAY"

Councilman Smith read the proclamation proclaiming December 1, 2012, as "World AIDS Day" in the City of Asheville. He presented the proclamation to Ms. Pam Siekman, WNCAP Board President and WNCAP World AIDS Day Chairperson, 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 NOVEMBER 13, 2012

B. RESOLUTION NO. 12-244 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM THE U.S. DEPT. OF JUSTICE FOR THE 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

ORDINANCE NO. 4137 - BUDGET AMENDMENT FOR THE 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

Summary: The consideration of (1) a resolution authorizing the City to accept funds awarded through the 2012 Byrne Justice Assistance Grant – Local Solicitation; and (2) the accompanying budget amendment, in the amount of \$56,927.

The Asheville Police Department received Council authorization to apply for the Byrne JAG – Local Solicitation on May 22, 2012 via resolution 12-117. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Department will be allocated \$56,927 based on the award matrix, with Asheville receiving \$41,582 and Buncombe County receiving \$15,345. The distribution of funds has been approved through a signed MOU.

APD plans to purchase in-car video systems to place in patrol cars. These recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases.

However, these recordings could also be used to aid in resolving allegations of wrongdoing by officers. This would allow for an even greater level of protection of officers and citizens. The digital cameras provide high quality and high resolution video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers. Recordings captured with these cameras could potentially aid in mitigating potential civil liability for the City of Asheville by illustrating in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system create a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Department plans to purchase a throwbot robotic mobile surveillance system, digital imagery equipment, and TASER X2s. The size and methods of deployment are more versatile than traditional robots and will enhance officer safety by transmitting images back to a display for viewing. This digital imagery equipment enhances the ability to capture non-testimonial identification imagery and will provide for positive identifications quicker. TASER X2s will allow deputies to deal with one or multiple persons at a time with less lethal force – thus enhancing officer and community safety.

There will be an expense of \$41,582 by the APD for the in-car video system. The Buncombe County Sheriff's Department will expend \$15,345 for the purchase of a throwbot portable surveillance robot, digital imagery equipment and TASERS. This accounts for the total allocation of \$56,927 for this Grant.

This is a 100% non-matching grant that will enable the APD to greatly enhance documentation of patrol related activities such as vehicle stops, pursuits, etc. The video evidence will prove to be very valuable in court for both civil and criminal offenses. Additionally, such evidence will be valuable to for internal investigations into officer actions and encounters. This will enhance accountability for officer actions and increase officer and public safety.

This action complies with City Council's Strategic Operating Plan in the Focus Area - Safe - Asheville will be one of the safest and most secure communities when compared to similar cities.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.

Con:

- None.

There is no fiscal impact at this time for City Council to approve the resolution accepting this grant award. There will be maintenance and replacement costs for the equipment that will need to be included in future fiscal year budgets.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept grant funds through US Office of Justice Programs; and (2) the associated budget amendment, in the amount of \$56,927.

**RESOLUTION BOOK NO. 35 – PAGE 128
ORDINANCE BOOK NO. 28 - PAGE 28**

**C. RESOLUTION NO. 12-245 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ACCEPT GRANT FUNDS FROM THE U.S. DEPT. OF JUSTICE
FOR THE 2012 BALLISTIC VEST PARTNERSHIP GRANT**

**ORDINANCE NO. 4138 - BUDGET AMENDMENT FOR THE 2012 BALLISTIC
VEST PARTNERSHIP GRANT**

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds through the Bulletproof Vest Partnership Program in the amount of \$7,735 to cover the 50% matching cost of bulletproof vests for officers; and (2) the accompanying budget amendment, in the amount of \$7,735.

The City of Asheville Police Department currently participates in the US Department of Justice BVP program. The funds allocated through this program are designed to offset departmental cost associated with purchasing bulletproof vests. The City of Asheville has been awarded \$7,735. This request will enable the purchase (50% funding) of 26 bulletproof vests over the next 2 years.

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:

- Reduction in cost to the City of Asheville for the purchase of bulletproof vests
- Increase in officer safety by providing crucial safety equipment

Con:

- None

There is a 50% match required by the City of Asheville in the amount of \$7,735 to accept the awarded funds of \$7,735. Matching funds \$7,735 will come from existing FY13 funds allocated in Patrol – Supplies – Safety Equipment. It should be noted that the overall fiscal impact to the City of Asheville is reduced by this amount due to the fact that the APD would have to purchase these vests at full replacement costs if we do not accept this award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$7,735; (2) the accompanying budget amendment.

**RESOLUTION BOOK NO. 35 – PAGE 129
ORDINANCE BOOK NO. 28 – PAGE 30**

**D. RESOLUTION NO. 12-246 - RESOLUTION SUPPORTING THE VOLUNTEER
INCOME TAX ASSISTANCE PROGRAM**

Summary: (1) The City Council of the City of Asheville hereby expresses their support for the establishment of a community-based coalition for the Volunteer Income Tax Assistance [VITA] program; (2) That the City of Asheville provide adequate space to conduct VITA activities during the normal income tax filing season of January through April; (3) That the City of Asheville allow city and county employees willing to volunteer for VITA activities flexibility to do so, as long as the volunteer activities do not disrupt normal working activities; and (4) That the City of Asheville provide nominal funding to provide for VITA activity supplies and travel for volunteers to and from city and county VITA sites.

RESOLUTION BOOK NO. 25 - PAGE 130

**E. ORDINANCE NO. 4139 - BUDGET AMENDMENT FOR FISCAL YEAR 2012-13
SENIOR CENTER GENERAL PURPOSE FUNDING FOR THE SENIOR
OPPORTUNITY CENTER AND HARVEST HOUSE**

Summary: The consideration of budget amendments in the amount of \$3,917 for Senior Opportunity Center and \$3,917 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to 1) replace cabinets and countertops in restrooms, 2) paint center ceiling, and 3) purchase program and facility equipment. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to 1) replace lighting in the craft rooms, 2) upgrade exit signage, and 3) purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

This action complies with the City Council Strategic Goal of fiscal responsibility in that it provides an alternative for enhancing the city's infrastructure maintenance. This action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it will increase the level of service for indoor facilities to bring older facilities up to date before building new facilities, increase department funding with alternative funding via grants, and enhance the department's means to respond to identified programming priorities.

Pros:

- Facility improvements will address existing maintenance projects and improve accessibility.
- Equipment purchases will enhance the customer experience and expand programming opportunities provided

Con:

- None

The allocation will increase the City's General Fund budget by \$7,834 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) \$3,917 for Senior Opportunity Center, and 2) \$3,917 for Harvest House for facility improvements and equipment.

ORDINANCE BOOK NO. 28 - PAGE 32

F. RESOLUTION NO. 12 - 247 - RESOLUTION AUTHORIZING THE CITY MANAGER SIGN AMENDMENT NO. 3 FOR THE KIMLEY-HORN CONTRACT FOR 51 BILTMORE AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute an amended contract with Kimley-Horn and Associates, Inc. in the amount of \$71,000 to cover additional construction inspection/management services for the parking garage at 51 Biltmore Avenue.

The City of Asheville contracted with Kimley-Horn and Associates, Inc., in the amount of \$42,000 to evaluate the feasibility of constructing a parking garage at 51 Biltmore Avenue in July 2008. In October 2008, the City amended the contract to include design review, value engineering and construction inspection/management of the project. The approved amendment was in the amount of \$215,000 for a total contract amount of \$257,000. In November 2011, City Council approved a second amendment to the contract in the about of \$175,000 because of the lag in the design period and the start of construction. During this period of time, Kimley Horn

provided services necessary to secure the financing of the project. Additionally, we requested that Kimley-Horn provide weekly site inspections as opposed to monthly inspections as stated in the original contract. We also asked them to provide additional oversight as needed to sign off on each pay application request. The total amount of the contract including this increase would be \$503,000.

Staff is requesting a third amendment to the Kimley-Horn contract for the following reasons:

- The project took an additional three months to complete during which time Kimley-Horn provided weekly inspections to finish the project. Delays were attributed to complications in completing the punch list items that needed to be completed prior to obtaining the temporary and final certificate of occupancy. The City will receive some discounted change order as a result of this delay. We do not know the amount of this change but do not expect it to cover the full cost of this amendment. However, the overall project is still within budget including this amendment.
- The only major unresolved issue on the garage is the concrete finish. Kimley-Horn has worked more hours than anticipated to resolve this issue.

This project complies with the City's Parking Action Plan. Additionally, the action complies with Job Growth and Community Development by supporting a dynamic and robust local economy with balanced and sustainable growth.

Pros:

- Quality control over the project during this period was critical to making sure all the punch list items are complete.
- Reduces liability in releasing the retainage on the project.
- Documented maintenance plan provides for the extended life of the parking facility.

Con:

- Additional cost of \$71,000.

There is sufficient budget remaining in the Biltmore Avenue Garage capital project for this contract amendment.

Staff recommends that City Council authorize the City Manager to execute an amended contract with Kimley-Horn and Associates, Inc. in the amount of \$71,000 to provide additional construction inspection/management services for the parking garage at 51 Biltmore Avenue.

In response to Councilman Bothwell, Public Works Director Cathy Ball said that this is still within the budgeted amount for this project.

RESOLUTION BOOK NO. 35 – PAGE 132

G. RESOLUTION NO. 12-248 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH B ALLEN CONSTRUCTION INC. FOR CONSTRUCTION IMPROVEMENTS TO THE RED WOLF EXHIBIT, SPIDER KINGDOM PLAYGROUND AND TRAIL EXTENSION AT THE WNC NATURE CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with B Allen Construction, Inc. to construct improvements to the red wolf exhibit, Spider Kingdom Playground and trail extension at the WNC Nature Center for an amount not to exceed \$299,000.

In February 2009, City Council approved the Parks, Recreation Cultural Arts and Greenways Master Plan which recommends the development of a master site plan for future development of the WNC Nature Center. In 2011, the city completed the 2020 Vision Master Site Plan that directs future improvements at the WNC Nature Center.

The 2020 Vision Master Site Plan prioritizes the importance of enhancing the red wolf viewing experience, establishing a themed playground and extending a trail to make the red wolf exhibit more accessible as well enable future exhibit areas. The architectural and engineering construction documents for this area were completed earlier in 2012.

Staff followed the municipal process to conduct the request for proposals to seek qualified, professional firms to perform the construction. Staff received three proposals, and interviewed all three finalists. After thorough review and evaluation, staff recommended B Allen Construction, Inc., located at 340 Wiggins Road, Candler, North Carolina, as the lowest, responsive and responsible bidder to perform the construction work for the project.

This action complies with the City Council Strategic Operating Plan in that it contributes to the Fiscal Responsibility Goal to explore alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements and public facilities. This action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it ensures a continued high level of service in parks, and improves a special facility.

Pros:

- The project adheres to the Nature Center 2020 Vision Master Site Plan
- The project will enhance the visitor experience, education and observation of the red wolves
- The improvements will create a new interpretative, play area for children
- Handicap accessible routes will be enhanced and increased for the public
- The improvement will set the stage for future, themed exhibit areas and site improvements
- The project is fully-funded with non-General Fund sources

Con:

- Once complete, the project will require additional maintenance resources

The project is fully funded with non-General Fund sources. The \$299,000 to support the construction contract for improvements to the red wolf exhibit, Spider Kingdom Playground and trail extension is funded by a \$104,450 grant from the U.S. Department of Interior, a \$168,856 donation from the Friends of the Nature Center, and a \$25,694 grant from the North Carolina Department Commerce.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with B Allen Construction, Inc. to construct the red wolf exhibit improvements, Spider Kingdom Playground and trail extension at the WNC Nature Center for an amount not to exceed \$299,000.

RESOLUTION BOOK NO. 35 – PAGE 133

- H. RESOLUTION NO. 12-249 - RESOLUTION AUTHORIZING AN EXEMPTION TO BID THE PURCHASE OF SUPPLIES AND MATERIALS FOR THE AUTOMATED METER READING (AMR) PROJECT AND APPROVING THE PURCHASE OF THE AMR SPARE PARTS FROM HERSEY METERS COMPANY BASED ON STANDARDIZATION NEEDS**

Summary: The consideration of a resolution (1) authorizing an exemption to bid the purchase of supplies and materials for the Automated Meter Reading (AMR) Project; and (2) approving the purchase of the AMR spare parts from Hersey Meters Company based on standardization needs.

Currently, Water Resources is under contract with Hersey Meters for the Automated Meter Reading (AMR) Project. As part of the project, spare parts are sometimes needed to make repairs to the AMR devices. The spare parts can only be purchased from Hersey Meters since they have the trademark on the AMR device and its parts.

Water Resources is recommending that the purchase of supplies and materials needed for the AMR Project be through Hersey Meters since standardization or compatibility is the overriding consideration per G.S. 143-129 (e) (6) (iii).

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

Pros:

- Approval will allow the City to purchase repair and replacement parts needed for the AMR Project.
- Maintaining this equipment in operational condition will prolong the life of the equipment and enhance the value of the City's initial investment.

Con:

- None.

The purchase of supplies and materials relating to the AMR Project is currently built into the CIP budget. The amount needed for spare parts is currently \$35,900.20. Once the AMR project is complete, future purchases will be funded from the Water Operating budget.

City staff recommends City Council approval of the resolution: (1) authorizing an exemption to bid the purchase of supplies and materials for the Automated Meter Reading (AMR) Project; and (2) approving the purchase of the AMR spare parts from Hersey Meters Company based on standardization needs.

RESOLUTION BOOK NO. 35 - PAGE 134

I. RESOLUTION NO. 12-250 - RESOLUTION AUTHORIZING EXECUTION OF EASEMENT TO PROGRESS ENERGY CORP. FOR ELECTRIC POWER SERVICE TO CITY BUILDING

Summary: The consideration of a resolution authorizing the Mayor to execute an easement for a transformer pad and service line for the City Building.

Progress Energy is replacing an updating its facilities servicing the City Building. Currently, the service in the City Building is provided through three transformers located in the basement of the building. Access to the transformers is only through the building. These transformers are obsolete, and their location inside the City Building presents safety and service access issues.

The new location will be on the side of the employee parking lot on Marjorie Street, across the street from the entrance ramp to the garage. The connection to City Hall will be via underground cable running under Marjorie Street and the garage ramp.

This Project will modernize existing facilities, reduce the number of transformers from three to one, and increase the capacity for the future needs of the City Building. The easement will not hinder the use of Marjorie Street.

Pros:

- Replaces obsolete equipment;
- Increases capacity for service to City Building; and
- Improves safety and access

Con:

- New transformer will be above ground (but not in a particularly sensitive area).

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 35 - PAGE 135

J. RESOLUTION NO. 12-251 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NELSON, MULLINS, RILEY & SCARBOROUGH, LLP, FOR GOVERNMENTAL RELATIONS WORK

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement for legislative representation for services with Nelson, Mullins, Riley & Scarborough.

In 2011, the North Carolina General Assembly established a committee to study the possible consolidation of water systems and sewer systems in North Carolina. The committee's work focused on the Metropolitan Sewerage District of Buncombe County (MSD) and the City of Asheville's water system. The committee made several recommendations, including a recommendation that legislation be introduced in the 2013 General Assembly to consolidate the City's water system with MSD if the interested governments are unable to work out their own solution for consolidation. In 2012, legislation was introduced and enacted to enable a Metropolitan Sewerage District to perform the functions of a water authority, and to provide for the expansion of the governing board of MSD. Session Law 2012-203. The City is advised that legislation is likely to be introduced in the 2013 General Assembly to effectuate the consolidation.

The City has a substantial interest in any legislation that affects, or may affect its water system, and needs assistance advocating position in the legislature. The law firm of Nelson, Mullins, Riley & Scarborough, with an office in Raleigh, provides legislative representation and advocacy services. Dennis Wicker of that firm has submitted a proposal to assist the City in the legislature, including:

- Providing strategic counsel to the City regarding enactment of legislation affecting the water system.
- Monitoring and reporting on legislative activities related to the water system. Drafting proposed amendments to legislation, or proposed alternative bills regarding the water system.

The cost of providing this service is \$60,000, plus costs, payable monthly at a rate of \$5,000 per month.

This is consistent with Council's goal of maintaining control of the Water System, as expressed in Resolution No. 12-36, adopted February 14, 2012.

Pros:

- Strengthens the City's presence in the seat of State government at an important time.
- The firm has substantial experience in legislative matters at the State and Federal level, and is a full-service law firm.

Con:

- None noted.

The fiscal impact is \$60,000 per year (\$35,000 from FY 2012-13 budget). This cost will be absorbed within the existing FY 2012-13 Water Resources Fund budget.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 35 - PAGE 136

K. RESOLUTION NO. 12-254 - RESOLUTION DESIGNATING THE USE OF ADDITIONAL EMERGENCY SOLUTIONS GRANT FUNDING FOR THE ASHEVILLE-BUNCOMBE CONTINUUM OF CARE

Summary: This is the consideration of a resolution to designate the use of additional Emergency Solutions Grant funding for the Asheville-Buncombe Continuum of Care.

As reported to and approved by Council, the State awarded the Asheville-Buncombe Continuum of Care \$219,358 in Emergency Solution Grant Funds. The City, as lead agency and fiscal agent, had submitted an application for \$164,444, to fund the following projects:

| | Emergency Response | Housing Stabilization | Total |
|-------------------------|--------------------|-----------------------|-------------------|
| Organization | | | |
| ABCCM (Steadfast House) | \$ 12,445 | \$ 23,112 | \$ 35,557 |
| Helpmate | \$ 15,000 | \$ - | \$ 15,000 |
| Homeward Bound | \$ 10,000 | \$ 80,360 | \$ 90,360 |
| Salvation Army | \$ 23,527 | | \$ 23,527 |
| | | | |
| TOTAL REQUESTS | \$ 60,972 | \$ 103,472 | \$ 164,444 |

We were additionally awarded \$4,914 for use in Emergency Services and/or Housing Stability and \$50,000 for use in Housing Stabilization and/or HMIS. The Homeless Initiative Advisory Committee's ESG Subcommittee reviewed the eligible uses for these funds, in the context of the overall funding for homelessness in the community, and the needs of community partners. It was clear to the subcommittee that the Homeless Information Management System (HMIS) will be a key element in continuing availability of funding for our community. Ensuring the integrity of managing local data into this system and keeping the system affordable to all agencies engaged in serving persons experiencing homelessness emerged as the top priority for the use of the \$50,000 additionally granted for Housing Stabilization or HMIS. This includes managing the increased cost of the system to its users. The cost of the system to Asheville users will increase from \$350/user to \$63,000 for a total community fee in July of 2013, due to the changes in how the State has subsidized the cost of that system. The subcommittee recommended that the funds available for emergency services be made available to the Salvation Army, whose funding had been cut most significantly from last year's ESG program. The subcommittee's recommendations were endorsed by the full Homeless Initiative Advisory Committee.

This recommendation directly supports the Council Strategic objective to eliminate chronic homelessness in accord with the adopted Ten Year Plan.

Pros:

- The proposed use of funds will ensure the integrity of data used to assess the needs of persons experiencing homelessness in Asheville;
- The continued use of HMIS will be kept affordable to the network of agencies providing homeless services;
- Funding for the Salvation Army will help ensure the provision of emergency services by that agency.

Con:

- Funds are not recommended for use in direct services other than those provided by the Salvation Army. Funding for direct services, although increased this year through the use of a variety of funding resources, remains inadequate to meet the need.

The recommendation proposes the use of federal funds, passed through the State of North Carolina, to increase the City and County's ability to assess and respond to the needs for housing for persons experiencing homelessness, and additionally will assist in maintaining the affordability of the statewide information management system for local participating agencies. No City general funds are affected by this proposal.

The Housing and Community Development Committee recommends the following use of these additional funds:

| | Emergency Response | Housing Stabilization/HMIS | Total |
|---------------------|--------------------|----------------------------|---|
| Organization | | | |
| Salvation Army | \$ 4,914 | | \$ 28,441 (including original award of \$23,527) |
| City of Asheville | \$ | \$ 15,000 | \$ 15,000 |
| City of Asheville | \$ | \$ 35,000 | \$ 35,000 |

The City of Asheville would use \$15,000 to assist in funding a part-time temporary position to work with the Homeless Initiative Coordinator in collecting, reporting and improving HMIS data in our community. The \$35,000 would be paid directly to the Carolina Homeless Information Network to offset HMIS user fees for the entire community of Asheville Buncombe Continuum of Care providers utilizing the system.

RESOLUTION BOOK NO. 35 – PAGE 140

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

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

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

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE-BUNCOMBE CRIME-STOPPERS UPDATE

Mr. David Herbert, Chairman of the Asheville-Buncombe Crime-Stoppers, introduced his members in the audience and briefed Council on their activities of the past year and goals for the upcoming year.

Lt. Randy Sorrells, Crime-Stoppers Coordinator, provided Council with various statistics of the Crime-Stoppers Program.

On behalf of City Council, Vice-Mayor Manheimer thanked Mr. Herbert for his leadership and the entire Board for their dedication.

B. ASHEVILLE DOWNTOWN COMMISSION UPDATE

Mr. Bruce Hazzard, Chairman of the Asheville Downtown Commission, briefed Council on their activities of the past year and goals for the upcoming year.

On behalf of City Council, Vice-Mayor Manheimer thanked Mr. Hazzard for his leadership and the entire Commission for their dedication.

C. TRANSPORTATION ADVISORY COMMITTEE/REGIONAL TRANSPORTATION PLANNING UPDATE

Director of Transportation Ken Putnam said that the purpose of this report is to update City Council on the Long Range Transportation Plan (LRTP) and to seek an endorsement from City Council for the French Broad River Metropolitan Planning Organization (FBRMPO) to collect local travel survey data that would be used in the development of a completely new travel demand model instead of simply updating the existing model.

The Long Range Transportation Plan (LRTP) is a Federally-required long-term planning document that examines current and future transportation system needs. The French Broad River Metropolitan Planning Organization (FBRMPO) updates their LRTP every five years and it includes highways, public transportation, railways, bicycle, and pedestrian facilities. It also considers connections to aviation. The document is a fiscally constrained plan that is used by the FBRMPO to set priorities for transportation improvements in our area.

A travel demand model is the key tool used to develop the transportation alternatives for the LRTP. It is also used by the North Carolina Department of Transportation (NCDOT) to develop traffic projections for Transportation Improvement Program (TIP) projects and ultimately for project design. The model uses mathematical equations to estimate the travel patterns in an area. In order to develop the equations, information is needed about how people make decisions when they are traveling in an area. The best way to get this information is to have household surveys performed in the model area. In addition, population and employment data (typically referred to as socio economic data) is collected for the present year and estimated for future years based on how the FBRMPO expects the region to grow. The socio economic data is a direct link to how many "trips" or how much traffic there will be in the area.

Generally speaking a travel demand model is updated each time an LRTP is developed. Some updates are more extensive than others depending on the available data, how the area has grown, and the expected uses of the model. Most MPOs are using the new census blocks and data from the 2010 Census as an opportunity to perform major upgrades to their specific models. Then minor updates (mostly socio-economic data) would follow for the next few future updates. A good model might be useful for 15 to 20 years with only minor updates to the socio-economic data but little changes to the actual structure of the model. Travel patterns in an urban area can be very complicated.

It is not uncommon for areas to “borrow” data from other similar areas for developing models. However, local survey data would allow for the best understanding of the mix of users, travel demand, travel characteristics (for example, mode choice), and time of day profiles unique to the Asheville area. It would allow the transportation needs and recommendations to be better evaluated. Our seasonal population and retirees in the area might have different travel behavior and travel characteristics compared to other areas.

The travel demand model is used to determine where congestion is currently a problem and where congestion is expected to become an issue in the next 25 to 30 years. Depending on the level of detail in the model, it might be used to test various highway, transit and land-use scenarios so a MPO could have more confidence in the transportation decisions it is making. An improved model could help the local area answer the questions of the best combinations of future land use and transportation improvements. The model could assist in the evaluation of a project’s impact to the overall transportation system.

Data from the travel demand model is also used in the NCDOT project prioritization process to rank projects. The model is used to demonstrate the impact of a specific project to the region and the more positive impact a project demonstrates, the better it shows up in the prioritization process from the NCDOT input. The model is used to validate the need for projects, especially key projects like improving I-26. If the model is based on local travel behavior it will better represent impacts of specific projects, whether a widening or new location or new connection facility. It is necessary to prove the transportation need for the project in order for it to be considered for inclusion into the State Transportation Improvement Program (TIP). Information from the model is essential for showing what the transportation demand on the system is with the project and without the project. Once a need is demonstrated, it is easier to get funding.

Many of the Long Range Transportation Plan (LRTP) stakeholders are not satisfied with the existing travel demand model because it used “borrowed” data. Also, the FBRMPO has expressed the desire to have a model that would better test transit and land use scenarios. The Transportation Advisory Committee (TAC) appointed a sub-committee during November 2010 to address this specific issue. Typically, the MPO pays for the model update from their fund balance plus a 20% local match. The NCDOT has agreed to fully fund a new travel demand model if the FBRMPO uses its fund balance and the individual members provide the local match to collect the local data. The estimated cost for the local travel survey is \$360,000 and the local match equals \$72,000. Asheville’s share of the local match is about \$15,000. Although this need was not budgeted during the normal budgeting process, staff is confident that it can be absorbed in the Transportation Department’s current operating budget.

In summary, a travel demand model is recognized as the best method for a MPO to evaluate highway and transit options and to get the data needed to prove the validity of a project so that it could be considered for the State Transportation Improvement Program (TIP) and then ultimately funded.

Based on this information, staff would like City Council to endorse and encourage the FBRMPO to collect local travel survey data that would be used in the development of a completely new travel demand model. The new travel demand model would then be used to help develop the next LRTP update (FY 2014-15).

Mr. Putnam responded to various questions from Councilman Bothwell.

Councilman Hunt moved to endorse and encourage the FBRMPO to collect local travel survey data that would be used in the development of a completely new travel demand model. This motion was seconded by Councilman Smith and carried unanimously.

D. WATER RESOURCES UPDATE

Project Manager Phil Kleisler updated City Council on the Water Resources process update from November 13 - 27, 2012. He then provided Council with the information sharing between the City and MSD.

Vice-Mayor Manheimer said that the MSD Planning Committee will be meeting this Friday to continue discussion on the water/sewer merger.

E. QUARTERLY REPORTS

Committee Chair Reports

Vice-Mayor Manheimer, Chairman of the Planning & Economic Development Committee, provided Council with a brief update on some major accomplishments during this quarter.

Councilman Bothwell, Chairman of the Public Safety Committee, provided Council with a brief update on some major accomplishments during this quarter.

Financial Report

Budget Manager Tony McDowell provided Council with the following financial information which reflects the City’s overall financial position for the fiscal year through September, 2012.

Amendments. The General Fund budget presented in this first quarter report reflects the adopted budget of \$89,922,437; along with five budget amendments approved by Council during the first quarter that totaled \$566,527. A summary of the five amendments is presented below. None of the amendments involved an appropriation from fund balance. The \$63,000 for the firing range mitigation project was appropriated from unexpended capital funds that were being held in reserve.

| | |
|--|---------------------|
| Adopted Budget | 89,922,437 |
| Budget Amendments: | |
| NC Arts Council Grassroots Arts Grant | 50,431 |
| Linamar Economic Development Incentive | 200,000 |
| Firing Range Mitigation Project | 63,000 |
| Public Housing Police Unit Partnership | 217,000 |
| RENCI Grove Arcade Lease | <u>36,096</u> |
| 9/30/2012 Budget | <u>\$90,488,964</u> |

Revenues. Through September 30, 2012, the City has collected \$13,953,147 in General Fund revenue, which represents approximately 15.4% of the total General Fund revenue budget. Property tax revenue came in slightly under budget in FY 2011-12, and staff is projecting that trend of slower than anticipated growth to continue in FY 2012-13. Sales tax revenue is up 2.9% compared to the same period last fiscal year. The budget contemplated 5.0% growth in sales taxes, so year-end projections currently show a slight shortfall in this revenue. Staff is also projecting that state utility tax revenue will fall short of budget. On a positive note, revenue from electronic gaming operations has exceeded budget estimates to date. In total, *FY 2012-13 General Fund revenue is currently projected to come in \$227,000 or 0.25% in under budget.*

Expenditures. General Fund expenditures through September 30, 2012 total \$18,083,399 or 20.0% of the budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are running at the budget through the first quarter. Expenditures for fuel and fleet maintenance were running slightly over budget through the first quarter. Staff will continue to closely monitor these expenses throughout the

fiscal year. *Based on expenditure patterns in the previous fiscal year and the trends noted above, staff is projecting that expenditures will finish the year approximately \$550,000 under budget, which will more than offset the expected revenue shortfall.*

Fund Balance. The City ended FY 2011-12 with available fund balance of \$13.63 million, which equated to 15.9% of FY 2011-12 expenditures. At the November 13th meeting, Council approved the use of \$650,000 in fund balance for one-time employee salary bonuses. *Factoring in this fund balance usage along with current revenue and revenue projections for FY 2012-13, staff estimates that available fund balance at June 30, 2013 will be \$13.3 million or 15.0% of estimated expenditures.*

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE OUTDOOR LIGHTING STANDARDS

At the request of City staff, Councilman Hunt moved to continue this public hearing until December 11, 2012. This motion was seconded by Councilman Bothwell and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED IN THE FALCON RIDGE AT HAW CREEK SUBDIVISION

ORDINANCE NO. 4140 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED IN THE FALCON RIDGE AT HAW CREEK SUBDIVISION

Urban Planner Julia Fields said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville to include property in the Falcon Ridge at Haw Creek Subdivision. This public hearing was advertised on November 16, 2012.

The following property owners (with property identification number shown) have petitioned the City of Asheville for the annexation of twenty-one lots or portions of lots located in the Falcon Ridge at Haw Creek Subdivision.

| PIN Number | Address | Property Owner |
|-------------------------|-----------------------------|--|
| Portion of 9659.62-2222 | Common Area – No Address | Falcon Ridge at Haw Creek, LLC |
| 9659.53-8826 | 91 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-0863 | 85 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-1689 | 79 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-3527 | 71 Boulder Creek Way | Ridge View Homes, LLC |
| 9659.63-4456 | 63 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-5380 | 57 Boulder Creek Way | George Ryan Trust & Martha E. Ryan Trust |
| Portion of 9659.63-6014 | 51 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| Portion of 9659.62-3969 | 44 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| Portion of 9659.63-1047 | 125 Boulder Creek Way | Rebecca G. Mulzer |
| Portion of 9659.53-9062 | 123 Boulder Creek Way | Angela M. Erwin |
| Portion of 9659.53-8036 | 119 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.53-9275 | 120 Boulder Creek Way | George Ryan & Jean M. Ryan |
| 9659.53-9366 | Infrastructure – No Address | Falcon Ridge at Haw Creek, LLC |
| 9659.53-9607 | 92 Boulder Creek Way | John Allen & Patricia J. Allen |

| | | |
|--------------|-----------------------|---|
| 9659.63-0548 | 82 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.53-9543 | 135 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-0486 | 133 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-1388 | 131 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-1292 | 127 Boulder Creek Way | Falcon Ridge at Haw Creek, LLC |
| 9659.63-3168 | 56 Boulder Creek Way | Emily S. Joyce Revocable Trust & Emily S. Joyce Trust |

The property to be annexed contains a total of 22.93 acres. One lot contains a home that is under construction and two lots contain water system infrastructure that has been inspected and approved by the City of Asheville. The property is contiguous to the primary corporate limits of the City of Asheville, is described in the ordinance, and qualifies for annexation by petition as set forth in NCGS 160A-31.

Pursuant to N. C. Gen. Stat. sec. 160A-31, a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, the effective date for the annexation would be November 27, 2012.

Pros:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas.
- Allows for service provisions for a new subdivision (of which a part is already in the City) enhancing the area with an urban level of service.

Con:

- Marginal costs for patrol.

At the City's current tax rate, the property, valued at \$1,527,700.00, would generate approximately \$ 6,416 annually. There are no financial impact or debt service payments required to a rural fire department as the area is currently serviced by the City of Asheville Fire Department under the Haw Creek Fire District agreement. The Fire Department has been receiving the .09/100 tax for servicing this area. This will no longer be paid by the property owners, thus the City will see a reduction in this revenue of \$1,375. Therefore, the net financial gain for the City is \$5,041.

City staff recommends City Council adopt the ordinance annexing the property within the Falcon Ridge at Haw Creek Subdivision that is not currently within the corporate limits.

City Attorney Oast noted that a Certificate of Sufficiency has been prepared by the City Clerk that will be incorporated into the record, and asked that the resolution be amended to include the following clause: " and that said petition was not submitted pursuant to subdivision (b) (1) or (j) of N.C. Gen. Stat. sec. 160A-31."

Vice-Mayor Manheimer opened the public hearing at 6:00 p.m.

Mr. Mike Anderson, engineer on the project representing the property owners, commended the developer for working with the neighborhood.

Vice-Mayor Manheimer closed the public hearing at 6:03 p.m.

Councilman Pelly said that the developer has been working closely with the community understanding how the development will have an impact on the neighborhood. The developer

has offered space for a community garden in addition to agreeing to install speed humps on Cisco Road.

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

Councilman Bothwell moved for the adoption of Ordinance No. 4140, as amended by City Attorney Oast. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 34

RESOLUTION NO. 12-252 - RESOLUTION ACCEPTING BOULDER CREEK WAY IN THE FALCON RIDGE SUBDIVISION AS CITY MAINTAINED STREETS

Assistant Director of Public Works David Foster said that this is the consideration of a resolution to accept Boulder Creek Way as a City maintained street.

Code of Ordinances sec. 7-15-1(f)(4) requires that streets dedicated for public use be accepted by resolution of the City Council. The Falcon Ridge Subdivision annexation is being considered for approval by City Council on November 27, 2012, with an effective date of November 27, 2012.

Boulder Creek Way from Cisco Road to its dead-end is a privately-maintained street that has an average width of 20 feet with 24 inch curb and gutter, a length of .66 miles, and a right-of-way width that varies from 40 to 65 feet. A five foot back of curb sidewalk also exists along the entire length of the street.

The subject street was inspected by all applicable City departments and the general street conditions were determined to be satisfactory and any maintenance issues will be handled as part of the City's routine maintenance funding.

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

This action complies with the City Council 2011-12 Strategic Operating Plan by accepting street infrastructure to help support the health growth of the City.

Pros:

- The City will receive Powell Bill funding from the N.C. Dept. of Transportation to help maintain the street.
- The streets will provide access and connectivity into a newly established residential neighborhood.

Cons:

- There are identified repairs the developer is completing to bring the road in full compliance with the Asheville Standards and Specifications.
- Powell Bill funds will not cover 100% of the total maintenance costs to maintain the street.

Other than the future maintenance obligations, there are no additional fiscal impacts to the City of Asheville.

Staff recommends that the Asheville City Council adopt a resolution accepting Boulder Creek Way as a City maintained street.

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

Councilman Pelly moved for the adoption of Resolution No. 12-252. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 35– PAGE 137

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF WELLINGTON ESTATES LOCATED ON 42 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING WITH AN EXTENSION OF THE MANUFACTURED HOUSING COMMUNITY OVERLAY DISTRICT TO ALLOW THE EXPANSION OF AN EXISTING MANUFACTURED HOME PARK, INCLUDING MODIFICATION REQUESTS TO LOT SIZE, LOT WIDTH, SETBACKS, STREET STANDARDS, SIDEWALKS, STREET LIGHTS, AND OPEN SPACE

ORDINANCE NO. 4141 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY WELLINGTON ESTATES LOCATED ON 42 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT WITH AN EXTENSION OF THE MANUFACTURED HOUSING COMMUNITY OVERLAY DISTRICT TO ALLOW THE EXPANSION OF AN EXISTING MANUFACTURED HOME PARK

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone Wellington Estates, located on 42 Airport Road, from Highway Business District to RM-16 Residential Multi-Family High Density District/Conditional Zoning with an extension of the Manufactured Housing Community Overlay District to allow the expansion of an existing manufactured home park, along with a modification request to lot size, lot width, setbacks, street standards, sidewalks, streetlights and open space. This public hearing was advertised on November 16 and 23, 2012.

The site consists of a 13.65 portion of a 61 acre parcel located at 42 Airport Road. The entire parcel is currently split zoned with the subject area zoned HB while the portion adjacent to the west is RM-16. Lots are zoned Commercial Industrial to the south and north as well as Industrial to the north.

This parcel was part of a larger area annexed into the City effective March 31, 2009. At the time of annexation and initial zoning, the parcel was partially developed with a manufactured home community similar to the existing conditions as shown on submitted plans. At the request of the owner, the lot was split zoned with RM-16 and the Manufactured Home Community Overlay on the western two-thirds with Highway Business designated on the section closest to Airport Road with the intent for commercial development on this front end, rather than a continuation of the residential use.

All 13.65 acres included in the petition have previously been used as a manufactured housing community and there are 29 manufactured homes existing on the rear 5.9 acres of the subject area. The applicant is proposing to create 49 new home sites on the front portion (7.75 acres) of the subject area, for a total of 78 residences. This results in just under the allowed maximum residential density for the overlay.

Wellington Drive, Barclay Drive, White Rock Drive and Avalon Drive are existing privately-maintained roads and all three provide connections to the rear of the site and existing manufactured housing community. Two parking spaces are provided at the driveway for each

unit and 10 visitor spaces are required to serve the community. Additionally, a four-foot wide sidewalk is required around and within the development (*see modification section for sidewalk*).

Street trees are required for this expansion as well as ten percent of the project area (1.365 acres) required to be set aside for open space (*see modification section for open space*).

The application is requesting the following standards to be modified, based on existing conditions and constraints and a desire to re-establish the previous development pattern for the site.

1. **Lot width** – 50' of width is required for all lots; *12 lots have less than 50' of width*
2. **Lot size** – a minimum of 5,000 square feet is required; *24 lots have less than 5,000 SF*
3. **Front setback** – a 20' front setback is required; *44 lots have less than 20' front setback*
4. **Property line setback** – units are required to be at least 35' from property lines; *25 lots border the property line*
5. **Street and ROW width** – a 30' ROW and 20' of pavement is required; Avalon, Barclay and White Rock Drives have less than the required standard and no designated ROWs; *no ROW intended and narrow roadways are existing*
6. **Sidewalks** – both internal and along Airport Road; *sidewalk will be added along Airport Road but none is proposed internally since the rest of the community does not have sidewalks and there are narrow streets with no ROWs*
7. **Streetlights** – streetlights are required; *less than the required number of streetlights are provided in this existing roadway network*
8. **Open space** – 10 percent of the project area (1.37 acres) is required to be designated as open space; *insufficient open space is proposed within the project area, the UDO provides for a fee-in-lieu option in this situation.*

This proposal was approved with conditions by the TRC on October 1, 2012. The Planning & Zoning Commission discussed this application at their meeting on November 7, 2012, and recommended approval with a unanimous vote (7-0). No opposition or communication has been received as of the writing of this report.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
Due to the previous use of this site as a manufactured housing community and the existing infrastructure (roads, water, sewer, driveways and concrete pads) the proposed re-establishment is compatible with the features and similar adjacent use.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The re-establishment of a manufactured housing community on the subject area is a continuation of the adjacent, existing use and is not expected to injure the value of adjoining or abutting properties. This use has been in place on the adjacent site for decades.

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

As a continuation of the existing adjoining manufactured housing community, the proposed use and development is an extension of the character, density, coverage and scale of the neighborhood. However, there are new standards in place for manufactured housing communities since the original establishment of this location, not all of which are in compliance. This does not necessarily create an inharmonious situation.

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 re-establishment of the manufactured home community generally conforms to goals of the City as detailed in the compliance sections of this report. Specifically, the development provides lower-cost residential options and supports and enhances multimodal transportation usage.

Requested modifications to the internal sidewalk and open space are contrary to stated goals of the Manufactured Housing Community Overlay District (Section 7-9-5) promoting the “health, safety and welfare of area residents through the provision of standards for infrastructure and open space.” However, existing infrastructure creates site constraints and challenges to compliance.

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

This site is located on Airport Road, less than a mile from Hendersonville Road, which places the project in an easily accessible location by car and Asheville transit (S3). The project has been reviewed by the Technical Review Committee and this previously developed site has existing infrastructure in place.

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

The City Traffic Engineer has stated that the existing traffic conditions have stabilized and will not be substantially changed by this project.

Pro:

- Provides lower-cost residential options in an area with existing infrastructure.

Con:

- Due to the existing infrastructure layout (utilities, roads), compliance with current standards cannot be met in many instances, resulting in a number of modification requests that are contrary to the goals of the Manufactured Housing Community Overlay District – most notably internal sidewalks and open space.

Staff recommends approval of the rezoning, the extension of the overlay and the site plan, re-establishing the manufactured housing community on this portion of the parent parcel. Staff notes that the layout of this community was put in place prior to the current standards, justifying the difficulty with compliance and the need for the multiple modifications. Staff recommends the applicant pay a fee-in-lieu for deficient open space.

Vice-Mayor Manheimer opened the public hearing at 6:11 p.m.

Mr. Chris Day, engineer for the developer, said that this manufactured housing community has been in existence for the past 40 years. He clarified that actually they will have 41 grandfathered units, which increases the total number of units in the 13.6 acres to 90. Mr. Morosani, the developer, will be building a street in front of their property on Airport Road. He will also be adding street trees in the community, and a new 6-inch water line to a new fire hydrant. Regarding open space, had this been a new development they would have included the open space requirements; however, since this is an existing community, they are requesting that the open space requirement be waived and that they not be required to pay the fee in lieu of payment either.

Mr. Morosani said that he will be adding another 49 units of affordable housing that is very well needed in the south area. He asked Council to consider waiving the fee in lieu of payment for the open space, which will be approximately \$50,000.

Vice-Mayor Manheimer closed the public hearing at 6:16 p.m.

In response to Councilman Pelly, Mr. Morosani said that school buses do run through the community and they also have garbage collection.

There was a brief discussion about the need for sidewalks on Airport Road. Because there is a vacant parcel next to Wellington Estates, it was noted that when the outparcel is developed sidewalks along the frontage on Airport Road will also be required.

Councilman Bothwell 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. 4141, to approve of the conditional zoning request from Highway Business District to RM-16 Residential Multi-Family High Density District/Conditional Zoning with an extension of the Manufactured Housing Community Overlay district for the project identified as Wellington Estates located at 42 Airport Road including approval of the proposed Site Plan and Extension of the Manufactured Housing Community Overlay, and approval of the modification requests to lot size, lot width, setbacks, street standards, sidewalks, streetlights and open space, 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 the issuance of any site development 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 the 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) Easement for a bus shelter is required and must be received and recorded prior to final zoning approval; and (7) Fee in lieu for open space must be received prior to final zoning approval. This motion was seconded by Councilman Hunt.

Councilman Davis spoke in support of the conditional zoning but was unsure about supporting staff's recommendation for a fee in lieu of payment for open space due to the amount of mature trees and number of affordable housing units.

In response to Vice-Mayor Manheimer regarding the use of fee in lieu of funds, City Attorney Oast said that the Code states that "Funds collected in this manner shall be maintained

in a separate account and shall be used to purchase or to enhance recreational use of property necessary to implement features of the greenway master plan or the Parks and Recreation Master Plan of the City of Asheville provided such features are reasonably proximate to the site(s) from which the funds are collected."

Councilman Smith pointed out that south Asheville has not received funding for parks and this would be an excellent opportunity to get a little closer for those amenities in that area.

Councilman Bothwell moved to amend the original motion subject to all conditions except to delete condition 7 (fee in lieu for open space must be received prior to final zoning approval). This motion was seconded by Councilman Davis.

City Attorney Oast asked Council for time to investigate whether waiving the fee in lieu of for open space will require an ordinance amendment. If Council wishes, they can approve the conditional zoning and continue the item on the open space fee waiver until their next meeting.

Councilman Bothwell withdrew his motion to amend the original motion (deletion of condition 7).

Councilman Bothwell then moved to amend the original motion subject to all conditions except for the condition on the open space fee waiver which Council will make a decision at their next meeting. This motion was seconded by Councilman Hunt.

Councilman Smith said that we have a policy in place about open space or a fee in lieu of payment. He felt if we change that policy we may be setting a precedent.

Councilman Bothwell felt this is different than a new development as it is going back to a previous use.

The amended motion made by Councilman Bothwell and seconded by Councilman Hunt carried unanimously.

ORDINANCE BOOK NO. 28 - PAGE 36

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 12-253 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH STEWART ENGINEERING INC. TO DEVELOP ARCHITECTURAL AND ENGINEERING CONSTRUCTION DOCUMENTS FOR THE BEAUCATCHER GREENWAY

Director of Parks, Recreation & Cultural Arts Roderick Simmons said that this is the consideration of a resolution authorizing the City Manager to enter into a contract with Stewart Engineering, Inc. to develop architectural and engineering construction documents for the Beaucatcher Greenway for an amount not to exceed \$310,000.

In February 2009, City Council approved the Beaucatcher Greenway identified as a priority greenway in the Parks, Recreation Cultural Arts, and Greenways Master Plan. In that same year, City Council adopted the Asheville Downtown Master Plan that supports the development of vista parks to provide permanent public views of the downtown via the Beaucatcher Greenway.

In September 2009, City Council accepted a grant from the North Carolina Parks and Recreation Trust Fund to support acquisition of the Beaucatcher Overlook property to facilitate

the development of the Beaucatcher Greenway. The grant stipulates greenway development must be complete within a five-year period of the grant award date.

In November 2009, City Council directed staff to proceed with a land exchange with the owners of Festiva to enhance and extend the Beaucatcher Greenway.

Funds in the amount of \$1,300,000 to support Beaucatcher Greenway construction drawings and construction were approved in the FY 2011-2012 capital improvement budget.

Staff followed the municipal process to conduct the request for qualifications to seek qualified, professional firms to develop construction documents. Staff received 14 applications, and interviewed four finalists. After thorough review and evaluation, staff recommended Stewart Engineering, Inc., located at 421 Fayetteville Street, Raleigh, North Carolina as the most qualified to perform the architectural and engineering services for the Beaucatcher Greenway.

This action complies with the City Council Strategic Operating Plan in that it contributes to the Multimodal Transportation Goal to integrate and implement a multi-modal transportation plan including sidewalks, bike paths, signal preemption, transit, greenways, streets, rivers and access to the river, and other system improvements resulting in funding priority list. This action also complies with the Parks, Recreation, Cultural Arts and Greenway Master Plan in that it increases the urban network of parks and greenways in the downtown Asheville area.

Pros:

- Expand the ability to provide recreation resources to a number of residences and neighborhoods that can be linked to this corridor
- Provide a unique experience and views with its Appalachian forest setting that overlooks the downtown and distant mountains.
- Implement the original vision of the 1922 Asheville City Plan for a landmark linear park on Beaucatcher Mountain that would benefit the entire community
- Provide a recreational corridor that will unite the Beaucatcher and White Fawn Reservoir Parks that will be developed in the future.

Con:

- Once complete, the project will require additional maintenance resources.

The \$310,000 to support the contract is budgeted in the capital improvement budget in the Multi-Modal Investment for greenway development.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Stewart Engineering, Inc. to develop the architectural and engineering construction documents for the Beaucatcher Greenway for an amount not to exceed \$310,000.

In response to Councilman Hunt, Mr. Simmons said that the City should be able to do the entire project for no more than the \$1.3 Million already set aside, but that he will also be seeking grant funds.

When Councilman Hunt asked if we anticipated the greenway being routed through Ardmon Park Drive, City Attorney Oast said that the greenway does utilize Ardmon Park Drive. He said they have concluded that it is a dedicated and unopened right-of-way available for this use.

Vice-Mayor Manheimer disclosed that a member of her law firm does represent the Ardmon Park Drive Homeowners Association; however, it is the opinion of City Attorney Oast that it does not present a conflict of interest for her voting on this particular issue.

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

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

Councilman Hunt moved for the adoption of Resolution No. 12-253. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 139

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte addressed City Council.

Closed Session

At 6:50 p.m., Councilman Pelly moved to go into closed session for the following reason: (1) 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). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:25 p.m., Councilman Hunt moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 7:25 p.m.

CITY CLERK

MAYOR