

Tuesday – March 12, 2013- 2:00 p.m.  
First Floor North Conference Room

#### Worksession

City Council held a budget briefing, using the goals and action items outlined at their retreat on March 11, to obtain budget policy direction on the following items:

(1) Market based compensation - After presentation by Fox Lawson & Associates and Council discussion, it was the consensus of Council to direct City staff to proceed with the staff's basic recommendations which is a 3% across the board increase for all employees. She explained staff is recommending (1) we adjust non-exempt and exempt pay ranges up 3%, (adjust non-exempt and exempt employee compensation up the same); (2) even though the study recommends the executive structure range be increased by 10%, staff recommends a 3% increase in the executive pay; and and (3) even though there is no recommendation to any public safety structure, because the step plans have not been funded, staff's recommendation would be to fund a step increase of 3% for public safety employees. Temporary and seasonal employees would also receive a 3% increase.

(2) BID proposal - Due to the absence of any BID Board representatives, Executive Director of Finance & Strategic Planning Lauren Bradley believed that there may have been a miscommunication about their presence being required at this worksession to discuss their budget, although they were aware they were to attend the March 12 formal meeting to discuss approval of their by-laws. Staff did meet with BID Board representatives on Friday, March 8 and reviewed several various options. On March 8, staff requested the BID come back with a detailed budget to understand their expectations (how many miles of street cleaning, how often pressure washing would take place, etc.). She thought that perhaps they believed the budget would be discussed at the March 26 formal meeting, when the BID tax rate would be discussed. Mayor Bellamy, along with Council, was disappointed that the BID budget was not ready to be presented at this time to allow Council to ask questions prior to the March 26 meeting. After discussion, it was the consensus of Council to request the BID budget be e-mailed to Council by Monday, March 18, along with staff's analysis, in time for Council and the public to review it.

(3) Financial forecast & proposed fees and charges- Ms. Bradley provided Council with an overview of the Fiscal Year 2014 General Fund budget forecast. She presented the budget balancing strategies regarding revenue options which included (1) solid waste reduction program - dropping the \$3.50 monthly fee per household for recycling services and substituting a \$7.00/month fee for trash pick-up; and (2) Friends of the Nature Center funding partnership. Budget balancing strategies regarding expenditure options include (1) offer early retirement incentive and freeze/eliminate 10 positions; (2) line item reductions; (3) re-engineer City's role with festivals and special events; and (4) restructure staffing at special facilities. Other factors include (1) impact of State legislative revenue reform initiatives (privilege license \$1.7 Million, sales tax changes); (2) impact of revaluation on sales tax revenues; (3) impact of possible water system transfer (\$1.8 Million); and (4) adjustment to development review revenues without extra-territorial jurisdiction (\$200,000). She noted that the \$85,000 that the BID Board will be asking for is not built into any scenarios. Ms. Bradley and Executive Director of Public Works and Multimodal Transportation responded to various questions of Council, and after considerable discussion, it was the consensus of Council to direct City staff to proceed with the items outlined to build the City Manager's recommended budget. In addition, after discussion, it was the consensus of Council (1) to direct staff to analyze picking up trash one week and recycling the next week; (2) allow people who do not have a degree to have an opportunity to work for the City; (3) discontinue the City's hosting Bele Chere in 2014 (allowing non-profits and others who rely on it one year to adjust), but to keep \$200,000 for the 4th of July celebration and other partnership opportunities; and (4) to direct staff to look at an alternative staffing structure than closing down and locking Aston Park Tennis Courts and the Food Lion Skateboard Park like other park facilities

(from dusk to dawn), due to safety and graffiti/maintenance concerns. Ms. Bradley previewed the fees and charges recommendations, which will be coming forward to Council on March 26.

At 4:23 p.m., Vice-Mayor Manheimer recessed the meeting until the 5:00 p.m. formal meeting.

Regular Meeting - 5:00 p.m.

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 Davis gave the invocation.

### **I. PROCLAMATIONS:**

#### **A. RECOGNITION OF WARREN WILSON MEN'S BASKETBALL NATIONAL CHAMPIONSHIP TEAM**

On behalf of City Council, Councilman Smith was proud to recognize Ms. Stacy Enos, Sports Athletic Director, Coaches and the Warren Wilson Men's Basketball Team for their USCAA Division II Championship Win.

#### **B. PROCLAMATION PROCLAIMING MARCH 2013 AS "DEVELOPMENTAL DISABILITIES AWARENESS MONTH"**

Mayor Bellamy read the proclamation proclaiming March, 2013, as "Developmental Disabilities Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Linda McDaniel, representing ARC of Buncombe County, who briefed City Council on some activities taking place during the month.

#### **C. PROCLAMATION PROCLAIMING MARCH 2013 AS "WOMEN'S HISTORY MONTH"**

Mayor Bellamy read the proclamation proclaiming March, 2013, as "Women's History Month" in the City of Asheville.

### **II. CONSENT AGENDA:**

#### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 26, 2013**

#### **B. ORDINANCE NO. 4169 - BUDGET AMENDMENT TO PURCHASE ONE DIESEL BUS**

Summary: The consideration of a budget amendment in the amount of \$400,000 from Federal Transit Administration (FTA) funds, Transit Fund Capital Reserves and General Capital Project Reserves, to purchase one 30-foot diesel bus using the current contract with Gillig, Inc.

During June 2012, the City of Asheville received funding from the Federal Transit Administration under the Bus and Bus Facilities, Livability Program, to purchase one 30-foot bus to replace one of the two remaining 1996 buses. The City has allocated its share of the required 20% local match but we have been unable to leverage the share that typically comes from the North Carolina Department of Transportation (NCDOT).

The total project cost is about \$400,000. The Federal Transit Administration (FTA) will fund 80% (\$320,000) and the City will fund the remaining 20% (\$80,000). Federal Transit Administration procedures require that obligated grants be executed or encumbered no later than one year after the obligation date which is June 2013. If the funds have not been used by that timeframe, the Federal Transit Administration can proceed to de-obligate the funds. Not only could the City lose the Federal grant, it would set a bad precedent that could reflect in the City's ability to leverage Federal funds in the future.

In addition, the cost of maintaining the 1996 buses is high, the buses require expensive and frequent maintenance, fuel efficiency is poor and their impact in the environment is higher since their engines were not manufactured under the newest Environmental Protection Act regulations.

The City will order the bus immediately under the current contract with Gillig, LLC. and the delivery date will be 12 months.

This action complies with the current City Council's Strategic Operating Plan in the fiscal responsibility focus area by operating the City of Asheville to the highest levels of fiscal responsibility.

This item has been reviewed and endorsed by the Transit Commission in their February 5, 2013, meeting.

Pros:

- The City will replace one of the last aged buses and produce savings in maintenance costs and fuel costs.
- The Federal Transit Administration (FTA) would fund 80% of the subject project cost.

Con:

- Funding to cover the additional 20% match will have to be taken from Transit Capital Reserves and General Capital Reserves.

The cost of the project is approximately \$400,000. 80% will be funded by the FTA, with the remaining 20% or \$80,000 funded by the City. There is currently \$26,177 available in unexpended Transit Capital funds that can be allocated toward this match. The remaining \$53,823 will come from unexpended General Capital funds that have accumulated from projects that came in under budget. There is currently \$135,000 in unexpended funds available in the General Capital Projects Fund. After the appropriation above, the remaining balance will be \$81,177. Staff recommends that the \$81,177 remaining in general capital reserves be allocated to the FY 2013-14 CIP.

Staff recommends that City Council approve a budget amendment in the amount of \$400,000 from Federal Transit Administration (FTA) funds, Transit Fund Capital Reserves and General Capital Project Reserves to purchase one 30-foot diesel bus using the current contract with Gillig, Inc.

**ORDINANCE BOOK NO. 28 - PAGE**

**C. RESOLUTION NO. 13-40 - RESOLUTION APPROVING LOCAL ALCOHOLIC BEVERAGE CONTROL BOARD PROPOSAL TO USE PROCEEDS FROM REAL PROPERTY SALES FOR CAPITAL PROJECT**

Summary: N.C. Gen. Stat. sec. 18B-805 (d) authorizes a local ABC board to set aside a portion of its gross receipts as a fund for special capital improvements, with the approval of the appointing authority. The City of Asheville Board of Alcoholic Control has requested approval by the Asheville City Council of its request to set aside the proceeds from the sale of the Board's old store at 209 Tunnel Road from its gross receipts for purposes of required distribution, so that the entirety of the sale proceeds may be used for use for planned capital improvements, specifically a new store at 650 Hendersonville Highway.

Mr. Jim Ellis, Chairman of the ABC Board, spoke in support of this action.

**RESOLUTION BOOK NO. 35 - PAGE 192**

**D. RESOLUTION NO. 13-41 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION TO REFLECT CHANGES TO COMPLY WITH FEDERAL AND STATE REQUIREMENTS**

Summary: The consideration of a resolution authorizing the Mayor to enter into a Memorandum of Understanding with the French Broad River Metropolitan Planning Organization (FBRMPO), which has been updated to reflect changes in population patterns during the last census and to comply with Federal and State requirements.

The FBRMPO operates under a memorandum of understanding (MOU) between all of the member counties, municipalities, and the North Carolina Department of Transportation. The FBRMPO exists under federal law to provide cooperative, comprehensive and continuing planning for transportation in the region.

The extent of the area for which the FBRMPO must plan is the urbanized area as determined by the population patterns reflected in the decennial census. The latest census (Census 2010) led to the expansion of the urbanized area, which now includes more of Buncombe County and parts of Madison and Transylvania Counties. The FBRMPO may enlarge the urbanized area so that the planning area boundaries make sense and are acceptable to the member jurisdictions.

Jurisdictions within the urbanized area, while represented by the FBRMPO, may choose whether or not to participate. As newly included jurisdictions in the urbanized area, the Town of Mars Hill and Madison County have chosen to join the FBRMPO as full members while Transylvania County has chosen to be only a non-voting, ex-officio member.

Under the last MOU, the FBRMPO boundary included some parcels that are in the Asheville watershed. Buncombe County has requested that these parcels be excluded from the new FBRMPO boundary and included in the adjacent Rural Planning Organization (RPO) area. The parcels are not in the urbanized area, they have no population and few jobs, and they adjoin the area in the northeast corner of the county that is already in the RPO.

Additionally, this MOU:

- Changes the name of the FBRMPO governing body from the "Transportation Advisory Committee" (TAC) to "MPO Board."

- Removes language in several sections that refers to the priority needs list and replaces it with more general prioritization language. The specific prioritization process language will be moved to the FBRMPO by-laws, which are adopted by the FBRMPO governing body. The prioritization process is regulated by the North Carolina Department of Transportation.
- Changes some terms used in former federal transportation bills to match those used in MAP-21, the current federal transportation bill.
- Spells out acronyms in the document.

In recent years, funding coming to the city through the FBRMPO includes:

- Ongoing funding for one transit planning position.
- Federal Transit Administration capital and operations grants.
- The Clingman Avenue streetscape project.
- ARRA transportation projects (resurfacing Kimberly Avenue, Coxe Avenue, constructing sidewalks on Choctaw Street, Evelyn Place, Hendersonville Road, Hilliard Avenue, and Linden Avenue and constructing bicycle facilities on Asheland Avenue, Choctaw Street, Coxe Avenue, Hilliard Avenue, and Martin Luther King Jr. Blvd).
- The RADTIP Study (Environmental Document).
- Upcoming Hendersonville Road and New Leicester Hwy sidewalk/pedestrian crossing projects.
- Upcoming Complete Streets workshop (\$8,000 special study money, 80% of anticipated costs, balance of \$2,000 from County Health Department, and free U.S. Cellular Center rent for session from City).

This action complies with the City Council Strategic Operating Plan in that continued membership in the FBRMPO will help support the Council's fiscal responsibility, safety, multimodal transportation and community development goals. It does this by leveraging partnerships for capital improvement and infrastructure projects, accessing any remaining Safe Routes to School funding, seeking partnerships for investments in greenway and sidewalk infrastructure, and partnering in key local and regional initiatives.

Council's Planning and Economic Development Committee reviewed this action at their February 26, 2013, meeting, and recommended Council approve joining the updated MOU.

Pros:

- Enables the FBRMPO to meet Federal and State requirements.
- Keeps the City as a voting member of the FBRMPO.
- Enables the City to have access to Federal and State funding.

Con:

- The City pays annual MPO dues of about \$18,000.

Currently, the annual dues are \$18,000 and they are included in the operating budget of the Transportation Department.

City staff recommends that City Council adopt the memorandum of understanding.

#### **RESOLUTION BOOK NO. 35 - PAGE 193**

- E. MOTION AUTHORIZING THE MAYOR TO SIGN A LETTER SUPPORTING THE MISSION OF THE MAYOR'S CHALLENGE FOR WATER CONSERVATION AND IN DOING SO RENEW THE COMMITMENT TO SUSTAINABILITY FOR ASHEVILLE AND FOR FUTURE GENERATIONS**

**F. RESOLUTION NO. 13-42 - RESOLUTION EXEMPTING THE NORTH FORK WATER TREATMENT PLANT DAM/TUNNEL EVALUATION & REPAIRS PROJECT FROM THE ANNOUNCEMENT REQUIREMENT OF N.C. GEN. STAT. SEC. 143-64.31 AND AWARDING AN ENGINEERING DESIGN SERVICES CONTRACT TO SCHNABEL ENGINEERING SOUTH, PC, FOR THE OUTLET WORK CONDUIT REHABILITATION**

Summary: The consideration of a resolution to exempt the North Fork Water Treatment Plant Dam/Tunnel Evaluation & Repairs Project from the architectural, engineering and surveying announcement requirement of NCGS §143-64.31; authorize the City Manager to execute an engineering design services contract with Schnabel Engineering South, PC, for the proposal amount of \$408,190.00; and authorize a contingency amount of \$20,410.00 for a total project budget of \$428,600.00 for the rehabilitation of the outlet works conduit at the North Fork Dam.

NCGS §143-64.32 allows a local government to exempt particular projects from the requirements of NCGS §143-64.31. The statute requires that architectural, engineering, and surveying services be announced for competitive selection. For several years, Water Production has used Schnabel Engineering to inspect the dams at the North Fork and William DeBruhl water plants and make recommendations for repairs or improvements. Schnabel is recognized as an expert engineering firm specializing in dam design, construction, and maintenance. On October 25, 2011, City Council also authorized Water Resources to enter into a professional services contract with Schnabel Engineering for the North Fork Water Treatment Plant Dam / Tunnel Evaluation & Repairs Project, which consisted of: (1) evaluating alternatives to address the spillway capacity, (2) a structural evaluation of the outlet works conduit, (3) evaluating the North Fork Dam spillway gates by performing gate inspections and a structural analysis of the gates, (4) conducting EAP training for plant staff, and (5) conducting subsurface investigations.

Water Resources is ready to move into the design phase of this project. Schnabel has presented a scope of work and cost proposal for engineering design services associated with the rehabilitation of the outlet works conduit at the North Fork Dam. The outlet works conduit is the 500-foot tunnel that runs from the intake on Burnett Reservoir, under the North Fork Dam, and to the water plant. This is the first part of the design phase and consists of providing field investigations, survey data, utility location services, structural design of the conduit rehabilitation, and a construction bid package with drawings and specifications.

Schnabel's cost estimate for the first part of the design phase is \$408,190.00. A 5% contingency amount of \$20,410.00 has been added for a total project budget of \$428,600.00.

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

Pro:

- Recognize Schnabel Engineering as the most qualified engineering firm to design the outlet works conduit rehabilitation by exempting the North Fork Water Treatment Plant Dam/Tunnel Evaluation & Repairs Project from the announcement requirement of NCGS §143-64.31.

Con:

- None.

The funding needed for the contract and the contingency is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution to exempt the North Fork Water Treatment Plant Dam/Tunnel Evaluation & Repairs Project from the architectural, engineering

and surveying announcement requirement of NCGS §143-64.31; authorize the City Manager to execute an engineering design services contract with Schnabel Engineering South, PC, for the proposal amount of \$408,190.00; and authorize a contingency amount of \$20,410.00 for a total project budget of \$428,600.00 for the rehabilitation of the outlet works conduit at the North Fork Dam.

**RESOLUTION BOOK NO. 35 - PAGE 194**

**G. RESOLUTION NO. 13-43 - RESOLUTION TO AMEND THE 2010-11 ACTION PLAN TO MT ZION DEVELOPMENT CORPORATION FOR WORKFORCE HOUSING FEASIBILITY ANALYSIS**

Summary: The consideration of a resolution amending the 2010-2011 Consolidated Annual CDBG and HOME Action Plans, to grant additional funds to Mount Zion Development Corporation to complete feasibility analysis for a proposed affordable and workforce housing rental rehabilitation project.

In 2010, the Mt Zion Development Corporation was granted \$50,000 of CDBG funds for housing services for pre-development costs for an affordable and workforce housing development in the three historic mill buildings located on the property on the Mt Zion Church, located at Eagle and Market Streets.

As a result of that pre-development work, a 50 unit development was proposed, that included 10 housing units affordable to households earning 80% of median income and 40 workforce units that would be affordable to households earning 100% of median income. However, in the interval between the original planning and now, the financing environment changed. The estimated cost of the project is significantly higher than the lender-appraised value of the completed project, leaving a significant financing gap.

Mt Zion Development Corporation has proposed a strategy to determine whether the appraisal, proposed market for the project and construction plan can be modified to deliver the project. That strategy involves three major components:

- Contract for a new appraisal: The appraisal performed by the lender used questionable comparables, and did not include recent downtown Asheville transactions. Staff agrees that these are deficiencies that may have contributed to an undervaluing of the Mt Zion land.
- Contract for a new market study: The initial market study was based upon certain criteria about the market to be served by the project, especially the maximum rentals for "workforce housing" located in downtown Asheville. If these criteria were changed, and the market analysis supported the existence of sufficient market for a different rental structure, the project could potentially support more debt.
- Perform value engineering of the proposed construction: The construction plan results in costs that cannot be supported by the current available financing scenarios.

The estimated cost of these elements is \$13,000. The recasting of financial pro-formas, preparation of new financing applications, and the management of the additional tasks will be accomplished by Mount Zion Development Corporation with non-federal funds.

Pros:

- The proposed actions will provide essential information to determine whether the project, as planned, can attract sufficient financing for its development.
- The proposed action will enable the feasibility analyses to move forward quickly.

Cons:

- The proposed funding will not be returned into the funding pool for reallocation during the annual competitive cycle.

- If the information gleaned from the analyses indicates the project is not feasible, a different project may need to be developed to address the historic vacant mill buildings owned by the Mount Zion Church.

The proposed amendment governs the use of federal funds already allocated to the City. No City general funds are affected.

The HCD Committee recommends approval of the Action Plan Amendment that would grant Mount Zion Development Corporation an additional \$13,000 to perform the additional feasibility analyses, as proposed.

#### **RESOLUTION BOOK NO. 35 - PAGE 196**

#### **H. RESOLUTION NO. 13-44 - RESOLUTION TO AMEND THE 2012-13 ACTION PLAN TO ALLOW MOUNTAIN HOUSING OPPORTUNITIES TO RETAIN TIER II EMERGENCY REHABILITATION PROGRAM INCOME FOR ADDITIONAL TIER II EMERGENCY REPAIR ASSISTANCE**

Summary: The consideration of a resolution amending the 2011-2012 and 2012-2013 Consolidated Annual CDBG and HOME Action Plans, and past Action Plans, to allow Mountain Housing Opportunities to retain CDBG program income, generated through its Emergency Repair Tier II program for use in that program.

Mountain Housing Opportunities operates CDBG-funded Emergency Repair programs. These programs provide very-low income, special need homeowners with emergency repairs that enable these homeowners to remain in their existing housing. Repairs up to \$5,000 are made in the Tier I program; repairs up to \$15,000 are made in Tier II. Tier II assistance is secured by a forgivable lien on the property, with 10% of the assistance amount forgiven each year, with the entire assistance then forgiven at the end of ten years from the date of project completion. If the homeowner is not able to occupy their property for the full ten years, the pro-rated portion of the assistance must be repaid.

MHO provided Tier II assistance to a client who, passed away a little more than 1 year after her home was repaired. The unforgiven portion of the assistance was repaid to MHO by the estate. MHO requests that their CDBG grant agreement (and past and future agreements for this program) be amended to allow these funds (which are program income) to be continued to be used in Emergency Home Repair Tier II program and assist other low income special-needs homeowners in Asheville. Program income is rare in the Tier II model- this is the first program income that has been available in the last six years. MHO indicates it has a significant waiting list for these services.

HUD allows CDBG Entitlement communities to determine how program income is to be used. It can be collected by the City and returned to the CDBG pool for reallocation; or the subgrantee can be given permission to retain the program income. In either case, the program income is treated the same as the original CDBG funds, and its use must comply with all CDBG rules and regulations. If the City allows the subgrantee to retain program income, it must execute a written agreement with the subgrantee regarding the use of the program income.

This action meets the Council Strategic Goals of Affordable by supporting the preservation of affordable homeownership, providing safe, sufficient and affordable housing.

Pro:

- The proposed action will enable program income generated through the Tier II Emergency Repair program to be used for additional emergency repairs, without requiring a specific application from Mountain Housing Opportunities for the reuse of the funds .



Con:

- The program income generated by this program, although rare, would not be put back into the funding pool for reallocation during the annual competitive cycle.

The proposed amendment governs the use of federal funds already allocated to the City. No City general funds are affected.

The HCD Committee recommends approval of the Action Plan Amendment that allows Mountain Housing Opportunities to retain the Tier II program income generated through the Tier II Emergency Repair program for ongoing use as Tier II Emergency Repair funding.

**RESOLUTION BOOK NO. 35 - PAGE 197**

**I. RESOLUTION NO. 13-45 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO CHANGE THE MARCH 26, 2013, FORMAL MEETING TIME TO 2:30 P.M.**

**RESOLUTION BOOK NO. 35 - PAGE 198**

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

**III. PRESENTATIONS & REPORTS:**

**A. PLANNING & ZONING COMMISSION UPDATE**

Mr. Nathaniel Cannady, Chair of the Planning & Zoning Commission, briefed Council on their activities of the past year and goals for the upcoming year.

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

**B. PUBLIC ART & CULTURAL COMMISSION UPDATE**

Mr. Robert Todd, Chair of the Public Art & Cultural Commission, briefed Council on their activities of the past year and goals for the upcoming year. He said that in order to move forward with the amount of work they are accomplishing, they asked for Council's support for a full-time dedicated leadership position.

Mayor Bellamy stressed how the arts have a significant impact on our economy and was confident that the kinds of resources the Commission is eager to see will ultimately come about as the City structures the organization over the next few months.

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

**C. LEGISLATIVE UPDATE**

**RESOLUTION NO. 13-48 - RESOLUTION SUPPORTING A WESTERN CRIME LABORATORY**

Deputy City Manager Jeff Richardson highlighted for Council some legislative issues of interest as follows: (1) Asheville transfers (HB 252); (2) maintaining water and sewer fiscal health (SB 207 = HB 238); (3) ongoing good faith negotiations with MSD; (4) communications; (5) continuing to track resolutions (48) passed throughout North Carolina; (6) annexation amendment (HB 79); (7) property tax/de-annexation SB 97); (8) HB 224 Asheville extra-territorial jurisdiction and annexation (Asheville only); (9) HB 150 zoning/design and aesthetic controls; (10) SB 125 public meeting/records law; (11) building inspections/local consistency (HB 120); (12) SB 186 notice publication by counties/cities; (13) western crime lab funds/amend evident laws (SB 3); (14) operation of mopeds (HB 48); and (15) repeal combined motor vehicle registration/tax system (HB 30). Discussion surrounded the different legislative issues.

In response to Councilman Smith and Mayor Bellamy, City Attorney Oast said that he will look into more detail the type of mopeds the law would apply to and report back to Council.

Mayor Bellamy felt we need legislation immediately to help communities deal with synthetic drugs.

City Attorney Oast presented Council and read a resolution supporting a western crime laboratory, which he felt Council might wish to adopt and send to our legislators.

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

Councilman Bothwell moved for the adoption of Resolution No. 13-48. This motion was seconded by Councilman Davis and carried unanimously.

#### **RESOLUTION BOOK NO. 35 - PAGE 202**

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO AMEND AND ADOPT RULES OF PROCEDURE FOR ASHEVILLE CIVIL SERVICE BOARD**

##### **RESOLUTION NO. 13-46 - RESOLUTION AMENDING AND ADOPTING RULES OF PROCEDURE FOR ASHEVILLE CIVIL SERVICE BOARD**

Human Resources Director Kelley Dickens said that this is the consideration of a resolution amending and adopting Rules of Procedure for the Civil Service Board to promote efficiency in the classified service. This public hearing was advertised on March 1, 2013.

The Civil Service law has undergone various changes since its inception in the early 1930's, the most recent of which occurred in 2009. The Board's Rules of Procedure have not been updated to reflect the most recent changes in the law.

The proposed recommended Rules of Procedure provides current procedures to guide the Board in conducting meetings and hearings. It includes language from the law outlining the duties and responsibilities of the Board and provides guidance to and direction on procedures as it relates to grievance hearings.

There are minor, clerical revisions which are not summarized, however, below is a summary of the substantive revisions:

1. Rule A. was revised to update the language regarding the most recent amendments to the Civil Service Law. In addition, the Board requested that language be added regarding the authority of the Board to hear grievances and to add that the Board had other powers and duties as authorized by the Civil Service Law.

2. Rule C.3. was revised to include the 2009 amendments to the Civil Service Law designating the City Clerk or his/her designee as the Secretary to the Civil Service Board. In addition, language was added that the minutes should otherwise comply with North Carolina law for minutes of public bodies.

3. Rule E.3. was revised, at the request of the Civil Service Board, to reflect that its meetings, as required by the 2009 amendments to the Civil Service Law, shall be set by the Board adopting a regular meeting schedule of each year. Other revisions were made to Rule E.3 regarding the "other business" item on the agenda to comply with changes to the Civil Service Law.

4. Rule E.4. was revised, at the Board's request, to remove the requirement for holding two work sessions during each calendar year.

5. Rules F.1. and F.2. were revised to remove the inaccurate reference to subsection H.

6. Rule G.3. was revised to confirm that discussion of grievances may occur during a closed session during or following the hearing on the grievance.

7. Rules H.1. and H.2. were revised to comply with amendments to the Civil Service Law in 2009.

8. Rule H.6. was revised to comply with the decorum required for attorneys in North Carolina that they generally remain seated.

9. Rule H.7.b. was revised to include excusing a Board member if bias is shown.

10. Rule H.8.b. was revised to provide that materials and documents will not be submitted to the Civil Service Board until the hearing in order to prevent prehearing bias.

11. Rule H.8.c. was revised to clarify that the doubt raised was about the type of testimony given.

12. Rule H.9. was revised to conform to language of the Civil Service Law.

13. Rule H.10. was revised to conform to language in the Civil Service Law. The Civil Service Law does not address tie votes, but tie votes result in a motion failing and other motions are possible.

She noted one change that was not reflected in the proposed rules sent to Council. Under E.4 - the Board shall have the option of holding two work sessions each calendar year.

The Rules are intended to repeal all other previously adopted rules and regulations of the Board which have not kept pace with the changes in the law.

The proposed Rules of Procedure have been approved by the Civil Service Board members after meetings with City staff and the Board's attorney.

Pros:

- Align the document with the most recent amendments of the Civil Service Law
- Better clarify the Civil Service Board's authority and purpose

Con:

- None

The City's Human Resources Department recommends that City Council approve the resolution amending the Rules of Procedure.

At 6:14 p.m., Mayor Bellamy opened the public hearing, and when no one spoke, she closed the public hearing at 6:14 p.m.

Mayor Bellamy 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. 13-46. This motion was seconded by Councilman Bothwell and carried unanimously.

## **RESOLUTION BOOK NO. 35 – PAGE 199**

### **V. UNFINISHED BUSINESS:**

#### **A. CONSIDERATION OF BY-LAWS FOR THE ASHEVILLE DOWNTOWN IMPROVEMENT DISTRICT INC.**

Ms. Susan Griffin, Chair of the Asheville Downtown Improvement District Inc. (DID) Board, said that downtown Asheville is dirty and downtown residents want to work in partnership with the City to clean it up. They are bringing a \$450,000 gift (in the form of a special tax assessment on themselves) to get the job done. They need the organizational framework to sign contracts with the City and service providers and create a structure that will enable them to transact their business efficiently. The framework is designed in the by-laws which have been unanimously approved by the DID Board. All of this falls within state statute which guarantees the City ultimate financial oversight on anything the DID does. They look forward to keeping downtown the economic driver in this region.

Mr. Rick Jackson, Chair of the DID By-laws Committee, said the starting point of their by-laws is from the by-laws from the DID Board in Durham, North Carolina. The interim DID Board revised the starting point to capture the uniqueness of Asheville. The attempt of the categories of the directors is to be more inclusive in soliciting feedback to the Board. They reduced the size of the Board from 15; made the executive director a non-voting member of the executive committee; and assured that committees cannot make major decisions. Any amendments to the articles or the by-laws are subject to City Council approval, noting out of the 15 member board, five of the directors are appointed by the City Council. Separate from the by-laws, City Council has oversight already in the form of the contract yet to be negotiated between Council and the DID Board, in addition to Council's annual approval of the BID Board's budget. He then outlined the membership of the DID Board: ex-officio voting member - member of Asheville City Council or designee; ex-officio voting member - member of Buncombe County Commission or designee; ex-officio voting member - member of Asheville Downtown Association (as appointed by the Asheville Downtown Association); three major real estate property owners - one appointed by City Council; three small/medium real estate property owners - one appointed by city Council; two residents living within the DID area; one office tenant - appointed by City Council; two members who own or operate a retail business or restaurant; and homeless service provider - appointed by City Council. He asked for Council's approval of the by-laws.

Councilman Hunt said that Council has approved this in concept. In two weeks, Council will approve the budget and setting a tax rate. At the Council's worksession held earlier in the day, Council very much wanted to review their budget, however, due to a mis-communication, the DID Board was not attend to present their budget. Council requested they receive the DID's budget by March 18.

Ms. Griffin said that the DID Board will be meeting on Thursday, March 14, and they will be discussing their budget at that time. They will get the information to City staff to make sure that the format is amenable to City Council.

Councilman Hunt said that the by-laws presented to Council did not include the following amendments, which are acceptable to the DID Board. Those changes are:

1. Article II - 6 (e) - Notwithstanding the foregoing, the Asheville City Council shall appoint one director from Section 2(a), one director from Section 2(b), one director from Section 2(d), and one director from Section 2(f) of this Article IV, to fill a vacancy in the Board of Directors in each such category. At any point in time there shall be no more than one director in each such category who has been appointed by the Asheville City Council.
2. Article VI - 2 - Delegation of Authority - Pursuant to specific resolution, the Board may delegate to a committee any power or powers other than those set forth in subparagraphs (a) through (c) of Section 1 of this Article VI above. As a further limitation on the delegation of its powers, the Board may not delegate its power to recommend or establish a tax rate within the District, approve or enter into contracts for the provision of services within the District, or to determine which services to provide within the District. Persons other than directors may be appointed to any such committees except the Executive Committee, the Nominating Committee, the Finance Committee or other committees with delegated executive powers (e.g., a personnel committee); provided, however, a member of a committee must be an individual member of the Corporation or a Qualified Representative of an Entity which is a member of the Corporation.
3. Article VI - 3 - Executive Committee - The Corporation shall have an Executive Committee whose members shall be comprised of the officers of the Corporation, the Chair of the Board, the immediate past Chair of the Board of Directors, the respective chairpersons of all of the Corporation's other committees, if any, and any other directors appointed by resolution of the Board of Directors. The Chair of the Executive Committee shall be the Chair of the Board of Directors. There shall be no less than five (5) and no more than nine (9) members of the Executive Committee. The Executive Committee shall make recommendations to the Board of Directors. In addition, the Executive Committee shall act for and on behalf of the Board of Directors when the Board is not in session only for matters delegated to the Executive Committee by the Board. As a further limitation on the delegation of its powers, the Board may not delegate its power to recommend or establish a tax rate within the District, approve or enter into contracts for the provision of services within the District, or to determine which services to provide within the District. The Executive Committee shall be accountable to the Board for its actions. The Executive Committee may request that the Executive Director be excused from the Executive Committee meeting from time to time in order to discuss and determine the Executive Director's salary and performance review. The Executive Director shall be a non-voting member of the Executive Committee.
4. Article XIV - These Bylaws may be amended or repealed and new bylaws may be adopted by an affirmative vote of a majority of the directors then in office. The Articles of Incorporation may be amended by an affirmative vote of a majority of the directors then in office. Members of the Corporation (other than in their capacity as directors) are not entitled to vote on any amendments to Bylaws or Articles of Incorporation. Any amendments to the Articles of Incorporation and the Bylaws are subject to the approval of Asheville City Council.

Mr. Jackson said that regarding Article XIV, general Board decisions are going to be quorum and then a majority of those present (example, for 15 members, the quorum is 8 and 4 would be a passing vote). With the exception of by-laws and amendments, that is majority of all directors - for 15 members, quorum of 8 plus City Council approval.

Councilman Hunt appreciated the diligence and work of the DID Board and moved to approve the bylaws of the Asheville Downtown Improvement District Inc., with the four amendments outlined above. This motion was seconded by Councilman Davis.

Councilman Bothwell understood that Council approved the DID Board with two seats for homelessness system experts. He felt it was wrong to turn over tax money to a body whose membership and voting power is determined by wealth.

In response to Mayor Bellamy, Mr. Jackson said that directors may not serve more than 2 consecutive terms, but having skipped one year may again serve as director.

After Mayor Bellamy requested that the DID Board be required to report their activities to City Council on an annual basis, as other boards/commissions do, it was discussed that City Council will have to approve their budget annually; however, it was the consensus of Council that the annual report requirement will be written into their contract, similar to other outside agency contracts.

Mayor Bellamy was disappointed that the DID Board was not at their earlier worksession to discuss their budget, noting that Council will expect a detailed budget (including detail on their exact services to be provided) by March 18. Ms. Griffin said that they were not aware of the earlier worksession as they have been working towards the March 26 Council meeting deadline. She said they would provide the detailed budget to City Council by March 18.

In response to Mayor Bellamy's question about the elimination of the second homelessness service provider on the Board, Mr. Jackson said it wasn't a reflection on the significance of that position as much as it was striking a balance across the rest of the seats. The reduced their membership from 19 to 15 and there was a balance across the categories that they attempted to preserve. The intent of the membership recognizes that we need other non-profits at the table, and the current existing framework is flexible enough to include others even if they don't pay taxes (a nominal or in-kind recognition would be sufficient for a financial contribution for that party to have a seat on the Board). Councilman Davis (ex-officio voting member on the DID Board) also responded that he is also Chair of the Housing & Community Development Committee and can carry that knowledge to the Board. He felt with that with Micheal Wood and Stephanie Swepson-Twitty on the Board, we are reaching a great deal of the homeless service community. He also noted that there will be several opportunities for other service providers on the subcommittees that will be established by the DID Board.

Mayor Bellamy said that there are some renters who are very active in their buildings, who are low income, but they don't pay property taxes. They would like a seat at the table. She hoped that as Council talks about our five appointments that we will keep in mind that there are renters who want to be a part of this conversation.

When Mayor Bellamy questioned if most of the membership has to make a financial contribution to be on the Board, Mr. Jackson said yes. He said that "a minimum of 70% of the Board shall be those who make a financial contribution to the Corporation through the payment of real estate taxes attributable to the DID and the remaining directors shall live or work in the district and be a person who makes a financial contribution to the Corporation, such financial contribution to be defined from time to time by resolution of the Board of Directors."

Councilman Smith thanked everyone for their hard work on this but noted that everyone agrees with the outcomes. He still has some concerns even though he voted to move this forward at the earlier meeting. He really wants to see the budget and what the priorities of the Board will be before he can vote for a tax increase to fund it, and to turn over the administration of that money to an appointed board. He did not want to vote in favor of the by-laws and then see the budget and not be able to support it. He did have concern about the homeless service providers but understood what the Board has done about that to allow City Council to address that issue with our appointments. At this point he cannot support the by-laws, without seeing the budget.

In response to Councilman Hunt, City Attorney Oast said that if Council feels that seeing the budget first, before approving the by-laws, is important, then it is appropriate to continue approval of the by-laws.

Councilman Hunt withdrew his motion to approve the by-laws for the Asheville Downtown Improvement District Inc., and Councilman Davis withdrew his second.

Councilman Davis moved to continue consideration of approval of the by-laws for the Asheville Downtown Improvement District Inc. to March 26, 2013. This motion was seconded by Councilman Smith and carried unanimously.

## **VI. NEW BUSINESS:**

### **A. ORDINANCE NO. 4170 - ORDINANCE AMENDING ARTICLE III OF THE CITY CODE OF ORDINANCES RELATING TO MASSAGE AND BODYWORK THERAPY REGULATIONS**

Assistant City Attorney Kelly Whitlock said that this is the consideration of amendments to Article III of the City's Code of Ordinance relating to massage and bodywork therapy regulations.

The Massage and Bodywork Therapy Practice Act (N.C.G.S. §§90-621 et seq) was enacted by the North Carolina General Assembly in 1998 in which licensure became mandatory for all practicing massage and bodywork therapists. The North Carolina Board of Massage and Bodywork Therapy ("Board") is the agency responsible for implementing and administering the regulatory program for individual therapists and for schools of massage and bodywork therapy. The Board is authorized to evaluate the qualifications and requirements of applicants for licensure and enforce the laws and rules related to the practice, which includes disciplinary action. Pursuant to the Act, cities can regulate massage and bodywork therapists as long as cities do not impose regulations that are inconsistent with state law.

In addition to obtaining a license to practice, massage and bodywork therapists are required to obtain a statewide privilege license pursuant to N.C.G.S. §105-41. Under this law, cities may not levy an additional privilege license tax on professionals who are required to have this statewide privilege license.

The City's current massage therapy ordinance was first enacted in 1995 and requires massage and bodywork therapists and establishments to apply for and obtain a City privilege license. It further requires licensees to file with the Chief of Police the names, addresses, and numbers of all employees and to maintain records of the names and addresses of the persons receiving massages at such establishments which are subject to inspection by the Chief of Police. The current ordinance also consists of the following prohibitions: 1) massages before 8:00 am or after 10:00 pm; 2) massages to any person under the age of 21 except if accompanied by a parent or guardian or upon written order of a physician; 3) the employment of any person under the age of 21 years in the operation of a massage business; and 4) massaging of private parts of

another for hire. The privilege license is subject to revocation or suspension if a violation of the ordinance occurs.

The City's ordinance has not been revised since it was first enacted and revisions to the ordinance are required in order to be consistent with state law. In addition, after thorough review, certain regulations have been deemed unnecessary for effective enforcement and should be updated.

The proposed ordinance consists of the following revisions to be consistent with state law:

- 1) Revision of definitions section
- 2) Deletion of City privilege license requirements
- 3) Revision of the prohibition of employment of minors under the age of 21 in massage therapy establishments to minors under the age of 18.

The proposed ordinance contains the following deletions and revisions for more effective enforcement:

- 1) Deletion of the requirement that names, addresses and phone numbers of employees in massage therapy establishments must be filed with Chief of Police
- 2) Deletion of the requirement that massage therapy establishments maintain records of persons receiving massages and subject to inspection by the Chief of Police
- 3) Revision of the prohibition of hours of operation from 10:00 p.m. to 8:00 a.m. to 11:30 p.m. to 5:00 a.m.
- 4) Revision to the prohibition of massages to minors under the age of 21 to minors under the age of 18 except if accompanied by a parent or upon written order of a physician

Staff reviewed the massage therapy and bodywork ordinances of 8 North Carolina cities in addition to the City's and found that Asheville's ordinance was one of the most restrictive ordinances among the cities reviewed.

On January 28, 2013, the Public Safety Committee approved the proposed ordinance revisions and requested that staff implement outreach to massage and bodywork therapists and establishments to gather input on the proposed revisions prior to staff's presentation to City Council.

Pursuant to the Public Safety Committee's recommendation, City staff sent a letter explaining the proposed revisions to the ordinance with links to a survey and the current and revised ordinances to 417 practitioners using a mailing list provided by the NC Board of Massage and Bodywork Therapy. 49 respondents completed the online survey.

Responses suggest that the majority of the respondents favor all the suggested revisions to some degree. Four respondents suggested defining hours of operation from 7 a.m. to 10-11:00 p.m. Six respondents commented that there should be no restrictions placed on the hours of operation. One respondent stated that the restriction on the hours of operation furthered the perception that massage was an illicit practice, while two other comments stated that limiting the hours of operation was necessary to discourage illegal behavior. One respondent commented that the prohibition of massages to minors under the age of 18, except if accompanied by a parent or upon written order of a physician, was not necessary.

Revision to Ordinance	Survey Response		
	Favor to some degree	Neither favor nor oppose	Oppose to some degree
Deletion of requirement to file clients' names,			12%



addresses and phone numbers with Police Chief	84%	4%	strongly opposed
Deletion of requirement to maintain records on clients for inspection by Police Chief	80%	4%	16%
Revision of prohibition on hours of operation to between 11:30 p.m. and 5 a.m.	53%	18%	29%
Revision of prohibition of massage to minors under the age of 18 except if accompanied by a parent or upon written order of a physician	90%	6%	4%

This action complies with City Council's Strategic Operating Plan in the Safe Goal. Goal I: Make Asheville one of the safest cities in America based on approved metrics for similarly sized cities.

Pros:

- Proposed ordinance is consistent with state law.
- Less restrictions on ability of massage therapists and establishments to operate their business.
- Hours of operation expanded for massage therapists and establishments.
- Persons of the age of 18, 19 or 20 are permitted to receive massages without a doctor's order or parental accompaniment.
- Persons of the age of 18, 19 or 20 are permitted to work in a massage therapy and bodywork establishment.

Cons:

- Although hours of operation are expanded, a restriction remains.
- Minors under the age of 18 are restricted from receiving a massage unless accompanied by a parent or upon written order of a physician.

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

Ms. Kimberly Williams, Director of the N.C. School of Advanced Bodywork, explained how massage therapy is paramount to health care and supported the amendments.

Brother Christopher Chiaronmonte felt the hours should be no limitation on the number of hours someone can get a massage, as some people do not work regular hours.

One of the owners of Massage Envy urged City Council to adopt the proposed changes.

A bodywork therapist and health practitioner felt the entire article needed to be revised, and offered her services.

In response to Councilman Pelly, Ms. Whitlock said that the definitions in proposed ordinance are in line with the State law.

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

Councilman Smith moved for the adoption of Ordinance No. 4170. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 28 – PAGE**

**B. RESOLUTION NO. 13-47 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE CITY BOARD OF EDUCATION**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville City Board of Education.

The terms of Gene Bell, Al Whitesides and Peggy Dalman expire on April 1, 2013. Mr. Bell and Mr. Whitesides are not eligible for reappointment.

The following individuals have applied for the vacancy: Annette McClure, Leah Ferguson, Matthew Buys, Drew Shelfer, Cheri Torres, Patricia Griffin, Kathryn Liss, Andrew Cross, Dee Williams, Ann Sharky Ward, James Lee, John Brigham and George Sieburg.

It was the consensus of City Council to interview Ms. Dalman, Ms. Ferguson, Mr. Buys, Ms. Torres, Mr. Lee and Mr. Sieburg. Ms. Dalman and Mr. Buys were not able to attend the interview sessions and contacted Council members individually for phone interviews. The other interviews took place earlier in the day.

Council spoke highly of all the very qualified candidates and after noting it was a hard decision, Peggy Dalman received 7 votes, Leah Ferguson received 5 votes, Matt Buys received 7 votes, Cherri Torres received no votes, James Lee received 1 vote, and George Sieburg received 1 vote.

Councilman Hunt moved (1) to reappoint Peggy Dalman as a member of the Asheville City Board of Education, to serve an additional four year term, term to expire April 1, 2017; and (2) appoint Leah Ferguson and Matt Buys, as members of the Asheville City Board of Education, to each serve a four year term respectively, terms to begin April 1, 2013, and expire April 1, 2017. All terms are until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

City Council thanked the Asheville City School Foundation for their outreach for candidates. City Council will work with the School Board to help achieve the School Board's goals.

**RESOLUTION BOOK NO. 35 – PAGE 200**

**C. REVIEW OF RECRUITMENT PLAN FOR CITY ATTORNEY**

Human Resources Director Kelley Dickens said that the following is a proposed recruitment and selection plan prepared by Human Resources staff for the position of City Attorney.

Given the announcement of the retirement of the current City Attorney, Human Resources staff has prepared the following proposed recruitment and selection plan for Council's consideration and review. Human Resources would recommend that the personnel committee work to narrow the applicant pool and work with staff to ensure the selection process meets the Council expectation.

*Proposed Recruitment and Selection Timeline*

March 14:	Begin Recruitment for City Attorney position.
April 15:	Tentative date for Application Review Process to begin
April 16 – 22:	Applications reviewed by committee to narrow applicant pool
April 23 – 25	Top 6-8 candidates contacted by staff for first component of selection process
May 1– 3:	First component reviewed by panel/committee to narrow applicant pool further
May 3 – 6:	Identify top candidates for an on-site assessment process

May 8 – 10: Staff contacts candidates for the on-site selection process  
May 20 – 24: Onsite assessment process with top candidates  
May 28 – 31: Assessment process results reviewed  
June 1 – 7: Reference checks, conditional offer, pre-employment screening completed  
June 10 – 14: Final Offer extended and candidate gives notice to current employer.

A targeted start date for a newly appointed City Attorney would be most likely between the end of July and the end of August, given that top candidate may need to give a notice of 30 to 60 days if currently employed.

The proposed timeline above is an aggressive schedule and could be impacted by a variety of factors throughout the process. Staff will work with City Council as necessary to coordinate schedules and manage the process and timeline. During the first phase of the process, it is recommended that staff work with the personnel committee on establishing the selection process components and details.

Given the proposed timeline above, there will be a need for City Council to appoint an Interim City Attorney at some point. While it is possible a new City Attorney may be identified by the end of June it is not expected they will begin work until after the current attorney's retirement. However, due to the fact that the current City Attorney will be working through the end of June, Council has time to consider the options and an appropriate process and timeline to appoint an interim.

#### *Recruitment Efforts*

Staff will utilize a variety of outlets in an effort to recruit a strong pool of candidates. The information below provides an overview of the planned efforts.

Standard websites and efforts that are used in other recruitment efforts:

- City of Asheville Website
- Governmentjobs.com
- Careerbuilder.com
- Localjobs.com
- theurbannews.com
- City of Asheville Job Opportunities Diversity Network Email List

Professional Organizations:

- North Carolina League of Municipalities
- NC Association of County Commissioners
- Lawyer's weekly (NC professional magazine)
- UNC School of Government related listservs (Local Govt Lawyers, Managers, etc.)
- North Carolina Bar Association
- Linkedin posting for associations listed who have an account

Universities and Diversity Organizations:

- NC Association of Women's Attorneys
- NC Association of Black Lawyers
- NC Law School Alumni Associations

While there will be expenses associated with the recruitment and selection process, these can be covered by the current departmental budget allocations.

City staff recommends City Council authorize staff to begin the recruitment process.

In response to Mayor Bellamy about the length of service requirement between 6-9 years, City Attorney Oast said anything less than five years is not something Council should

consider, but also Council would not want to prohibit a candidate that has more than nine years experience from applying.

In response to Mayor Bellamy, Ms. Dickens said that they will review the job classification specifications to make sure that it reflects that the candidates understand North Carolina law. In addition, she will provide benchmark compensation data so we can be competitive in our search.

In response to Councilman Pelly, Ms. Dickens said that per Council direction, staff will be proceeding with handling this recruitment effort.

When Mayor Bellamy asked about next steps, Ms. Dickens recommended the Human Resources staff screen the applications for minimum qualifications (deadline of April 15) and then work with the City Council Personnel Committee to narrow them down and they can present as many as the Personnel Committee wishes to the full Council. Or, Human Resources staff could narrow the candidates to the top five and they be presented to City Council for review.

Mayor Bellamy said the Personnel Committee is established (herself, Vice-Mayor Manheimer and Councilman Smith) and a meeting will be scheduled soon to talk about how many candidates should be presented to the full Council for review.

It was the consensus of Council to direct City staff to begin the city attorney recruitment process as outlined above.

#### **D. BOARDS & COMMISSIONS**

Regarding the Greater Asheville Regional Airport Authority, the following individuals applied for the vacancy: Albert Anderson, Bradley Cain, Julian Jones, Aixa Wilson, Ken Hawkins, Charles Larrick, John Hayler and George Lycan. It was the consensus of the Boards & Commissions Committee and City Council to re-advertise.

Regarding the Citizens-Police Advisory Committee, the following individuals have applied for the vacancy: Karl Katterjohn, Fred Cooke and Scott Steele. Because the vacancy is for a south representative and no one from the south applied, it was the consensus of Council to re-advertise for a south representative.

Regarding the Neighborhood Advisory Committee, the following individuals with the 28803 or 28704 zip code have applied for the vacancy: Teddy Jordan, Aixa Wilson and Spencer Hardaway. It was the consensus of the Boards & Commissions Committee and City Council to re-advertise.

#### **RESOLUTION NO. 13-48 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Community Relations Council.

Ms. Itiyopia Ewart resigned on January 13, 2013, thus leaving an unexpired term until December 31, 2013.

The following individuals have applied for the vacancy: Melissa Blazen, George Pfeiffer, Christine Longoria, Jesse Andrews, Sandra Houts and Tracy Miles.

It was the consensus of the Boards & Commissions Committee (and of the Community Relations Council) to appoint Tracy Miles.

Councilman Smith moved to appoint Tracy Miles as a member of the Asheville-Buncombe Community Relations Council, to serve the unexpired term of Ms. Ewart, term to expire December 31, 2013, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

**RESOLUTION BOOK NO. 35 – PAGE 201**

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Councilman Davis thanked everyone involved in Asheville's hosting the Southern Conference March 8-11 at the U.S. Cellular Center and at UNC-Asheville.

Brother Christopher Chiaromonte spoke about the homeless issue in Asheville.

Mr. Timothy Sadler spoke about the lack of two homelessness service providers on the DID Board. Mayor Bellamy requested City Clerk Burleson provide Council and Mr. Sadler with a copy of the minutes where that discussion occurred.

Mr. Fred English asked for Council's assistance in repairing Pressley Road from sewer line work. Mayor Bellamy requested City Manager Jackson to contact the Metropolitan Sewerage District and advise them of the concern.

**Closed Session**

At 7:52 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville; Mayor Terry M. Bellamy; Cecil Bothwell; Jan B. Davis; Marc W. Hunt; Christopher A. Pelly; Gordon D. Smith; W&K Hotels, LLC d/b/a Four Points by Sheraton; Hospitality Lodging Investors, II, LP, d/b/a Hotel Indigo; and Nesbitt Asheville Venture, LLC d/b/a The Renaissance Hotel. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 8:21 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Hunt and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:21 p.m.

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CITY CLERK

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MAYOR