

Tuesday – February 26, 2013- 5:00 p.m.

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF THE ASHEVILLE HIGH SCHOOL/SILSA MARCHING BAND

Mayor Bellamy was pleased to recognize the Asheville High School/SILSA Marching Band and their Directors for its extraordinary year, for representing North Carolina at President Obama's Inauguration, and for being named "Grand Champion" of the Inaugural Festival. Mayor Bellamy asked that each member of the Band that was able to attend to identify themselves.

II. CONSENT AGENDA:

At the request of Councilman Hunt Consent Agenda Item "E" was removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 12, 2013

B. RESOLUTION NO. 13 -31 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A TRANSFER OF REAL PROPERTY FROM BUNCOMBE COUNTY FOR THE PURPOSE OF IMPLEMENTING THE CRAVEN STREET IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the Mayor to accept a transfer of real property, identified as PIN 9638-78-9646-00000, from Buncombe County for the purpose of implementing the Craven Street Improvement Project.

Buncombe County owns approximately 3.33 acres at the intersection of Emma Road and Craven Street, located within the floodplain of the French Broad River and across from the planned New Belgium Brewery site. Key elements of the Craven Street Improvement Project are planned for this property, including the realignment of the Craven Street / Emma Road intersection, the development of a low impact parking lot, and the installation of the greenway trailhead at the property. At this time, the County has agreed to grant the City ownership of the property to facilitate the installation of these improvements.

Prior to County ownership, the property was owned by the Board of Education of Buncombe County and operated as a maintenance facility. The property was improved with a one story concrete block building, asphalt parking lot and vehicle fueling station. The NC Department of Environment and Natural Resources has documented the removal of 6 underground fuel storage tanks from 1989 to 2008. Buncombe County gained title to the property in 2008 and removed the existing building(s) and asphalt with funding from the Hazard Mitigation Grant Program. The Hazard Mitigation Grant Program also imposed deed restrictions on the property in order to protect the floodplain values; specifically - strict limitations on new structures and permitted uses of the property are limited to open space, permeable parking lots, parks for outdoor recreation and wetland management.

These restrictions will carry with the conveyance of the property, and the City and County are working with the FEMA-State Hazard Mitigation Grant office to ensure that all proposed improvements are consistent with these deed restrictions. Further, upon acceptance of the property the City will be responsible for ensuring that the long term uses of the property are consistent with these deed restrictions. The City participated in the same grant program for the acquisition of several parcels along Swannanoa River Road in 2008, and there should be no issues with compliance.

This action meets Council goals by enhancing the City's long-term financial commitment to infrastructure maintenance and capital improvements. Additionally, this project leverages internal and external partnerships for pursuing capital improvements and infrastructure projects.

Pros:

- Provides for multi-modal transportation and parking improvements on Craven Street
- Donation of land from Buncombe County

Cons:

- City will be responsible for ongoing maintenance and compliance associated with deed restrictions

City will be responsible for all due diligence associated with the transfer, including title research, environmental Phase One and Phase Two if necessary. Given the number of underground storage tanks that were once present on site, the City estimates approximately \$15,000 will be budgeted for potential environmental remediation. These costs will be absorbed within the existing project budget for the Craven Street Improvements Project.

City staff recommends that City Council adopt the resolution authorizing the Mayor to accept a transfer of real property from Buncombe County for the purpose of implementing the Craven Street Improvement Project.

RESOLUTION BOOK NO. 35 - PAGE 182

C. RESOLUTION NO. 13-32 - RESOLUTION DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO REVIEW THE PACK PLACE LEASE ARRANGEMENT

Summary: The consideration of a resolution directing the City Attorney and City Manager to review the Pack Place lease.

The Pack Place Education, Arts & Science Center (herein "Pack Place") was constructed in the late 1980's on property owned by the City. Its purpose is to function as an education, arts and science center. Pack Place Education, Arts & Science Center, Inc. (herein "Pack Place Board"), is the non-profit board that leases the real property from the City, and manages the

facility. Pack Place is the home of the Asheville Art Museum, Diana Wortham Theatre, the Colburn Earth Science Museum, and until recently, The Health Adventure. YMI is organizationally part of Pack Place, and is a member of the Pack Place Board, but is not located in the main Pack Place building.

The Health Adventure relocated in 2011, and vacated a substantial portion of Pack Place. The Asheville Art Museum has expanded into that space, and has plans for further extensive renovations. In connection with those plans, the Asheville Art Museum has requested the City consider a "direct lease" arrangement whereby the Museum would lease its part of Pack Place directly from the City. Diana Wortham Theatre is also planning some renovations. All of these developments are likely to result in the reconfiguration of internal spaces, such that amendment to the City's lease with Pack Place may be advisable. That lease expires in 2014.

In view of the above-described developments and the impending expiration/renewal of the current lease, the City should consider reviewing the current lease arrangement with the Pack Place Board, and the "major tenants" in Pack Place to ensure that Pack Place continues to fulfill its public mission, and that the needs of the organizations that are located there or associated with it are met. With this in mind, a resolution directing the City Manager and City Attorney to review the current arrangement is suggested, with a report back to Council in 60 days.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 35 - PAGE 183

D. RESOLUTION NO. 13-33 - RESOLUTION AUTHORIZING EXECUTION OF EASEMENT TO PROGRESS ENERGY CAROLINAS INC. FOR ELECTRIC POWER SERVICE TO AIRPORT FIRE/RESCUE FACILITY

Summary: The consideration of a resolution authorizing the Mayor to execute an easement to Progress Energy for an electrical power service line for an aircraft rescue and firefighting facility at the Asheville Regional Airport.

A new firefighting and rescue facility is being constructed at the Asheville Regional Airport. The primary function of this new facility will be to respond to emergencies on the "air side" at the airport, including emergencies involving aircraft. Electrical power service is required, and Progress Energy has requested an easement to allow for the installation. This will be a new power service, and it will be installed underground. The City's Public Safety and Information Technology Departments have reviewed this request, and support it. The Airport Authority approved the easement as lessee on February 19.

Pros:

- Facilitates power service to new public safety facility.
- Underground installation minimizes potential for disruption.
- May facilitate coordination of other service facilities (fiber optic, water).

Con:

- None noted

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 35 - PAGE 184

E. RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO (1) INCLUDE A SPECIAL MEETING ON THE CHARLOTTE STREET

COMPREHENSIVE TRAFFIC STUDY REPORT ON APRIL 30, 2013, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL; (2) CANCEL THE JULY 30 AND OCTOBER 29 COMMUNITY MEETINGS; AND (3) ADD BUDGET WORKSESSIONS ON MARCH 12, 2013, AND MARCH 19, 2013, AT 2:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL

This item was removed from the Consent Agenda for discussion and/or an individual vote.

F. RESOLUTION NO. 13-35 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF ASHEVILLE POLICE DEPARTMENT PURCHASES WITH GLOCK INC. PISTOLS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of Asheville Police Department purchases with Glock Inc. pistols for consistency in operation and functionality.

The Asheville Police Department (APD) has operating funds available for the procurement of Glock pistols. The procurement of these items will enhance officers ability to respond to various tactical incidents and high risk scenarios involving risk to officers and the public. Purchases will be made to purchase replacement pistols when current ones reach the end of life and/or as we see a need for additional pistols.

Our department has been utilizing Glock Inc pistols department wide since 2009. By continuing to purchase Glock pistols it will allow all officers to be issued the same equipment which will aid in our training techniques but also our officer safety techniques. Our instructors will be able to focus on individual techniques involving Glock equipment, and be consistent with their fellow officers' equipment.

Glock Inc was founded in 1981 and has firmly established Glock pistols as the standard by which all others are compared. Today, they are a leading global manufacturer of pistols, precisely engineered to meet the demanding specifications of military and law enforcement agencies worldwide. That powerful validation, and their reputation for safety, durability, reliability, and ease of use, has made their complete line of GLOCK pistols the choice for millions who aspire to carry the perfect firearm for the mission at hand.

Glock sell through authorized distributors who respond to bids or tenders. For the state of North Carolina, GLOCK Inc. has identified Craig's Firearm Supply Inc as their only authorized distributor.

This action complies with the Strategic Operating Plan by better equipping the Police Department with upgraded equipment; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- Consistency with training and equipment used
- Consistency in equipment when replaced or inventory is increased

Con:

- None

The exception to bid will have not fiscal impact beyond the regular cost of outfitting new officers and replacing damaged or broken equipment. Funds are allocated within the operating budget for equipment repairs and needed material.

City staff recommends City Council adopt resolution authorizing the Asheville Police Department to purchase Glock Inc. pistols on standardization needs with funding from approved department budget lines.

RESOLUTION BOOK NO. 35 - PAGE 187

G. RESOLUTION NO. 13-36 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF ASHEVILLE POLICE DEPARTMENT PURCHASES WITH SAFARILAND DUTY GEAR FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of Asheville Police Department purchases with Safariland Duty Gear for consistency in operation and functionality.

The Asheville Police Department (APD) has operating funds available for the procurement of Leather and Nylon Tactical Duty Gear. The procurement of these items will enhance officers' ability to respond to various tactical incidents and high risk scenarios involving risk to officers and the public. Purchases will be made as new officers are hired and as current equipment needs to be replaced.

Standardizing our gear will allow all officers to be issued the same equipment which will aid in our training techniques but also our officer safety techniques. Our instructors will be able to focus on individual techniques involving the officers but will also be able to teach them to use their fellow officers' equipment also.

Currently we have an assortment of leather duty gear from previous years of minimum standards and whoever provided the lowest bid. Due to this we have 5 different product models that we have to train our officers in how to use and operate.

Safariland, LLC, is a company with a history in the law enforcement market for 50 years. This group comprises a group of recognized and well respected brands known for their innovation and quality. Safariland sell through authorized distributors that respond to bids or tenders. For the state of North Carolina, Safariland has identified Lawmen's Safety Supply as their only authorized distributor.

Safariland has been saving lives by providing the most recognized and most trusted law-enforcement products in the world. Safariland, Inc is made up of American Body Armor, Safariland Duty Gear, and Defense Technology. Safariland also owns the following companies that manufacture law enforcement gear: Bianchi, Second Chance, PROTECH, Break-Free, Monadnock, Hatch, Bianchi, and Forensics Source.

Legendary for quality and innovation, Safariland Duty Gear is the overwhelming choice of law enforcement agencies around the world. Comprising both the Safariland and Bianchi brands this offers the industry's most extensive range of top-quality products. Product lines within the Duty Gear category are holsters, belts, accessories, restraints and optics.

This action complies with the Strategic Operating Plan by better equipping the Police Department with upgraded equipment; and will assist in making Asheville a safer city, by providing quality duty gear for our officers.

Pros:

- Known product
- Consistency with training and equipment used
- Consistency in equipment when replaced or inventory is increased.

Con:

- Eliminates bid process

The exception to bid will have not fiscal impact beyond the regular cost of outfitting new officers and replacing damage equipment.

City staff recommends City Council adopt resolution authorizing the Asheville Police Department to purchase Safariland Duty Gear on standardization needs with funding from approved department budget lines.

RESOLUTION BOOK NO. 35 - PAGE 188

H. RESOLUTION NO. 13-37 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF ASHEVILLE POLICE DEPARTMENT PURCHASES WITH LASER TECHNOLOGY INC. FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of Asheville Police Department purchases with Laser Technology Inc. for consistency in operation and functionality.

The Asheville Police Department (APD) has operating funds available for the procurement of Laser Technology Inc. items. The procurement of these items will enhance officer's ability to enforce traffic laws and reduce traffic collisions in dangerous areas. This purchase will allow for the replacement of speed and distant lasers when current ones reach the end of life and/or as we see a need for additional lasers.

APD has been utilizing Laser Technology Inc. speed and distant lasers department wide for several years. By continuing to purchase Laser Technology Inc. speed and distant lasers it will allow all officers to be issued the same equipment which will aid in our training techniques. Our instructors will be able to focus on individual techniques involving Laser Technology Inc. lasers, and be consistent with their fellow officers' equipment when the officer moves from vehicle to vehicle.

Everyone in the measurement business claims they are "The Leaders" in the industry, but no one can claim they are the true pioneers in reflector less measurement. Laser Technology Inc. started working with the US government over 24 years ago by designing lasers that measured distances between 2 planes in-flight for a de-icing exercise. They won a contract with NASA to build a custom laser that could measure both distances and speeds for space docking missions. They also partnered up with Bushnell Optics and designed the first low-cost recreational rangefinder for golfing and hunting. They developed the first commercial laser speed enforcement tool for the law enforcement community. Their first professional measurement device was a hand-held reflector less total station that eventually began the GPS laser offset craze.

Laser Technology Inc. is a sole source provider and does not allow anyone else to sell their product.

This action complies with the Strategic Operating Plan by better equipping the Police Department with upgraded equipment; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- Consistency with training and equipment used
- Consistency in equipment when replaced or inventory is increased

Con:

- None

The exception to bid will have not fiscal impact beyond the regular cost of outfitting new officers and replacing damaged or broken equipment. Funds are allocated within the operating budget for equipment repairs and needed material.

City staff recommends City Council adopt resolution authorizing the Asheville Police Department to purchase Laser Technology Inc. speed and distant lasers on standardization needs with funding from approved department budget lines.

RESOLUTION BOOK NO. 35 - PAGE 189

I. RESOLUTION NO. 13-38 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF ASHEVILLE POLICE DEPARTMENT PURCHASES WITH TASER INTERNATIONAL FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of Asheville Police Department purchases with Taser International products for consistency in operation and functionality.

The Asheville Police Department (APD) has operating funds available for the procurement of Taser products. The procurement of these items will enhance officers' ability to respond to various tactical incidents and high risk scenarios involving risk to officers and the public. Purchases will be made to purchase replacement tasers when current units reach the end of life and/or as we see a need for additional tasers. Purchase of taser cartridges, holsters and other taser items will be purchased as needed for replacement and training purposes.

Our department has been utilizing Taser International name brand equipment since 2002 and currently has over 100 tasers. By continuing to purchase Taser name brand equipment it will allow all officers to be issued the same equipment which will aid in our training techniques but also our officer safety techniques. Our instructors will be able to focus on individual techniques involving taser equipment, and be consistent with their fellow officers' equipment.

Taser International was founded in 1993 and has remained committed to providing solutions which protect life, protect truth, and protect family. Their industry leading Electronic Control Devices (ECD's) are used worldwide by law enforcement, military, professional security and personal protection markets. TASER ECD's use proprietary technology to incapacitate dangerous combative, or high risk subjects who pose a risk to law enforcement, correction officers, innocent citizens or themselves in a manner that is generally recognized as a safer alternative to other use of force options. The proper and professional use of TASER devices dramatically reduces injury rates for law enforcement officers and suspects.

Taser International sells through authorized distributors who respond to bids or tenders. For the state of North Carolina, Taser International has identified Lawmen's Safety Supply as their only authorized distributor.

This action complies with the Strategic Operating Plan by better equipping the Police Department with upgraded equipment; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- Consistency with training and equipment used
- Consistency in equipment when replaced or inventory is increased

Con:

- None

The exception to bid will have not fiscal impact beyond the regular cost of outfitting new officers and replacing damaged or broken equipment. Funds are allocated within the operating budget for equipment repairs and needed material.

City staff recommends City Council adopt resolution authorizing the Asheville Police Department to purchase TASER International Items on standardization needs with funding from approved department budget lines.

RESOLUTION BOOK NO. 35 - PAGE 190

J. RESOLUTION NO. 13-39 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF ASHEVILLE POLICE DEPARTMENT PURCHASES WITH SAFARILAND LLC FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of Asheville Police Department purchases with Safariland LLC for tactical body armor and rifle plates for consistency in operation and functionality.

The Asheville Police Department (APD) has seizure funds approved for the procurement of Tactical Body Armor and Rifle Plates to be utilized by the police departments Emergency Response Team. The procurement of these items will enhance safety and the departments' ability to respond to various tactical incidents and high risk scenarios involving risk to officers and the public. The current Tactical Body Armor worn by the Emergency Response Team will expire the spring of 2013.

The Emergency Response Team members conducted research of numerous vests from various vendors. The selection process consisted of options and accessories along with the functionality of the vest for the mission of the Emergency Response Team.

The Protech FAV MKII Enhanced Quick Release (QR) Tactical Carrier with the Monarch Series MR01-Type IIIA panels and Protech 2113 MC-3 Rifle Plate are manufactured by Safariland, LLC out of Jacksonville, Florida. Safariland, LLC, is a company with a rich history in the law enforcement market for 50 years. This group comprises recognized and well respected brands known for their innovation and quality. Safariland sell through authorized distributors that respond to bids or tenders. For the state of North Carolina, Safariland has identified Lawmen's Safety Supply as their only authorized distributor.

This action complies with the Strategic Operating Plan by better equipping the Emergency Team with upgraded equipment; and will assist in making Asheville a safer city by providing quality Ballistic Tactical Vest for known violent and armed encounters.

Pros:

- Known for product for comfort and features needed by ERT members
- Consistency in vest worn by members when replaced

Cons:

- Elimination of bid process

The exception to bid will have not fiscal impact beyond the initial cost.

City staff recommends City Council adopt resolution authorizing the Asheville Police Department to purchase Protech FAV MKII Enhanced Quick Release (QR) Tactical Carrier with the Monarch Series MR01-Type IIIA panels and Protech 2113 MC-3 Rifle Plate from Safariland, LLC, based on standardization needs with funding from state seizure monies.

RESOLUTION BOOK NO. 35 - PAGE 191

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 Davis moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

RESOLUTION NO. 13-34 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO (1) INCLUDE A SPECIAL MEETING ON THE CHARLOTTE STREET COMPREHENSIVE TRAFFIC STUDY REPORT ON APRIL 30, 2013, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL; (2) CANCEL THE JULY 30 COMMUNITY MEETING; (3) ADD BUDGET WORKSESSIONS ON MARCH 12, 2013, AT 2:00 P.M. AND APRIL 3, 2013, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL; AND (4) ADD A RETREAT MEETING ON MARCH 11, 2013, FROM 8:30 A.M. - 4:00 P.M. IN THE US CELLULAR BANQUET HALL

Councilman Hunt moved (1) to amend the resolution to remove the budget worksession on March 19 and instead hold it on April 3 at 3:00 p.m. in the First Floor North Conference Room of City Hall; and (2) add a retreat meeting on March 11, 2013, from 8:30 - 4:00 in the U.S. Cellular Center Banquet Hall, with staff programming. This motion was seconded by Councilman Bothwell.

Councilman Smith offered a friendly amendment to amend the resolution to restore the July 30 and October 29 community meetings as they serve a valuable function.

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

After a brief discussion, Councilman Smith withdrew his friendly amendment.

Councilman Smith then moved to cancel the July 30 community meeting only and restore the October 29 community meeting. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Pelly voting "no."

Mayor Bellamy noted that a retreat planning session was planned but cancelled in December. She was disappointed that we will be holding the retreat on March 11 and then have a budget worksession on March 12. She also hoped that when the agenda is developed that Council will discuss our relationships with other entities.

RESOLUTION BOOK NO. 35 - PAGE 186

III. PRESENTATIONS & REPORTS:

A. NEIGHBORHOOD ADVISORY COMMITTEE UPDATE

Mr. Saul Chase, Chairman of the Neighborhood Advisory Committee, updated Council on their vision, which is to promote friendly, valued and resilient neighborhoods throughout the City of Asheville. Their mission is (1) to help neighborhoods preserve and improve their physical, economic, and social health utilizing citizen-led improvement initiatives based on needs identified by the residents in each neighborhood; (2) to foster effective communication and working relationships among the neighborhoods and with the City of Asheville; (3) to strengthen neighborhood associations and organizations and to support the formation of new ones; (4) to perpetuate safety, health, vibrant, and sustainable neighborhoods; and (5) to celebrate successes in Asheville's neighborhoods. He asked for Council's official endorsement of their vision and mission.

At Mayor Bellamy's suggestion, Mr. Chase said that they would be happy to help get the information out to the neighborhoods about the City's master plans.

It was the consensus of Council to receive the report and have the City Attorney craft their vision and mission into a resolution which can then be voted on by Council.

Councilman Pelly, liaison to the Neighborhood Advisory Committee, was pleased that they have taken his advice to look at initiatives that won't cost money and those that are part of Council's Strategic Operating Plan.

On behalf of City Council, Mayor Bellamy thanked Mr. Chase for his leadership and the entire Committee for their dedication.

B. NOISE ORDINANCE APPEALS BOARD UPDATE

Ms. Brenda Sears, Chair of the Noise Ordinance Appeals Board, briefed Council on their activities of the past year and goals for the upcoming year.

On behalf of City Council, Mayor Bellamy thanked Ms. Sears for her leadership and the entire Board for their dedication.

C. MAYOR'S COMMITTEE FOR CITIZENS WITH DISABILITIES

Ms. Karen Keating, Chair of the Mayor's Committee for Citizens with Disabilities, provided Council with an update on positive points that the City has taken with regard to accessibility, and offered suggestions for additional consideration.

On behalf of City Council, Mayor Bellamy thanked Ms. Keating for her leadership and the entire Committee for their dedication.

When Mayor Bellamy asked for staff support for some administrative functions, e.g., sending minutes out, Councilman Davis felt that would be a good idea to talk about at the upcoming retreat.

D. WATER RESOURCES UPDATE

Project Manager Phil Kleisler updated City Council on the Water Resources process update from February 12 - February 26, 2013. He then provided Council with the information sharing between the City and MSD.

On behalf of City Council, Mayor Bellamy thanked Mr. Kleisler for his dedication to the City of Asheville as he furthers his career to Estes Park, Colorado.

E. LEGISLATIVE UPDATE

Deputy City Manager Jeff Richardson highlighted for Council some legislative issues of interest, some being, but are not limited to: annexation amendment (HB 79); property tax/deannexation (SB 97); Charlotte Regional Airport Authority (HB 104/SB 81); building inspections/local consistency (HB 120); ordinance first reading vote (SB 85); western crime lab funds/amend evident laws (SB 3); operation of mopeds (HB 48); and repeal combination motor vehicle registration/tax system (HB 30).

When Mayor Bellamy asked about our revenue loss if we no longer have control over the extraterritorial jurisdiction (ETJ) area, Executive Director of Finance & Strategic Planning Lauren Bradley said that there will be some revenue loss but could not give the exact figures since they are currently assessing those numbers.

At the request of Councilman Hunt, it was the consensus of Council to authorize City Manager Jackson to meet with the County Manager and perhaps two members of City Council, two members of the Buncombe County Commissioners, both the City and County attorneys, and both the City and County Planning Directors to begin discussion on the pros and cons of eliminating the ETJ on a local level. This discussion is in preparation of whichever version come out of the legislature.

City Attorney Oast said that if the ETJ goes away, the structure of the Planning & Zoning Commission and the Board of Adjustment will change.

F. QUARTERLY REPORTS

Committee Chair Reports

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

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.

Strategic Operating Plan

Deputy City Manager Jeff Richardson said that the Asheville City Council identified short and long term goals at the February 3, 2012, strategic planning retreat. Organizational progress in the identified focus areas is tracked using performance indicators and measurements throughout the year. The full update of these findings for the first two quarters (July 1, 2012 - December 2012) of fiscal year 2012-2013 can be found through the "Strategic Operating Plan" button on the front page of the City of Asheville's website at www.ashevillenc.gov. He then highlighted the key strategic initiatives that took place during this same time period.

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 December, 2012. He reviewed the executive summary as follows:

Amendments. The General Fund budget presented in this second quarter report reflects the adopted budget of \$89,922,437; along with nine budget amendments approved by Council that totaled \$1,259,562. A summary of the amendments is presented below. The only amendment that involved an appropriation from fund balance was the \$650,000 approved for employee bonuses. 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 ED Incentive	200,000
Firing Range Mitigation Project	63,000
Public Housing Police Unit Partnership	217,000
RENCI Grove Arcade Lease	36,096
Plasticard Locktech ED Incentive	13,400
Employee Bonus**	650,000
Community Center Grants	7,834
Energy Rebates	<u>21,801</u>
12/31/2012 Budget	<u>\$91,181,999</u>
** Fund Balance Usage	

Revenues. Through December 31, 2012, the City has collected \$52,918,585 in General Fund revenue, which represents approximately 58.5% of the total General Fund revenue budget. The percentage of revenue collected compared to budget is almost identical to the previous year's percentage through two quarters. Staff received property tax data from Buncombe County in January that showed that the FY 2012-13 assessed valuation grew by only 0.6%. As a result, staff has revised downward the property tax revenue estimate for the current year. Sales tax revenue, which is up 6.3% compared to the same period last fiscal year, is tracking closely to the budget forecast. Through two quarters, state utility tax revenue continues to trend below budget. In total, *FY 2012-13 General Fund revenue is currently projected to come in \$520,000 or 0.57% in under budget.*

Expenditures. General Fund expenditures through December 30, 2012 total \$41,653,448 or 45.7% of budget. At this point in FY 2011-12 expenditures were at 46.0% of budget – so expenditures trends are very similar to the prior fiscal year. Personnel expenses, the largest component of the General Fund budget, are projected to come in on budget. Expenditures for fuel and fleet maintenance continue to run slightly ahead of budget. *Based on expenditure patterns in the previous fiscal year and the trends noted above, staff is projecting that expenditures will finish the year at 99.1% of budget or approximately \$855,000 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.*

Mr. McDowell responded to some questions raised by Council regarding the City's financial position.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 152 MONTFORD AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT

ORDINANCE NO. 4167 - ORDINANCE TO REZONE 152 MONTFORD AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone 152 Montford Avenue from RM-8 Residential Multi-Family Medium Density District to Neighborhood Business District. This public hearing was advertised on February 15 and 22, 2013.

Mr. Esselstyn said that this property; the one-sixth-acre site occupies a corner lot at the high-profile Montford Avenue-West Chestnut Street intersection and contains a distinctive building. Historic records indicate the building was built before 1907. The applicant asserts (but staff has not verified) that the original use was a dry goods store, followed by a grocery market. Property records indicate that in 1972 the Pentecostal Tabernacle acquired the property and subsequently began to use it as a church.

Places of worship are a use by right (subject to special requirements) in the existing RM8 zoning district, but the applicant, who purchased the property this past December, is interested in pursuing other non-residential uses. Section 7-8-1 of the Unified Development Ordinance (UDO) provides that the proposed zoning district, Neighborhood Business (NB), can support, for example, offices, health and fitness facilities, eating and drinking establishments, and retail sales (the latter two would be subject to special requirements). The district does not allow some uses allowed in other mixed-use districts however, such as banks, clinics, or funeral establishments.

Section 7-8-8 of the UDO sets forth the purpose of the proposed district:
The Neighborhood Business District is established to reserve areas for low-intensity business centers which are accessible to pedestrians from the surrounding residential neighborhood. The intent of the district is to provide for the daily convenience and personal service needs of the surrounding residential neighborhood while minimizing conflicts with surrounding residential uses. This district is designed to be located within or adjacent to residential neighborhoods where large commercial operations are inappropriate, but where small neighborhood oriented businesses are useful and desirable.

Since the property is currently surrounded by the same RM8 district, the proposed rezoning would establish a one-sixth acre, isolated zoning district. Elsewhere in the city, or with another zoning district, such a configuration might be discouraged or characterized as spot-zoning, but the NB district is intended for use in small "pockets," and examples of small islands of NB zoning at intersections surrounded by residential zoning exist in multiple older Asheville neighborhoods. Indeed, perhaps most noteworthy, similar instances of small NB nodes can be found one long block north of the subject site (Nine Mile restaurant), and one long block south (Tod's Tasties).

If the zoning change is approved, there will likely be some design challenges for whatever use is pursued. The Neighborhood Business zoning would require a 20-foot wide landscape buffer against the adjacent RM8 zoning to the south and west, but the arrangement of the parking area, which is also currently used by the two adjacent properties for access to their own driveways/parking, would preclude installing such a buffer in its entirety, so some sort of alternative compliance would likely be sought. Further, the platted alley to the west of the lot is partially paved, but partially vegetated, and the driveway entrance doesn't align with the alley;

while there are allowances for a driveway entrance to penetrate a buffer, a fully-compliant buffer would be problematic for the vehicular access not only to this property, but to the adjacent properties as well.

These landscaping challenges need not be considered in detail as part of this rezoning petition—the choices for how to address them will depend on the specific use proposed, as well as the design of the future site improvements. Staff in the Transportation Department has indicated that any transportation improvements will also depend on the proposed use. The intersection of Montford Avenue and West Chestnut Street is an unusual intersection where the east and west sections of West Chestnut are offset, and the section adjacent to this site has a stop sign, separate from the traffic signal controlling the other three arms of the intersection. A new use introducing a substantial increase in traffic could potentially trigger changes to the intersection or the signalization.

While these obstacles would confront a future commercial use, staff recognizes that the architecture (designed for retail/church use) could prove an awkward fit for re-use as a residence. Further, the Montford Historic District Design guidelines could limit how the building could be altered to accommodate a residential use. The Historic Resources Commission Director is aware of the rezoning petition and has indicated no opposition.

Staff has received approximately ten communications from citizens, as well as a written letter of support from the Montford Neighborhood Association. While about half of the citizens who contacted staff were wholly in favor of the rezoning, most of the others weren't opposed to commercial occupancy, but had concerns about specific uses. One citizen was firmly opposed, with the primary concerns being traffic and parking.

At their February 6, 2013, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

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

Pros:

- Consistent with existing instances of Neighborhood Business zoning on same corridor.
- The Comprehensive Plan promotes adaptive reuse of such sites.
- Building architecture is better suited for commercial use than residential.

Cons:

- Challenges will likely exist for developer in meeting development standards for parking and landscaping.
- If use is changed to a low-impact use, site improvements other than buffers may not be required.

Staff feels that there is encouraging precedent for such nodes of Neighborhood Business zoning to work well along Montford Avenue. The building, originally designed for commercial use, doesn't appear to have ever primarily served as a home, and the 2025 Plan encourages repurposing such sites for non-residential use, "while ensuring that neighborhood compatibility and public safety goals are met." Staff finds the request is reasonable, is confident that existing standards will address the compatibility and safety goals, and recommends approval of the rezoning request.

Mayor Bellamy opened the public hearing at 6:44 p.m.

Mr. Michael McDonough, applicant, said that because they purchased the property two months ago, at this time they have no specific intended use for it.

In response to a neighbor about possible additional work at the intersection, Mr. Esselstyn said that it will really depend on the specific use of the property and how much traffic the use would generate. He did note that the Traffic Engineer said that if more traffic were generated that the most likely modification would be an extra leg on the traffic signal (which section to the site now has a stop sign).

Mayor Bellamy closed the public hearing at 6:47 p.m.

In response to Councilman Bothwell, Mr. Esselstyn said that the Neighborhood Business District does not allow a drive-through.

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

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4167. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE ADDITIONAL CLARIFICATION FOR TWO-STORY REQUIREMENTS FOR NEW CONSTRUCTION AND ALLOWANCES FOR ONE-STORY ADDITIONS TO EXISTING BUILDINGS AND FOR ACCESSORY STRUCTURES

ORDINANCE NO. 4168 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO PROVIDE ADDITIONAL CLARIFICATION FOR TWO-STORY REQUIREMENTS FOR NEW CONSTRUCTION AND ALLOWANCES FOR ONE-STORY ADDITIONS TO EXISTING BUILDINGS AND FOR ACCESSORY STRUCTURES

Urban Planner Alan Glines said that this is the consideration of an ordinance to Amend Chapter 7 of the Code of Ordinances to provide additional clarification for two-story requirements for new construction and allowances for one-story additions to existing buildings and for accessory structures. This public hearing was advertised on February 15 and 22, 2013.

Mr. Glines said that the most recent changes to the regulations governing the Central Business District were adopted in November 2010; based on the recommendations from the *Downtown Master Plan*. When the master plan was created in 2008 and 2009, it was anticipated that most new development projects would be larger new multi-story structures. Since that time, primarily due to the economic downturn and limited availability of financing for large projects, the new development that has occurred has primarily been on a more limited scale involving the renovation and expansions of smaller existing buildings. While we are beginning to see a pickup of interest in larger scale projects, the interest in these smaller projects continues and we have observed that certain aspects of the adopted regulations are somewhat problematic for those projects. The greatest interest has been in renovating existing one-story buildings or expanding and adding to these buildings, primarily in areas that surround the traditional downtown core.

Preservation of historic buildings is an identified goal of the master plan and these projects help to preserve buildings and make them feasible for reuse by extending their functional life. These renovations are also providing “incubator” locations for startup or smaller businesses.

The challenge we are seeing is that because new one-story construction is not allowed in the central business district zone variances are required for a number of these additions which are often one-story additions to an existing building. As this issue has been studied and considered after consideration of four recent variances, staff is proposing clarifications and modifications to several segments of the regulations. The modifications affect regulations for two-story buildings, one-story additions, and setback requirements. They will ease approvals for situations as described below.

For new construction the building is expected to be close to the frontage line of the parcel but additional setbacks are allowed for courtyard spaces, dining uses and other lawn areas for residential and institutional uses. Yet when an addition is contemplated it is with a specific activity in mind to make the commercial endeavor function more effectively and the normal setback rules can be difficult to meet.

Variances are important tools that are intended to provide relief from standards in an ordinance for unexpected or unusual hardships. When the requested variances are common enough to seem repetitive, and relief is usually granted, a wording change correcting the problem may be justified. One additional factor about the variance process is that it represents a delay for the developer of at least two months and because a variance process is quasi-judicial in review, the final outcome is uncertain. When the master plan was developed and agreed to by various stakeholders, one of the goals was to develop a set of rules that everyone could agree to thus reducing uncertainty for the development community. It is with this background that the wording amendment is proposed.

Summary of Proposed Changes:

Two-story height- The CBD requires that new buildings be constructed to a minimum height of two-stories. One aspect of the wording change specifies a dimension in feet so that the actual height requirements will be more easily understood. The proposed amendment also clarifies that the second story will need to cover the full first-floor footprint area. There is no proposed amendment to allow single-story buildings 'by right'. If there is a true hardship in meeting that basic requirement a variance could be requested. It has been reiterated through this process that the second story represents a long-term sustainable investment in downtown that supports the tax base of the city and can maintain the vitality and diversity of the area.

One-story additions- Additions to existing buildings represent economic and financial investment in the central business district and are common when a property is renovated. The proposed wording amendment recognizes that single-story additions to existing buildings are anticipated and will be more appropriate in situations where they do not overwhelm the scale of the existing building. This amendment will limit the size of the additions covered by the ordinance and provide placement options (setback parameters) relating to the existing building.

Accessory structures- The existing ordinance permits accessory structures in the central business district but is not clear where on the lot they are allowed. The proposed wording amendment will provide clarity on placement of accessory structures. Typically accessory structures are single-story and are placed at the rear of the parcel for storage or for other specific activities. Restaurants have at times constructed accessory structures in the form of a covered canopy for an outdoor dining space at the front of their lot. The proposed amendment would specifically allow such accessory structures to be placed at the front of the lot since they generally energize the activity at the sidewalk.

Street Wall substitution- For new construction in downtown, a two-story (or more) *street wall* is required. Recently, there was a conflict with this requirement in a situation where an existing one-story building was being preserved and a larger addition was being added as a part of the project. Because of the way the standard is worded in the UDO the existing single-story section of the project did not meet the street wall definition and requirement. The proposed

amendment will correct this scenario for single story existing buildings that are identified as a contributing structure in the downtown national register district that will be preserved as a part of a development proposal. This amendment will also support other goals of the Downtown Master Plan including preservation of the historic building stock and City adopted goals for sustainability.

Setback flexibility for additions- Existing buildings in downtown are 'grandfathered' in the locations they are found which sometimes include non-compliant setbacks (zero setbacks are the basic standard in the CBD). When buildings undergo renovation they may be upgraded to comply with current building standards defined in the building code but the placement of a building is never questioned regarding its compliance with zoning's setback rules. For parcels that have space to build an addition, the usual setback standards apply to the addition too and can pose an unexpected challenge. (These situations are most often being seen outside the center of the CBD in smaller old commercial structures.) Additions are attached to the existing building where they are needed and depending on their proposed function, the internal layout of the existing building or in some cases the building's orientation.

The proposed amendment would provide some relief from this situation which currently requires the approval of a hardship variance. As was noted before, additions are common and even encouraged for the continued vitality of downtown and for the long term viability of individual buildings which furthers the goals of historic preservation.

Other Central Business District areas: West Asheville- For the other Central Business Districts such as the two areas found in west Asheville, there are similar development standards like those in place for downtown. There have been a number of renovations of existing buildings but until now few additions. The proposed amendments also make practical sense for these CBD areas and will assist when additions to existing structures are proposed. The information was shared with representatives of the Haywood Road Corridor Study Group and although the number of comments received was limited all who commented supported the idea of the proposed amendment. As the proposal for a Form Based Code gets underway for Haywood Road, recommendations for changes may be identified and brought forward for adoption.

This action complies with the following plans: (1) *Strategic Operating Plan*: This action complies with the City Council Strategic Operating Plan goals of implementing community adopted plans with reasonable regulations to assure a balanced approach to managing the community's resources and encouraging redevelopment and continued investment; (2) *Downtown Master Plan*: The Downtown Master Plan provided a framework to ensure that the downtown is protected and that the environment is enhanced and continues to grow and prosper. This amendment aligns with the broader goals of the plan such as business growth and investment and preservation of the existing building stock; and (3) *Haywood Road Plan*: The Haywood Road Plan is currently in draft form but the amendment will support and identified goal to preserve existing historic buildings along the corridor and especially structures within the two national register districts. The proposed amendments recognize the value of existing structures and removes an impediment for renovation and expansion for new and existing businesses.

The Downtown Commission reviewed the proposed amendment at their meeting on December 14, 2012, and unanimously endorsed the amendment (vote 11-0 to recommend approval). Although the Haywood Road Corridor Study Group has suspended regular meetings, the amendment was shared with them for comment and while the responses were limited, the seven comments that were received were positive about the proposal.

The Planning and Zoning Commission reviewed the proposed amendment at their meeting on February 6, 2013 (vote 5-0 to recommend approval) and informally at a mid-month meeting on December 20, 2012. The Commission discussed in detail the requirements for the two-story minimum standards for new construction and recommended changes that are incorporated into the proposed ordinance. With the current proposal, the Commission wanted to

emphasize the value the second story represents to the tax base of the city and the vitality of CBD zoned areas.

Pros:

- Allows the ordinance to adapt to current trends and opportunities
- Removes a deterrent to continued investment in key areas of the city
- Establishes reasonable standards to maintain the community's character

Con:

- The nature of some ordinances is such that they require review and adjusting over time

City staff recommends that the City Council approve the amendments to the Unified Development Ordinance as described in the staff report and ordinance.

Mayor Bellamy opened the public hearing at 6:58 p.m. and when no one spoke, she closed the public hearing at 6:58 p.m.

In response to Councilman Davis, Mr. Glines read the definition of an accessory building out of the Unified Development Ordinance.

Mr. Glines responded to Councilman Bothwell regarding the 24 foot height. Planning & Development Director Judy Daniel said that perhaps the Sustainability Advisory Committee of Energy & the Environment can look at the issue of the height from an energy efficiency standpoint.

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

Councilman Davis 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. 4168. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

V. UNFINISHED BUSINESS:

A. MOTION ADOPTING FINDINGS OF FACT SUPPORTING RESOLUTION TO CLOSE MOODY AVENUE

Assistant City Attorney Martha McGlohon said that at a public hearing held on November 22, 2011, City Council adopted a Resolution closing Moody Alley. Moody Alley is an unopened, undeveloped Alley with 13 adjoining property owners, running between Nevada Avenue and Nebraska Street, in West Asheville. The resolution closing the Alley was appealed to the Buncombe County Superior Court. The Superior Court remanded the matter back to this Council for the entry of Findings of Fact to support the resolution to close.

During the summer of 2011, Jay Fiano began bulldozing Moody Alley to provide secondary access to an L-shaped lot that he created after subdividing the property. The neighbors obtained a temporary restraining order. Subsequent thereto, upon request, City Council initiated a closing of the alley. After following the statutory procedures set forth in NCGS §160A-299, on November 22, 2011, Council held a public hearing and adopted a resolution closing the alley. Jay Fiano appealed the closing to the Buncombe County Superior Court. The matter came on for hearing before the Honorable C. Philip Ginn on 1/8/13. Judge Ginn stated that he could not determine if Council's action in closing the alley was consistent with NCGS §160A-299, without findings of fact, other than those set forth in the resolution. By Order filed

1/9/13, Judge Ginn remanded the matter back to this Council to enter Findings of Fact to support the resolution to close.

Council is not being asked to re-open the public hearing or reconsider its decision. Council is only being asked to provide additional findings to support the resolution closing the alley. The additional findings that support the resolution closing the alley have been provided to Council.

Pro:

- Complies with the Court's directive

Con:

- Sets a precedent for future street closings

The City Attorney's Office recommends that City Council adopt the findings of fact to support the resolution to close Moody Alley.

Ms. McGlohon said that two members of Council were not sworn in at the time of the hearing. If Councilman Hunt and Councilman Pelly feel that they have familiarized themselves with the facts, she felt they could vote on the matter. Councilman Hunt and Councilman Pelly stated that they are familiar with the case and would be able to vote.

Ms. McGlohon said that Mr. Tikkun A.S. Gottschalk and Mr. Robert J. Deutsch (attorneys for the Fianos) have objected to Council proceeding to adopt these findings of fact without a new notice and a new public hearing. They were not able to stay for the remainder of the meeting but they provided her with a copy of their written "Objections to Adoption of Findings of Fact" and she advised them that she would provide them to the City Clerk. At this time, Ms. McGlohon handed the City Clerk with copies of "Objection to Adoption of Findings of Fact" dated February 26, 2012 (sic) signed by Mr. Tikkun A.S. Gottschalk and Mr. Robert J. Deutsch.

Vice-Mayor Manheimer said that Mr. Gottschalk said to her that he would not be permitted to make public comment and that is why they did not stay for the issue. They did say they would submit their objections in writing. Ms. McGlohon clarified that she did not inform Mr. Gottschalk that he could not make public comment, but that it would be left up to City Council to determine whether or not he would be allowed to address Council, but she was prepared to hand their objections to the City Clerk.

When Mayor Bellamy asked City Attorney Oast about one of their objections stating that adoption of the findings of fact would be contrary to the City Charter, City Attorney Oast responded that he disagreed with their objection.

When Mayor Bellamy asked for public comment, no one spoke.

Councilman Smith moved to adopt the findings of fact provided by the City Attorney's Office to support the resolution to close Moody Alley. This motion was seconded by Councilman Bothwell and carried unanimously.

VI. NEW BUSINESS: None

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. H. L. Carlisle spoke to Council about the need for public safety employees pay raises.

There was a brief discussion, initiated by Mayor Bellamy, to reschedule the interviews and appointment of the Asheville City Board of Education candidates due to spring break during

the week of March 25-29. City Attorney Oast said that he would review the law to see if the appointments could be made on April 1 and report back to Council after closed session.

Closed Session

At 7:32 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 contracts for the acquisition of real property by purchase, option, exchange or lease. The location of the property is Amboy Road adjacent to Carrier Park. The statutory authorization is contained in G.S. 143-318.11(a)(5); (2) (2) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing payment of economic development incentives will occur in open session. The statutory authorization is contained in G.S. 143-318.11(a)(4); (3) 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 (4) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 8:20 p.m., Councilman Davis moved to come out of closed session and return to the formal meeting. This motion was seconded by Councilman Bothwell and carried unanimously.

Asheville City Board of Education Interviews and Appointments

City Attorney Oast reviewed the law regarding the City's appointments to the Asheville City Board of Education and advised Council that the appointments must be made in the month of March. Therefore, it was the consensus of Council to interview candidates at 10:00 a.m. on March 12, 2013, and make the appointments later that evening at their formal meeting.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:40 p.m.

CITY CLERK

MAYOR