

Tuesday – November 12, 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; Interim City Attorney Martha Walker-McGlohon; and Deputy City Clerk Jaime Matthews

Absent: None

**PLEDGE OF ALLEGIANCE**

Several Boy Scouts led City Council in the Pledge of Allegiance.

**INVOCATION**

Mayor Bellamy said that this was her last Council meeting after 14 years of serving the citizens of Asheville. She was extremely grateful to have the honor of serving as Mayor and thanked the citizens of Asheville for making her a stronger person.

**I. PROCLAMATIONS:**

**II. CONSENT AGENDA:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 22, 2013**
  
- B. RESOLUTION NO. 13-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON-MATCHING GRANT ADJUSTMENT NOTICE FROM THE N.C. DEPT. OF CRIME CONTROL & PUBLIC SAFETY FOR THE PROCUREMENT OF EQUIPMENT AND TRAINING FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE**  
  
**ORDINANCE NO. 4246 - BUDGET AMENDMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE**

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a non-matching Grant Adjustment Notice from the N.C. Dept. of Crime Control and Public Safety, Division of Emergency Management, for the procurement of equipment and training funds to be used by Hazardous materials Regional Response Team 6 – Asheville; and (2) the associated budget amendment, in the amount of \$17,500.

The U.S. Department of Homeland Security and the Office of Domestic Preparedness has made funds available through State Homeland Security Grant Number: FY 2011-SS-00119-S01-1056 to implement the State Homeland Security Strategy. The strategy identifies the NC Hazardous Materials Regional Response Teams (RRT) as an integral component of North Carolina's preparation and response to manmade and natural emergencies and disasters. The purpose of the grant is to purchase specialized equipment to be used on-scene and to prepare for threatened or actual weapons of mass destruction or domestic terrorists' attacks or major disasters and to train for such events.

There are seven Regional Response Teams (RRT) strategically located throughout the state. Asheville Fire and Rescue hosts one of the seven state funded teams - RRT 6. The team responds to hazardous materials incidents in the twenty westernmost counties of North Carolina.

The grant is non-matching and all equipment provided through this grant will become the property of the Asheville City Government. It has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

There is no fiscal impact associated with this grant, as it is non-matching.

City staff recommends that City Council (1) authorize the City Manager to accept the non-matching grant from the NC Department of Crime Control and Public Safety, Division of Emergency Management, to enhance AFD's capabilities to protect Asheville and Western North Carolina; and (2) adopt the associated budget amendment.

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**C. RESOLUTION NO. 13-236 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO PARTICIPATE IN DUKE ENERGY PROGRESS' NEW ENERGY EFFICIENCY PROGRAM AND TO ENTER INTO SOLE SOURCE PROVIDER CONTRACT FOR THE PURCHASE AND INSTALLATION OF ENERGY EFFICIENT LIGHTING IN CITY PARKING DECKS**

Summary: The consideration of a resolution authorizing the City of Asheville to participate in Duke Energy Progress' new energy efficiency program and to enter into sole source provider contract for the purchase and installation of energy efficient lighting in City parking decks.

The electric utility Duke Energy Progress has recently launched a new energy efficiency program called the Small Business Energy Saver (SBES) Program. The model of this program differs from previous rebate programs in that Duke Energy Progress pays for efficiency upgrades up front, and covers up to 80% of the total project cost.

The City's Wall Street and Rankin Avenue Parking Decks are prime candidates for participation in the program, in particular because the current high pressure sodium lights are inefficient, run 24 hours a day and provide poor light quality. By replacing 225 of these lights with LED fixtures, the City is projected to save \$20,000 and 150 tons of carbon dioxide equivalent annually, which is 16% of the annual carbon footprint reduction goal for municipal operations.

Staff has analyzed the potential and costs for the project and determined that at this time, the SBES Program is the only cost effective way to move forward with parking deck lighting replacement in the current budget. The SBES Program is a unique opportunity to leverage a significant amount of up front capital funding from Duke Energy Progress. The total cost to the City for the Wall Street and Rankin decks would be \$47,510. Duke Energy Progress would cover the remaining \$89,158, which is 65% of the total project costs. These costs include parts, labor and project management.

The SBES Program is run through a single authorized contractor, Lime Energy. In order to participate in the SBES Program, the City needs to pursue a single source provider contract with Duke Energy Progress / Lime Energy. This is allowable as per N.C.G.S. 143-129(e)(6) which states that "the governing body of a political subdivision of the state shall approve the purchase of apparatus, supplies, material or equipment without formal bidding when (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration."

The total cost to the City for the Wall Street and Rankin decks would be \$47,510. Duke Energy Progress would cover the remaining \$89,158, which is 65% of the total project costs.

These costs include parts, labor and project management. The City's share of the improvements will be paid out of the Parking Services Fund's FY 2013-14 Capital Improvement Budget. The cost to the City would not exceed \$50,000.

City staff recommends City Council adopt a resolution authorizing the City of Asheville to enter into a sole source contract to purchase and install energy efficient lighting as part of Duke Energy Progress' Small Business Energy Saver Program, and to authorize the City Manager to execute this contract.

**RESOLUTION BOOK NO. 36 - PAGE 2**

**D. RESOLUTION NO. 13-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW A CONTRACT WITH SITEMED FOR THE 2013-14 FIREFIGHTER PHYSICALS**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with SiteMed for annual physicals for firefighters in February 2014.

This agreement allows firefighters to receive an annual physical compliant with best practices as recommended by National Fire Protection Association (NFPA) 1582. This contract with SiteMed is a renewal from the previous years and due to the amount council approval is required. This has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

The amount of the two-year agreement is \$122,200 and the monies have been budgeted in the Fire Department's 2013-14 Fiscal Year Budget.

Funds have been already been budgeted for the physicals, so no additional impacts.

City staff recommends City Council adopt a resolution authorizing the City Manager to approve the renewal of the contract with SiteMed for 2013-14 physicals.

**RESOLUTION BOOK NO. 36 - PAGE 3**

**E. RESOLUTION NO. 13-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICES AGREEMENT WITH BIO-NOMIC SERVICES INC. FOR THE NORTH FORK WATER TREATMENT PLANT WASTE LAGOON 3 DREDGING AND SLUDGE REMOVAL AND DISPOSAL PROJECT**

**ORDINANCE NO. 4247 - BUDGET AMENDMENT FOR THE NORTH FORK WATER TREATMENT PLANT WASTE LAGOON 3 DREDGING AND SLUDGE REMOVAL AND DISPOSAL PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a general services agreement with Bio-Nomic Services, Inc. for the North Fork Water Treatment Plant Waste Lagoon #3 Dredging, Sludge Removal and Disposal project in the not-to-exceed amount of \$366,400; and a budget amendment in the amount of \$201,970 from savings in other capital projects that were completed under budget.

On September 17, 2013, the Water Resources Department issued a Request for Proposals (RFP) for the dredging, removal, and disposal of water treatment residuals (sludge) from the North Fork Water Treatment Plant Waste Lagoon #3. The sludge has been accumulating for approximately 30 years and needs to be removed. The total volume of sludge to be removed is unknown at this time; however, 500 tons was used to calculate the total cost for all proposers.

On October 23, 2013, the Water Resources Department received five (5) proposals in response to the RFP. Companies responding were:

1. Bio-Nomic Services, Inc. – Charlotte, NC; \$366,400 estimated total cost
2. Wecare Organics – Easthampton, MA; \$744,500 estimated total cost
3. Synagro – Baltimore, MD; \$376,419 estimated total cost
4. Gullett Sanitation – Bethel, OH; \$362,913 estimated total cost
5. Merrell Bros., Inc. – Kokomo, IN; \$492,735 estimated total cost

A review team, comprised of Water Resources staff, reviewed these proposals and selected Bio-Nomic Services, Inc. for the project. Although Bio-Nomic's proposal is not the lowest bid, they were selected for the project based other factors, including: the thoroughness of their proposal; experience of the proposed staff; a long history of environmental work; responsiveness to new regulations; and solutions that complete a project with no adverse environmental impact.

The Water Resources Department currently has \$164,430 budgeted for this project. The project funding was allocated based on an estimate in 2008 and budgeted in 2009. The only point of reference at that time was the cost of sludge removal from the other two lagoons. Lagoon #3 is larger and removal will be more complex. The remaining funds of \$201,970 needed for the contract will be transferred from the General Projects capital project that accumulates remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Amount in NF WTP Lagoon #3 Dredging Project	\$164,430
<u>Amount Needed for General Services Contract</u>	<u>\$201,970</u>
Total Amount for Project	\$366,400

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a general services agreement with Bio-Nomic Services, Inc. for the North Fork Water Treatment Plant Waste Lagoon # 3 Dredging and Sludge Removal and Disposal project in the not-to-exceed amount of \$366,400; and a budget amendment in the amount of \$201,970 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 36 - PAGE 4  
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**F. RESOLUTION NO. 13-239 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO ENTER INTO A CONTRACT WITH THE MILLS RIVER  
PARTNERSHIP INC. TO PARTIALLY FUND PROJECTS DIRECTLY  
RELATED TO WATER QUALITY PROTECTION AND/OR IMPROVEMENT**

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services contract for the entire contract with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of \$180,000.00 over three (3) fiscal years contingent upon funding each year.

The City of Asheville Water Resources Department and the Mills River Partnership (MRP) have reached an agreement for financial support of projects intended to protect and/or improve water quality in the Mills River. Based on a scope of work prepared by the MRP, the Water Resources Department has prepared a contract to partially fund activities in the Mills River Watershed. This staff report seeks Council approval for the contract.

The Water Resources Department is willing to provide cost-share funding for projects that are directly related to water quality protection and/or improvement. These activities include selection and installation of Best Management Practices to control contamination of the river from storm runoff, and educational materials and activities. The suggested level of participation is an amount up to \$60,000 per fiscal year for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

Recently, the Partnership was awarded a grant (Section 319 Grant) that requires matching funds. The City of Asheville has an ongoing interest in watershed management. Water quality in the upper watershed continues to be excellent and overall water quality indices have improved during the past 10 years. The strategy now is to focus on efforts to protect and improve water quality. Funding initiatives are to be considered with an understanding of their long-term impact on water quality.

Any expenditure in the Mills River watershed is subject to review by Water Resources staff. The funding needed for this agreement is currently allocated within the Water Resources Operating Fund. The total not-to-exceed contract amount of \$180,000.00 will be encumbered upon City Council approval, even though the MRP will only be allowed to request a not-to-exceed amount of \$60,000.00 per fiscal year for the next three years.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a multi-year general services contract for the entire contract with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of \$180,000.00 over three (3) fiscal years contingent upon funding each year. The level of participation recommended is an amount up to \$60,000.00 per fiscal year for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

#### **RESOLUTION BOOK NO. 36 - PAGE 5**

#### **G. RESOLUTION NO. 13-240 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CH SECURITY SERVICES LLC FOR SECURITY SERVICES IN THE CITY'S PARKING GARAGES**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with CH Security Services, LLC for security services in the City's parking garages for July 1, 2013 through June 30, 2014.

The City of Asheville, through the Parking Services Division, currently operates four parking garages; Civic Center, Rankin Avenue, Wall Street, and Biltmore Avenue Parking Garage. The Parking Services Division uses a combination of City employees and contract security officers to provide security and customer assistance in the garages. Generally, City employees work during the business day and early evenings while contract security is on duty during late nights, weekends, and holidays.

During September 2011, the Parking Services Division requested quotes for service from interested vendors resulting in 20 vendors responding. Copeland Holdings, LLC, now called CH Security Services, LLC, provided the lowest price for the service.

During November 2011, City Council directed staff to review the merits of bringing all security functions in house. Parking Services negotiated a short-term contract with Copeland Holdings to provide security services during the review period. Staff subsequently determined that due to operational efficiency and flexibility it was more advantageous to the City to contract for these security services.

On a normal week, a total of 215 hours of security services will be needed. In addition, the Parking Services Division will request additional security support during periods of high demand; for example, Christmas Jam, Southern Conference Tournament, Moogfest, employee vacations, or large events at the US Cellular Center. The total cost of the one year security contract will not exceed \$170,000.00.

The necessary funds are budgeted in the Parking Services Fund's Adopted Operating Budget for FY 2013-14.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a one-year contract with CH Security Services, LLC to provide security services in the City's parking garages at a total cost not to exceed \$170,000.00 per fiscal year.

**RESOLUTION BOOK NO. 36 - PAGE 6**

**H. RESOLUTION NO. 13-241 - RESOLUTION AUTHORIZING PRIMARY AND SECONDARY AGENTS FOR THE CITY OF ASHEVILLE TO APPLY FOR FINANCIAL ASSISTANCE FOR THE SEVERE STORMS THAT TOOK PLACE DURING THE PERIOD OF JULY 3 - 13, 2013, DESIGNATED AS A DISASTER AND IDENTIFIED AS FEMA-4146-DR-NC**

Summary: The consideration of a resolution authorizing primary and secondary agents for the City of Asheville to apply for financial assistance for the severe storms that took place during the period of July 3, 2013 through July 13, 2013, designated as a disaster and identified as FEMA-4146-DR-NC.

During the period of July 3-13, 2013, Western North Carolina including Buncombe County and the City of Asheville experienced severe storms leading to flooding, landslides, and mudslides.

On September 25, 2013, the U.S. Dept. of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal disaster aid has been made available to the State of North Carolina and ordered federal aid to supplement state and local efforts in the areas affected by severe storms, flooding, landslides, and mudslides during the period of July 3-13, 2013.

On October 11, 2013, staff met with the N.C. Division of Emergency Management (NCDEM) and FEMA, and concluded that the City of Asheville would be eligible for financial assistance.

North Carolina's Division of Emergency Management requires primary and secondary agents representing the City of Asheville be authorized by resolution to execute and file applications for federal and/or state assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act (Public Law 93-228 as amended) or as otherwise available.

Funds received will be reimbursement for General Fund and Stormwater Fund expenditures. Preliminary estimates total approximately \$2.5 million.

City staff recommends City Council adopt a resolution authorizing Jakob Klodt, Public Works Business Manager; and David Foster, Public Works Deputy Director as primary and secondary agents to apply for and obtain financial assistance for the severe storms that took place in July 2013.

**RESOLUTION BOOK NO. 36 - PAGE 7**

**I. RESOLUTION NO. 13-242 - RESOLUTION AMENDING RESOLUTION NO. 12-**

**256 WHICH ADOPTED THE 2013 CITY COUNCIL MEETING SCHEDULE TO CHANGE THE CITY COUNCIL ORGANIZATIONAL MEETING FROM TUESDAY, DECEMBER 3, 2013, TO TUESDAY, DECEMBER 10, 2013, AT 4:00 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL**

**RESOLUTION BOOK NO. 36 - PAGE 10**

**J. RESOLUTION NO. 13-243 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH BRANTLEY CONSTRUCTION COMPANY TO CONCLUDE RENOVATIONS OF THE MEZZANINE LEVEL MEETING ROOM SPACES AT THE U.S. CELLULAR CENTER**

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the existing construction contract with Brantley Construction Co., LLC to include renovations of the Mezzanine level meeting room spaces in the exploreasheville.com arena per the grant agreement with the Tourism Development Authority.

On February 15, 2013 Council approved the exiting contract for \$1,876,000.00. The following change orders have increased the contract amount.

- Change order #1 dated 4/10/13 for \$453,000 added alternates outlined in the original bid documents
- Change order #2 dated 6/12/13 for \$24,438.30 for added scope and unforeseen conditions
- Change order #3 dated 8/14/13 for \$52,548.12 for added scope and unforeseen conditions
- Change order #4 dated 9/30/13 for \$18,333.38 for added scope and unforeseen conditions

The construction contract currently is \$2,424,320.50 and the amendment will increase the contract by \$485,794.45 to the amount not to exceed \$2,910,114.95.

On July 1, 2013, the U.S. Cellular Center received money from our corporate sponsors, allowing us to fund the work outlined in the contract amendment in the amount of \$485,794.45. This action will increase the total contract to an amount not to exceed \$2,910,114.95. Staff is seeking Council approval of the amendment to this contract that will allow Brantley Construction to complete work that was required by the agreement with TDA for renovating the Mezzanine level meeting room spaces into a hospitality suite and updating the other meeting spaces for expanded usage of the facility.

A standard procedure in construction contracts is to provide a contingency to cover potential routine project change order requests for unforeseen construction components related to the overall renovation. Staff is seeking approval to add an additional 10% contingency and to authorize the City Manager to execute change orders for the contract up to the amended contract amount above, not to exceed \$48,579.45. While staff does not expect change orders to rise to that amount, there are some unknown factors that could increase the original contract scope.

Funding for this contract is already included in the FY 2013-14 Civic Center Capital Improvement Budget.

Staff recommends approval of a resolution authorizing the City Manager to execute an amendment to the existing construction contract with Brantley Construction Co., LLC to include renovations of the Mezzanine level meeting room spaces in the exploreasheville.com arena per the grant agreement with the Tourism Development Authority.

**RESOLUTION BOOK NO. 36 - PAGE 11**

**K. RESOLUTION NO. 13-244 - RESOLUTION AUTHORIZING ADOPTION OF UPDATES TO THE GREENWAY MASTER PLAN**

Summary: The consideration of a resolution to update the Greenway Master Plan.

The vision for the City of Asheville greenway system is a network of off-road trails utilizing natural corridors to connect people and places within the city. Asheville greenways will provide multimodal transportation, environmental, health, recreation, economic, educational, cultural, water quality, air quality and habitat preservation benefits. These natural corridors will be supplemented and connected when the need arises with transitional bicycle and pedestrian improvements along roadways, thereby addressing the Complete Streets model in strategic corridors.

The Greenway Master Plan is a long-range planning document that sets goals, strategies and action steps to create a vision and guideline for coordinated efforts to deliver parks, greenways, recreation and cultural arts services over the next 10 to 15 years. The master plan does not commit City Council to a funding timeline for implementation. The recommendations in the plan will be implemented as funding opportunities become available.

Amendments to the current Asheville Greenway Master Plan now are being considered:

- Buncombe County revised the “Buncombe County, NC Greenways and Open Space Plan” in July 2008 (developed by Land-of-Sky), and developed the “Connect Buncombe Greenway and Trails Master Plan,” adopted in August 2012. These two plans will provide an opportunity to further dovetail the City and County master planning efforts.
- The N.C. Dept. of Transportation is furthering its planning and design for the proposed I-26 Connector improvements which is currently under the “development” stage.
- The former Greenway Commission, which is now part of the Multimodal Transportation Commission, along with City staff recognizes the need to consider other possible greenways that would enhance connectivity especially within the I-26 corridor.
- The “City of Asheville Parks, Recreation, Cultural Arts and Greenway Master Plan” was adopted in February 2009, five years ago. City staff feels it is an appropriate time to update the plan.
- In 2012, the Greenway Commission held a public work session open house to gain community feedback on the current plan and gather ideas for future corridors and connections. The community feedback was incorporated into the updated plan and map.

This item was reviewed on October 22, 2013 by the Multimodal Transportation Commission. The Greenway Committee and the Multimodal Transportation Commission voted unanimously to recommend the adoption of the master plan updates to City Council.

Staff recommends City Council to adopt a resolution to update the Greenway Master Plan.

Councilman Hunt was pleased with this update since it has been four years since adoption of the Master Plan.

**RESOLUTION BOOK NO. 36 – PAGE 12**



**L. RESOLUTION NO. 13-245 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE CONCRETE REPAIR - MAINTENANCE AND AMERICANS WITH DISABILITIES ACT IMPROVEMENTS PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of \$204,430 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, City of Asheville Project # ENG-13-14-001.

Due to a change in the City's concrete repair services from previous years, the Public Works Department contracted out for the project Concrete Repair - Maintenance and ADA Improvements. The project was advertised on October 11, 2013. Bids were opened with Patton Construction Group, Inc. of Arden, NC, being the lowest responsible bidder with a bid of \$204,430. The work produced from this contract would resolve some known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

Funding for this contract is already included in the Fiscal Year 2013-14 adopted General Fund budget.

City staff recommends City Council adopt the resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$204,430 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, City of Asheville Project # ENG-13-14-001.

**RESOLUTION BOOK NO. 36 - PAGE 13**

**M. RESOLUTION NO. 13-246 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE CONCRETE REPAIR - UTILITY CUTS PROJECT**

**ORDINANCE NO. 4248 - BUDGET AMENDMENT FOR THE CONCRETE REPAIR - UTILITY CUTS PROJECT**

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$360,280 plus a contingency of 15% (\$54,042) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP 13-14-001; and 2) a budget amendment in the amount of \$172,115 from utility cut fees to cover the cost of the contract and the 15% contingency.

As part of the Street Cut Utility Program, utilities that damage public concrete infrastructure during the installation of maintenance of their underground infrastructure do not perform repairs to the concrete. This contract will assure those concrete repairs are completed. This contract marks the first time the Public Works Department has contracted this work out. The project was advertised on September 23, 2013. Bids were opened with Appalachian Paving and Concrete, Inc. of Asheville, NC, being the lowest responsible bidder with a bid of \$360,280. A 15% contingency (\$54,042) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from this contract would resolve a number of a group of known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

As noted above, this is the first time that the City has contracted out this repair work. Because the contract bids came in higher than anticipated, a budget amendment in the amount of \$172,115 is needed to provide sufficient budget authorization for this contract. The Street Cut

Utility Program is an enterprise fund that is fully funded through fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery for this contract repair work.

City staff recommends City Council adopt: 1) the resolution awarding the contract to Appalachian Paving and Concrete, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$360,280 plus a contingency of 15% (\$54,042) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP-13-14-001; and 2) a budget amendment in the amount of \$172,115 from utility cut fees to cover the cost of the contract and the 15% contingency.

**RESOLUTION BOOK NO. 36 - PAGE 14**  
**ORDINANCE BOOK NO. 28 - PAGE**

**N. ORDINANCE NO. 4249 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT TO ACCEPT THE AMERICAN DREAM DOWNPAYMENT INITIATIVE PROGRAM INCOME**

Summary: The consideration of a budget amendment to accept ADDI program income in the amount of \$27,178 and to distribute that income to Mountain Housing Opportunities for homeownership lending, and to the City of Asheville for administration.

In the period 2004-2007, HUD provided funding to the City of Asheville, as Participating Jurisdiction for the Asheville Regional Housing Consortium for the American Dream Downpayment Initiative (ADDI) Program. This program was specifically for the purpose of assisting first-time homebuyers purchase a home. The Consortium initially awarded these funds to the Asheville Neighborhood Housing Services (ANHS); and upon the dissolution of that organization, to Mountain Housing Opportunities (MHO). MHO also agreed to take over the loans made by ANHS. A total of \$162,787 in ADDI funds were received and distributed during the lifetime of the program.

The ADDI regulations required that Program Income generated through the program needed to be treated differently than HOME Program Income. HUD required (and requires) that ADDI Program Income be returned to the Treasury Account of the Participating Jurisdiction. Once returned to the City, the funds can then be classified as HOME program income, and be used for HOME-eligible activities.

The Consortium discussed this, and recommends that 95% of the ADDI Program Income, after being returned to the City, be available for Mountain Housing Opportunities to lend to first-time homebuyers in the four-county Consortium region, and that 5% of the funds be retained by the City of Asheville for HOME program administration.

Program funding is entirely from funds generated by funding from the US Department of Housing and Urban Development. The use of a portion of these funds for administration helps support the necessary staffing for Consortium operations.

Staff recommends that City Council approve a budget amendment to accept ADDI program income in the amount of \$27,178 and to distribute that income to Mountain Housing Opportunities for homeownership lending, and to the City of Asheville for administration.

**ORDINANCE BOOK NO. 28 - PAGE**

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

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

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

### **III. PRESENTATIONS & REPORTS:**

#### **A. DIVERGING DIAMOND INTERCHANGE AT I-26 AND AIRPORT ROAD**

Mr. James H. Dunlop, Congestion Management Engineer for the N.C. Dept. of Transportation, explained what a Diverging Diamond Interchange (DDI) is; how motorists drive through the DDI; how pedestrians and cyclists use a DDI; and the benefits of a DDI. In summary, (1) DDI has shown great potential for improving conditions for many interchanges; (2) the DDI can reduce overall construction time and save money; (3) operation of adjacent signals intersection may affect DDI effectiveness; (4) the DDI as an "unconventional design" may become as commonplace for interchanges as the roundabout for intersections; and (5) the DDI is not a silver bullet solution but is has many applications worth exploring for certain interchange.

At Mayor Bellamy's request, it was the consensus of Council to incorporate information provided by the N. C. Dept. of Transportation regarding DDI to our communications, webpage, social media, etc.

#### **B. MISSION HEALTH PROGRAM UPDATE**

Dr. Ronald A. Paulus, President and CEO of Mission Health, and Ms. Jill Hoggard Green, President and COO of Mission Health, said that Mission Health is in the process of a long-term, ongoing program to build better processes, better facilities and better care. The program is a proactive planning approach to address developing changes in community needs, healthcare quality and delivery, regional demographics and internal Mission Health resource requirements. This program includes a comprehensive look at Mission Health's existing internal operations and modifications needed to continue to provide an exceptional patient experience, supported by optimal efficiency, better technology and ever-improving quality of care. We will also evaluate external factors, such as our aging patient population, government mandates on healthcare delivery, new care technologies and other factors in order to prepare and implement future action.

We are looking at all aspects of how we care for people and what we need to accomplish that care – all for the purpose of ensuring safety, effectiveness and cost-efficiency. We know that families from all over western North Carolina depend upon Mission Health for their care. Our commitment is to always be there when they need us.

On behalf of City Council, Mayor Bellamy thanked Mission Health for being such a good corporate citizen.

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

#### **A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A HEALTH & WORKFORCE DEVELOPMENT FACILITY AT ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE**

**ORDINANCE NO. 4250 - ORDINANCE AMENDING THE CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A HEALTH & WORKFORCE DEVELOPMENT FACILITY AT ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE**

Deputy City Clerk Matthews administered the oath to anyone who anticipated speaking on this matter.

Interim City Attorney McGlohon reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

Interim City Attorney McGlohon said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Interim City Attorney McGlohon said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 5:36 p.m.

Urban Planner Julia Fields submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Fields said that this is the consideration of an amendment to the conditional use permit for the construction of a Health & Workforce Development Facility at Asheville-Buncombe Technical Community College.

Ms. Fields said that the applicant, Buncombe County, is requesting review of revised site plans for the proposed Allied Health and Workforce Development Facility on the campus of Asheville Buncombe Technical Community College (AB Tech) (169,543 square feet).

The project site (PIN 9648.33-4217) is 12.87 acres in size and had a previous address of 240 Victoria Road (now Genevieve Circle). It is the former site of the Saint Genevieve of the Pines School and has been owned and utilized as part of the AB Tech campus for a number of years. The property is zoned Institutional.

On December 11, 2012, the Asheville City Council voted to approve a conditional use permit for a new 184,208 square foot Allied Health and Workforce Facility for Asheville Buncombe Technical Community College to be constructed at the Victoria Road site. The building (with a footprint of 47,000 square feet) was designed to be a mixed use facility housing classrooms, laboratories, offices, the campus day care center, and an 864 seat auditorium (City Exhibit 4 - previous plan front elevation). This new building was to be located on the western side of the property and it was proposed that the only existing structure to remain would be the Ivy Building (chapel) which would be used for offices/events.

Subsequent to the 2012 approval of the conditional use permit, Buncombe County became the project manager for this structure and they have redesigned the project making it smaller and moving it farther east on the property. The revised proposal will demolish all but two

(chapel and child care center) of the existing structures located on the site to construct the A-B Technical College Allied Health and Workforce Facility, reduced in size to 169,542 square feet. This building would be located on the eastern (Victoria Road) side of the property with a footprint of 36,120 square feet. The new location of the building is approximately 400 feet farther away from the adjoining residential neighborhoods than in the previous design, addressing concerns that were expressed by neighbors regarding the original design. In addition to being a smaller building, the impervious area for the completed site is substantially (4.35 acres) reduced from the earlier proposal. The new building, 78 feet in height (five stories) would house classrooms, offices, and laboratories (City Exhibit 5 - Previous Masterplan). Thirty-one thousand and eighty-eight square feet of space on the fourth and fifth floors will be constructed as shell space at this time. The redesigned site plan also provides for the retention of the existing small soccer field to the southwest which was proposed to become a parking lot under the previous plan.

Access to the site is (and will remain) via Victoria Road. The two existing access points are to be improved with right turning lanes and improved site lines for safer ingress/egress. A new sidewalk will be constructed along Victoria Road. The applicant is working with the City Transportation Department on the provision of a bus shelter on the opposite side of Victoria Road.

Three hundred and forty-four parking spaces are required (minimum) and provided. This is a major reduction from the original proposal which showed 558 spaces. As the shell space is developed, remote parking will be provided at other campus locations. Nine handicapped spaces are provided along with accommodations for parking 18 bicycles.

Buffer yards, street trees, vehicular use area plantings, and building impact landscaping are provided. The plans show a total of 212,612 square feet of open space (only 83,519 square feet are required).

This amendment was reviewed and approved with conditions by the Technical Review Committee on October 21, 2013. Many of the comments made in the TRC report have been or are being addressed by the development team working closely with City staff.

A meeting for interested persons was held on October 15, 2013, at the Wesley Grant Southside Center. Very few people were in attendance at this meeting but those in attendance seemed supportive of the redesign. Since few were in attendance at the first meeting, the applicant held an additional meeting with neighborhood representatives on October 24, 2013.

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

**1. That the proposed use or development of the land will not materially endanger the public health or safety.**

The project will meet all requirements of the North Carolina Building Code and the City of Asheville and will be reviewed in detail by the North Carolina Department of Insurance and the City of Asheville's Technical Review Committee to ensure compliance with safety requirements

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

As most of the site was previously developed with buildings and parking facilities and the site is in an area heavily developed with institutional uses, there are few significant natural features on the site or in the area to be protected. The site is in a very prominent

setting elevation-wise which has been taken into consideration in the design. The pine trees that line Victoria Road will be lost due to the development; however, the planting plans propose that a number of pines will be newly planted in respect for the history of the site.

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

The parcels in the area surrounding the site are largely occupied by other institutional uses and the site itself has been used for years for educational purposes. Where the project site abuts multi-family or single-family properties, landscape buffering will be provided. The redesign of the building places it 400 feet further from adjoining residential properties than previously designed.

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

The Allied Health and Workforce Development Facility is proposed to be five stories in height. While this is larger than the educational buildings currently located on the site it is in keeping with other institutional buildings in the vicinity. Significant vegetation will be provided on the site and open space exceeds that required by the City. The development is compatible with the scale, bulk, coverage and character of the other institutional uses in the area.

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

This project supports the comprehensive plan stated goal of “the City working with Asheville-Buncombe Technical Community College to address the needs of the college as it expands”. Additionally, the project is proposed to be LEED certified which aligns with greenbuilding and smart growth focuses found in the comprehensive plan.

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

The proposed project is located on a roadway that serves major institutional uses at present and is served by the S4 transit route. The project has been reviewed by the Technical Review Committee who found that existing infrastructure appears to be adequate and the preliminary review has not revealed any problems for future service to the development.

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

The development plans for this project along with the accompanying traffic impact analysis have been reviewed by the City’s Traffic Engineer. Several suggested revisions to the originally submitted plans have been made to improve both vehicular and pedestrian traffic. A new sidewalk will be provided along Victoria Road.

Pros:

- The proposal satisfies an important City goal found in the comprehensive plan of advancing and maintaining the City’s role as Western North Carolina’s regional education center.
- The applicant will be seeking LEED certification, meeting key “green building” goals of the City.
- The project will provide a much needed state of the art facility for the Asheville-Buncombe Technical Community College on property currently underutilized by the college.

- The historic chapel/auditorium located on the site will be preserved along with the child care center.

Con:

- The building is significantly larger than the existing buildings on the site which may be seen as a negative by some adjoining residents.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable. Staff recommends approval of the amendment to the Level III development proposal for the Allied Health and Workforce Development Facility for AB Tech and issuance of a conditional use permit for this facility.

Mr. Jon Creighton, Assistant Buncombe County Manager, said they went through a re-design process for a better building. It does not impact the surrounding community like the prior one. The most important part is pulling the building up front.

After rebuttal, Mayor Bellamy closed the public hearing at 5:43 p.m.

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. 4250, granting an amendment to the conditional use permit for the construction of a Health & Workforce Development Facility at Asheville-Buncombe Technical Community College, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee' (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Smith and carried unanimously.

## **ORDINANCE BOOK NO. 28 - PAGE**

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

#### **A. ORDINANCE NO. 4251 - ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED**

Ms. Jannice Ashley, Assistant City Attorney, reiterated the following information from the October 22 meeting. She said that this is the consideration of an ordinance amending Chapter 12 of the Code of Ordinances to revise the definition of recreational facilities where the carrying of concealed handguns is prohibited.

In this year's legislative session, the General Assembly passed a new law, which further changes how municipalities may regulate concealed handguns in "recreational facilities". Session Law 2013-369, Section 6, revising N.C. G.S. 14-4.415.23, effective October 1, 2013, modifies the definition of "recreational facility" by eliminating "playgrounds" completely from the definition and, as it pertains to "athletic facilities", revising it to apply only to "an athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled with the municipality...responsible for operation of the park or recreational area".

In 2011, the Legislature passed a law which prohibited municipalities from prohibiting concealed handguns in “parks”. However, that law provided an option for municipalities to adopt an ordinance prohibiting the possession of concealed handguns in “recreational facilities” which were defined as “a playground, an athletic field, a swimming pool, and an athletic facility”. At that time, the City exercised this option and revised its ordinance regarding concealed handguns in “parks” (City Code Sec. 12-42) to prohibit them in defined “recreational facilities” as allowed by the new law. Appendix G of the City Code defined the recreational facilities to which this prohibition applied. In this 2013, Legislative Session, the definition of “recreational facility” has further been revised to eliminate “playgrounds” completely from the definition and as it pertains to “athletic fields”, to only apply “during an organized athletic event if the field had been scheduled with the municipality...responsible for operation of the park or recreational area”. “Swimming pools, including any appurtenant facilities, used for dressing, storage of personal items, or other uses relating to the swimming pool” and “Athletic Facilities” defined as “a facility used for athletic events, including but not limited to, a gymnasium”, are still included in the definition of “recreational facility” as per the original definition adopted by the legislature in 2011. The 2013 law also specifically states that the term “recreational facility” does not include any greenway, or designated biking or walking path.

In order to bring the City’s ordinance into compliance with the new law, several revisions are necessary:

- (a) The definition of a “recreational facility” found in Sec. 12-27 of the City Code would need to be revised to match the revised definition provided in SL 2013-369.

Appendix G, which lists the city’s recreational facilities, would need to be revised to delete references to any playgrounds or non-programmed athletic fields.

The new law is effective October 1, 2013. If Council desires to maintain a prohibition on concealed handguns in City recreational facilities that is in compliance with the new State law, action is needed.

This matter was presented to the Public Safety Committee on September 23<sup>rd</sup>, which directed that the proposed revisions be sent to Council for action. City Council considered the matter at its October 22<sup>nd</sup> meeting and directed it be sent back to the Public Safety Committee for further discussion and with additional information to be provided by staff. The Public Safety Committee considered the matter again on October 28, 2013, and staff provided information on the new law that has been presented by the NC Institute of Government and the NC League of Municipalities. This information was consistent with the information previously provided to the City Council. The Public Safety Committee directed that the proposed revisions be sent to Council for action.

Pro:

- The ability to continue, to the fullest extent of the law, the prohibition of concealed handguns in areas defined as “recreational facilities”

Con:

- Potential difficulty in enforcement

There may be minor costs associated with revising or removing signs in areas where the concealed handgun prohibition is no longer allowed.

City staff recommends that City Council approve adoption of the ordinance amending Chapter 12 of the Code of ordinances to revise the definition of recreational facilities where the carrying of concealed handguns is prohibited.



In response to Councilman Smith, Ms. Ashley said that if we don't update our law, then our entire ordinance could be at risk of being considered invalid.

Mr. Dean Worley, proponent of Concealed Carry, said that there are very tight rules and training that a person must go through to obtain a concealed carry.

Mr. Erin Field felt that police officers should also not be allowed to carry guns at schools.

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

Councilman Davis moved for the adoption of Ordinance No. 4251. This motion was seconded by Councilman Hunt and carried unanimously.

#### **ORDINANCE BOOK NO. 28 – PAGE**

#### **B. RESOLUTION NO. 13-247 - RESOLUTION OPPOSING SESSION LAWS 2011-268 AND 2013-369 RELATING TO THE STATE LEGISLATURE'S BAN ON NORTH CAROLINA CITIES' ABILITY TO RESTRICT POSSESSION OF CONCEALED HANDGUNS IN MUNICIPAL PARKS AND RECREATIONAL FACILITIES**

Vice-Mayor Manheimer said that this is the consideration of a resolution opposing Session Laws 2011-268 and 2013-369 relating to the state legislature's ban on North Carolina cities' ability to restrict possession of concealed handguns in municipal parks and recreational facilities.

The 2013 General Assembly revisited the restrictions on local municipalities to regulate concealed carry by removing playgrounds from recreational facilities, effectively preventing municipalities from prohibiting concealed carry on playgrounds. Additionally, the 2013 General Assembly redefined athletic fields to prohibit municipalities from regulating concealed carry during non-organized athletic events not scheduled with the municipality.

This matter, in the form of an ordinance amendment, was presented to the Public Safety Committee on October 28, 2013, which directed that a resolution of opposition be prepared, condemning the actions of the General Assembly in restricting a municipality's ability to regulate concealed carry in and on municipal parks and playgrounds.

She said the reason for this resolution is in hopes to make it clear to our citizens that the prior ordinance amendment that was just adopted is required under state law and that the state law specifically preempts cities from regulating concealed carry in any way that is inconsistent with state requirements. The adopted ordinance brings us into compliance with the state law, but personally she has concerns with the state law because we now have a situation of what we think of as a park is carved up in different sections (playgrounds, greenways, etc.) and there are different rules for the different sections in the parks. The legislation is also vague and difficult to interpret. These decisions should be made on a local level.

Vice-Mayor Manheimer asked for an edit on the 3rd Whereas as follows" WHEREAS, the recently enacted Session Law 2013-369 ("S.L. 2013-369"), further prohibits cities from banning concealed handguns in playgrounds, greenways, biking and walking paths, and athletic fields when they are not being used for an organized athletic event scheduled with the municipality."

When Mayor Bellamy asked for public comments, none were received.

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

Vice-Mayor Manheimer moved for the adoption of Resolution No. 13-247, with the edit noted above. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 36 – PAGE 15**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 13-248 - RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Alcoholic Beverage Control (ABC) Board.

The term of Wilfred Lake as a member of the ABC Board, expired on November 13, 2013.

The following individual has applied for the vacancy: Charles Larrick.

It was the consensus of the Boards & Commissions Committee to reappoint Wilfred Lack.

Councilman Hunt moved to reappoint Wilfred Lack to the ABC Board, to serve an additional three-year term, term to expire November 13, 2016, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

**RESOLUTION BOOK NO. 36 – PAGE 17**

**B. RESOLUTION NO. 13-249 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Citizens-Police Advisory Committee.

Ms. Marie-Line Germain is no longer a member, this leaving an unexpired term for the central representative until June 30, 2014.

The following individuals have applied for the vacancy: Scott Steele, Buck Bragg and Larry Holt.

It was the consensus of the Boards & Commissions Committee, at the recommendation of the Citizens-Police Advisory Committee to appoint Buck Bragg.

Vice-Mayor Manheimer moved to appoint Larry Holt to the Citizens-Police Advisory Committee, to serve the unexpired term of Ms. Germain, term to expire June 30, 2014, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

**RESOLUTION BOOK NO. 36 – PAGE 18**

**RESOLUTION NO. 13-251 - RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Recreation Board.

Mr. John Parrish has resigned from the Recreation Board, thus leaving an unexpired term until June 30, 2015.

The following individuals have applied for this vacancy: Kimberly Reed, Mary Michael, Patrick Dennehy and Robert Pierce.

It was the recommendation of the Boards & Commission Committee to appoint Robert Pierce.

Councilman Smith moved to appoint Robert Pierce as a member of the Recreation Board to fill the unexpired term of Mr. Parrish, term to expire June 30, 2015, or until his successor is appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 36 – PAGE 20**

#### **RESOLUTION NO. 13-252 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission (HRC).

Ms. Sue Russell has resigned from the Commission, thus leaving an unexpired term until July 1, 2014.

The following individuals have applied for the vacancies: William S. Eakins, Stephens Smith Farrell, Richard Fast, Tom Hartwell and Keaton Edwards. The HRC recommended either Stephens Smith Farrell or Richard Fast, since they both have architecture or design experience.

On October 22, City Council instructed the City Clerk to arrange interviews for Stephens Smith Farrell and Richard Fast. Mr. Farrell withdrew from consideration at this time.

Councilman Pelly moved to appoint Richard Fast as a member of the Asheville-Buncombe Historic Resources Commission, to serve the unexpired term of Ms. Russell, term to expire July 1, 2014, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

#### **RESOLUTION BOOK NO. 36 – PAGE 21**

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

Mr. Timothy Sadler felt that the City could partner with local agencies to provide labor for different projects, thus reducing expense to the City.

Mayor Bellamy invited the public to her portrait hanging at 5:00 p.m. on Monday, December 2, 2013, in the Council Chamber, and the following reception at the YMI Cultural Center.

Vice-Mayor Manheimer invited the public to the swearing-in ceremony for the new Asheville City Council at 4:00 p.m. on Tuesday, December 10, 2013, in the Council Chamber.

#### **Closed Session**

At 6:07 p.m., Councilman Pelly moved that the Asheville City Council go into closed session for the following reasons: (1) 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(3). The statutory authorization is contained in N.. G. S. 143-318.11(a)(1); (2) 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: D&J Real Estate Investments, LLC. vs. City of Asheville; and D&J Real Estate Investments, LLC vs. Wells Fargo Bank, et al. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) 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. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilman Smith and carried unanimously.

At 7:02 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

**VIII. ADJOURNMENT:**

Vice-Mayor Manheimer adjourned the meeting at 7:02 p.m.

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CITY CLERK

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MAYOR