

Worksession

Present: Vice-Mayor R. Carl Mumpower, Presiding; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Charles R. Worley

On behalf of City Council, Vice-Mayor Mumpower expressed Council's deepest sympathy to Mayor Charles R. Worley for his recent loss of his father.

ORDINANCE NO. 3164 - ORDINANCE AMENDING THE 2004-05 ANNUAL OPERATING BUDGET TO AUTHORIZE PERMIT AND FEE WAIVERS TO REPAIR STRUCTURES IN DESIGNATED AREAS FLOODED BY THE EFFECTS OF HURRICANE FRANCES BEGINNING SEPTEMBER 6-8, 2004

City Manager Westbrook explained the ordinance as follows: The City of Asheville adopted the FY 2004-05 Annual Operating Budget on June 22, 2004, providing for certain permit fees for building and related activities. Following the eye of Hurricane Ivan touching down in the State of Mississippi, substantial winds and rainfall felled upon the City of Asheville, beginning September 15, 2004, through September 17, 2004, causing major flooding and wind damage of commercial and residential properties. Many of the commercial and residential structures were completely submerged in water or damaged by trees. Before repairs or re-occupancy of such structures, the City of Asheville must first issue appropriate building and related permits. In an effort to minimize the substantial financial and emotional loss already suffered by certain City of Asheville residents and businesses, staff of the City of Asheville is of the opinion that it is in the best interest of the City to waive building and related permit fees for owners of such properties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT (1) Building permit fees for structures suffering flooding and wind damage due to the effects of Hurricane Ivan from September 15-17, 2004, within the jurisdiction of the City of Asheville, be and are hereby waived beginning on September 17, 2004; (2). The Building Safety Director is further authorized to expedite the processing of permits for repairs to flood damaged structures by waiving the requirement for a City of Asheville Privilege License for N.C. Licensed Contractors; and (3) This budget ordinance amendment will expire on January 1, 2005.

Councilman Dunn moved to waive the rules and take formal action on this ordinance at this time. This motion was seconded by Councilwoman Bellamy and carried unanimously.

Councilwoman Bellamy moved for the adoption of Ordinance No. 3164. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 21 - PAGE

CONSENT AGENDA:

Amendment to Asheville-Buncombe Minority Business Plan

Summary: The consideration of a resolution amending the Minority Business Plan in order to enhance and clarify provisions of the Plan.

In May of 1998, City Council adopted the Asheville-Buncombe Minority Business Plan. The Plan has been amended four times: (1) November 1998 to expand participation in the

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Mentor-Protégé Program; (2) December 1999 to add the 72-hour delay requirements for "good faith efforts; (3) December 2001 to expand certification to two years; and (4) October 2002 to reduce the Minority Business Commission from 13 to 11 members and provide for clarification of the grievance process in the Plan.

At their meeting on August 12, 2004, the Minority Business Commission recommended that the Plan be further amended to enhance and clarify provisions of the Plan. The most significant changes are the update of N.C. General Statutes in the changes made in the Plan regarding procurement, construction and professional services and the update of definitions.

On September 7, 2004, the Buncombe County Commissioners reviewed and approved the Plan.

Advantages:

- Changes in definitions will make the program easier and less complicated to understand.
- Update of N.C. General Statutes will provide that the current provisions are being used, updating our procedures for construction, procurement and professional services originally provided in the May 1998 adopted MB Plan.
- Removal of any reference to specific forms for minority business compliance so that it is not necessary to update with changes.

- Clerical changes for ease of reading in removing repeated information, clearer wording of procedures.
- Removal of any reference to certification being a prerequisite to contracting with the City of Asheville.

City staff recommends City Council adopt the resolution amending the Minority Business Plan.

After a brief discussion, it was the consensus of City Council to have the Mayor write a letter to Buncombe County Commission Chair Nathan Ramsey to support the filling of a third position in the Minority Affairs Office as soon as possible. Councilwoman Jones also suggested personal contact with the Commissioners would be helpful.

NC DOT Utility Agreement

Summary: The consideration of a resolution authorizing the Mayor to execute a utility agreement with the N. C. Dept. of Transportation (NCDOT) to relocate a water line in the State right-of-way on Bridge 740 over Mill Creek (NCDOT Project B-3616) and approval of an associated budget amendment, in the amount of \$83,000, to provide funding for this project.

The Water Resources Department operates a water main across Bridge 740 over Mill Creek under the policies of the Asheville, Buncombe & Henderson Regional Water Authority (RWA), which is owned by the City of Asheville. Under State law, NCDOT is requiring the owner, the City of Asheville, to relocate this water main during roadway construction. The NCDOT has estimated the construction cost of this relocation at \$74,656. An additional 10% needs to be added to include contingency and inspections, so the total amount that needs to be budgeted is \$83,000.

The Utility Agreement will authorize NCDOT to include the water main relocation in the highway construction project, with NCDOT administering the construction and invoicing the City of Asheville upon completion of the project. Funding is currently available from excess funds in the Critical Needs II matching funds. A budget amendment amending Capital Project Ordinance 82-25 (35 Fund) to reflect funding for this project is required.

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Pros: Reprogramming funds for this NCDOT project will provide funding for a state mandated project that requires relocation of a water line that conflicts with an NCDOT right of way.

Cons: None noted.

City staff recommends that City Council approve the resolution authorizing the Mayor to execute a Utility Agreement with NCDOT for relocation of a water line and a budget amendment to provide funding for this project

Clerk to Advertise for Upset Bids for a Vacant Lot on Max Street

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for property located on Max Street.

The subject property is an RS-8 Residential Single-Family High Density District zoned parcel comprising approximately 0.04 acre located on Max Street (PIN No. 9648.07-59-8495) across from Stephens-Lee Center. The lot is too small to build on. The tax value for the parcel is \$1,500.

Brandon Knolls LLC has submitted a bid to purchase the property in the amount of \$1,500, and intends to combine it with adjacent property that is improved with a single-family house

The positive aspects of the transaction are:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.
- The sale and combination of this lot with the adjoining lot will eliminate a substandard parcel.

Approval of the resolution will establish a minimum price of \$1,500 and initiate the sale of the property through the upset bid process as provided in N. C. G. S. 160A-269.

Planning & Development staff recommends adoption of the resolution authorizing advertisement for upset bids.

Exchange of Land at 14 Michigan Avenue for Land on Lyman Street

Summary: The consideration of a resolution authorizing the City Clerk to publish a notice regarding the exchange of real property located on 14 Michigan Avenue for real property located on Lyman Street.

The City and Brandon Knolls LLC (Knolls) have negotiated an exchange of real property at 14 Michigan Avenue for Knolls property on Lyman Street.

The property at 14 Michigan Avenue (PIN No. 9638.15-54-8270) is a 0.19 acre parcel zoned RM-8 Residential Multi-Family Medium Density District. The lot is on the east side of Michigan Avenue about 150 feet from its intersection with Haywood Road. It is elevated about 5 feet above street grade and mostly level except for a driveway. It has several large trees and some grass that has been worn bare due to frequent use by customers of the convenience store on the adjacent lot. All utilities are available to the lot. There is a sidewalk across the front of the property at the street. The property has a tax value of \$16,800.

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The property owned by Knolls (PIN No. 9648.17-01-5372) is a 0.88 acre parcel located on the French Broad River at the intersection of Lyman Street and Amboy Road. It is directly across the river from the French Broad River Park and highly visible from the park. It slopes steeply down from the road at Amboy and levels off at the river. It is long and narrow, wider at Amboy and tapers off as it runs North with the western boundary of Lyman Street. Traveling North, the grade of Lyman Street descends closer to the river thus improving the access to the property. The parcel has a tax value of \$83,600. Knolls purchased the lot at a tax foreclosure sale for the upset bid amount of \$7,250. After purchasing the lot, Knolls offered to exchange the lot for City-owned property. An exchange of property was negotiated which includes an additional cash payment to the City in the amount of \$5,000.

The positive aspects of the transaction are:

- The exchange will be a fair exchange of value for value.
- It will return property not needed for public use to the tax rolls.
- It is consistent with the greenway master plan.
- It will protect the view from the park across the river.
- Acquisition of the entire parcel will allow greater flexibility than an easement.

Approval of the resolution will initiate the exchange of the properties through the process provided in N. C. G. S. 160A-271.

Planning & Development staff recommends adoption of the resolution authorizing the City Clerk to publish a notice regarding the exchange of real property located 14 Michigan Avenue for real property located on Lyman Street.

2005 Legislative Weekend

Summary: The City has received a request from the Chamber of Commerce for a \$10,000 appropriation to help support the 2005 Legislative Weekend.

The Asheville Area Chamber of Commerce, on a biannual basis, invites the North Carolina General Assembly to travel to Asheville and meet with members of the Chamber and local governments. The purpose of the event is to build relationships and familiarize members of the General Assembly with the needs of the Asheville area. In 2003, there were 200 legislators and spouses who committed to attend the event here. Since that was the first and the weather was not at its best, we expect more than 200 this year.

The private sector is supporting the 2005 Legislative Weekend, in addition to an appropriation of \$30,000 from Buncombe County. Members of the Chamber of Commerce are working with the local delegation to the General Assembly to plan an appropriate agenda and program. The Chamber is requesting \$10,000 from the City to support the program. As you know, the City has some important issues coming before both the local delegation and other members of the General Assembly in the next several years. This will be an excellent opportunity to start previewing those needs and concerns with them.

City staff recommends Council adopt a budget amendment, in the amount of \$10,000, from Contingency to the Chamber of Commerce in support of the 2005 Legislative Weekend.

Vice-Mayor Mumpower asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

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FEMA BRIEFING

Mr. Butch DeCote, Public Affairs Officer for the Federal Emergency Management Agency, updated City Council on the assistance they are providing to the citizens of Asheville and other areas in North Carolina affected by Hurricanes Frances and Ivan.

PROGRESS ENERGY UPDATE

Ms. Nancy Thompson, representing Progress Energy, briefed City Council on the progress Progress Energy has made, and is making, to restore power as a result of outages from the recent disasters of Hurricanes Frances and Ivan. She commended City staff for their communications and working with them throughout the disasters.

REPORT FROM DELOITTE CONSULTING ON ORGANIZATIONAL ASSESSMENT OF ASHEVILLE ALCOHOLIC BEVERAGE CONTROL BOARD

Mr. Joe Davidson, Senior Manager for Deloitte Consulting, presented City Council with an executive summary of their report on the organizational capabilities business processes and internal controls of the Asheville Alcoholic Beverage Control Board. He said that they were engaged (1) to assist the ABC organization in evaluating their organizational processes, their structure and their effectiveness, (2) to make recommendations that would overall improve their organizational efficiency and make them more transparent to the stakeholders in that organization; and (3) to make recommendations on how to be a more effectively functioning organization.

Mr. Davidson then reviewed the following highlights of recommendations along with the status of each of the recommendations:

- The current organizational structure could be redesigned to reduce the supervisor's span of control, thereby enhancing decision-making and information sharing capabilities.
- The new managerial position, "Store Operations Manager," should be shared by two high-performing store managers (in addition to their current store responsibilities) who possess operational, managerial and communication skills.
- The expanded responsibilities proposed increase store managers' accountability for their respective store operations.
- Centralizing purchasing and instituting guidelines and protocols for a key business process can be executed through a full-time employee dedicated to fulfilling these objectives.
- Increasing job clarity and improving accountability requires defining the role of each position in the organization and the expectations for successful job performance. Recommendations for the Supervisor position were detailed.
- Additional job specifications were developed for the following positions: Chief Accountant, Accountant, Administrative Assistant; and Warehouse Manager/Assistant Manager
- Separation of duties – opportunities exist to clarify job responsibilities and cross-train employees to create more productive and transparent work processes and improve workforce accountability.
- Purchasing for non-product goods should require completion of a requisition form, with pre-approval received centrally prior to actual transaction.
- Stores managers should be more accountable for inventory management.
- Policies and procedures – The organization needs up-to-date written policies and procedures, increasing the extent to which formal procedures guide decision-making in the organization.

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- Policies and procedures – The organization can improve its employee handbook through consideration and implementation of recommendations.
- Risk management – Internal controls should be developed for several internal transactions to assure transparency of operations.
- ABC law enforcement is provided by the ABC Board in many jurisdictions. In other jurisdictions, the function is "outsourced" to the local police. The Board should continue to evaluate the alternatives and choose the best solution.
- Organizational culture and communications can be improved by adoption of recommendations regarding the increase of both formal and informal communication channels throughout the ABC organization.

When Councilman Dunn asked about recommendations about the ABC Board and its role, Mr. Davidson explained that their focus was operational review of the ABC organization and the Board itself was not in the scope of their engagement.

Mr. Davidson then responded to various questions and comments from Council, some being, but are not limited to: why were findings made in the report if policies and procedures had been followed; what was the recommendation regarding store managers communicating directly with ABC Board members; explain why one store sold \$915,830 worth of alcohol last year but only had a net profit of \$12,431; what is the overall morale of the employees; will store managers be given more latitude in store operations; how many full-time employees are there in the ABC organization; and with 42 employees, the Board may need one person solely for Human Relations responsibilities.

Councilman Dunn expressed concern that the current members on the ABC Board haven't fulfilled their responsibilities. He felt it was not City Council's responsibility to be looking over the shoulder of any board to insure good governance. City Council should not have had to request a management study be performed. The Board should have done this themselves a long time.

Upon inquiry of Councilman Dunn, Mr. Davidson said that they have discussed the full results with the ABC Board and they are in agreement with all the recommendations and are eager to begin implementation of them as soon as possible.

Mr. Curtis Canty, General Manager/Supervisor of the Asheville Board of Alcoholic Control, responded as best he could since he has only been General Manager/Supervisor for 45 days, to various questions/comments from City Council, some being, but are not limited to: what he has already implemented since he has been hired; what are some of the big changes with small improvements that can be made; what is the attitude and morale of the ABC employees; what type of communication has occurred with the employees; what type of internal controls have you look at for change; is it the General Manager's responsibility or the Board's responsibility to supervise the employees; will Board members be allowed to talk to employees; how will each of the recommendations be addressed and during what timeframe; and what do you think the role of the ABC operations is as it relates to the City of Asheville.

Councilwoman Bellamy stated that the ABC Board hired Mr. Canty to do a task and hoped that the employees will allow him a

chance to do his job.

Ms. Debora Holmes-Young, Chair of the ABC Board, responded to various questions/comments from members of Council, some being, but are not limited to: why is there such a small percentage of the net profits from alcohol sales allocated to the City; has the Board been diligent in using taxpayer's money; why did the Board Chair feel the need to spend a night at the Grove Park Inn during a conference; what inclination does the Board have regarding in-house ABC law enforcement or outsourcing it to the Asheville Police Department; what was the

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reasoning for spending 19% on ABC law enforcement; is there more money unaccounted for other than the \$244,411 from employee embezzlement in 2002; the responsibility of allocating taxpayer dollars for alcohol and drug education should rest with an elected body and not an appointed body; and will the Board consider allocating an additional \$250,000 to the City to promote the drug program adopted by the City of Asheville this fiscal year.

Ms. Holmes-Young said that they will be sending City Council their law enforcement reports to give Council an ideal of how their hours are spent. In addition, she urged City Council to review the detailed minutes of their meetings.

Councilwoman Jones said that the ABC Board's challenge will be how to increase profit margins as well as simultaneously implement the recommendations.

When Vice-Mayor Mumpower asked for any ideas on how the relationship between the ABC Board and City Council can be strengthened, Ms. Holmes-Young suggested that if City Council has a question or a concern with any decision made by the Board, that the Council come to a Board meeting to have the concerned addressed.

After City Attorney Oast verified that the legislature has increased the ABC Board membership from 3 to 5 members, it was the consensus of City Council to start the application process.

On behalf of City Council, Vice-Mayor Mumpower thanked Mr. Davidson, Mr. Canty and Ms. Debora Holmes-Young for responding to Council's questions and concerns.

N.C. LEAGUE OF MUNICIPALITIES KICK-OFF FOR SEARCH FOR NEW CITY MANAGER

Mr. Ellis Hankins, Executive Director of the N.C. League of Municipalities ("League"), and Mr. Gene Dillman, Director of Member Services of the League, reviewed with City Council an outline for selecting a new City Manager. They reviewed the roles of the League and the roles of City Council. They then briefly talked about the (1) importance of the process; (2) agreeing on what City Council wants in a Manager; (3) and agreeing on a timeframe/procedure for selection, including (a) timeframe if Council manages the process themselves; (b) salary range and other considerations; (c) some sources for publication of the vacancy; (d) the screening process; (e) the interview process; (f) the interview session with City Council; and (g) the selection of the top candidate. City Council has three options: (1) manage the entire process themselves; (2) manage the entire process with the understanding that you may need some outside facilitation or guidance; or (3) retain a professional executive search firm to help you with the process.

Mr. Ellis and Mr. Dillman responded to various questions/comments from Council, some being, but are not limited to: does the League offer facilitators and services to help a City agree on what they are looking for in a manager; is up-front public involvement good for the process; can the League give the City a list of professional executive search firms; is it common for employees to leave after a new city manager is hired; and if it is disclosed at the beginning of the process that public involvement is a possibility before final selection, will that affect a candidates decision to apply or not.

On behalf of City Council, Mayor Worley thanked Mr. Ellis and Mr. Dillman for their presentation.

BUNCOMBE COUNTY DRUG TREATMENT COURT

The Honorable Ronald K. Payne, Superior Court Judge, explained when the drug court began and why. He said the Buncombe County Drug Treatment Court (DTC) originated in

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December of 2000 under his leadership. The other original Team members were Al Williams, D.A.'s office; Kristin Warnke, T.A.S.C.; Lori Anderson and Robin Keith, Probation; and Patricia Kaufman, Public Defender's office. Barbara Blanks was the DTC Administrator until her retirement in June 2004, at which time Kyle Moody took over as Administrator. The DTC seeks to reduce drug/prison recidivism, while specifically providing guidance, treatment, and discipline to those facing addiction recovery. To that end, the DTC Team, comprised of probation, law enforcement, treatment providers and court officials, offers individuals the tools necessary to help maintain sobriety years after program completion.

The model used in forming the Drug Court is the acceptance into a deferred judgment program or post-plea diversion program shortly after arrest, under which the defendant pleads guilty to a criminal charge (for example, unlawful possession of drugs) with the

understanding that (a) the active sentence will be deferred; (b) if the defendant successfully completes the program, the plea of guilty will be vacated and the charges dropped; and (c) if the defendant fails to complete the program, sentence will be imposed on the original charge.

He explained the key components of the program, which are: (1) Drug Courts integrate alcohol and other drug treatment services with justice system case processing; (2) Using a non adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process of rights; (3) Eligible participants are identified early and promptly placed in the Drug Court program; (4) Drug courts provide access to a continuum of alcohol, drug, and other related rehabilitation services.; (5) Abstinence is monitored by frequent alcohol and other drug testing; (6) A coordinated strategy governs drug court responses to participant's compliance; (7) Ongoing judicial interaction with each drug court participant is essential; (8) Monitoring and evaluation measure the achievement of program goals and gauge effectiveness; and (9) Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations. Forging partnerships among drug courts, public agencies and community-based organizations generates local support and enhances drug court effectiveness.

Active client numbers have grown over the years. The DTC currently serves 44 individuals. Of those, 4 are habitual felons.

As funding is the easy answer, the understanding behind the funding is more important. The DTC is currently funded by the County with a 75% reimbursement by the Governor's Crime Commission (for the time being). However, addiction and the good effort to get a handle on it lies beyond the County. DTC services, and is serviced, by all local governances and law enforcement. Therefore, it is easy to determine we are all working together to not only to fight, but also positively address the issue of addiction.

If the current persons did not agree to participate in this program, or if this program did not exist, various costs to the County and community would likely be: \$1,046,760.00 in jail or prison costs (44 participants with an average jail time of 10 months at an average daily cost to house an inmate of \$78). This cost does not include the likely subsequent drug and related charges following release from incarceration. \$150,000.00 annual cost to the community for 1/3 of the participants who would likely become homeless (annual cost of a chronic homeless offender is \$10,000, as referenced by the committee to develop a 10 year plan to end chronic homelessness in Asheville and Buncombe County). Additional and permanent dependency on community service providers including public housing and DSS (Drug dependency interferes with a person's ability to maintain employment and provide assistance to families).__

The annual budget for the DTC is approximately \$145,000, most of which goes to the treatment provider. Over the past few years, the majority of this cost (\$108,000) has been provided through an initial grant from the Governors' Crime Commission.

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The Governors' Crime Commission grant runs out at the end of September, 2004, however, as of today, they have just found out that the grant has been extended it because all the money hasn't been spent. We have also made the participants pay some monies. We have about \$9,200 remaining from the Eblen Foundation. All monies totaled will probably enable us to operate until February or March of 2005 with the participants we have. He also thinks there is an outside chance that we can get some other monies from private sources. They have quit accepting other clients. He is guardedly optimistic that the DTC will be funded by the State next year. He explained that the General Assembly has now made DTC an intermediate sanction to be used by the courts, although there are only 5 in existence throughout the State. He has talked to some of our representatives who will try to seek that funding. Because of City Council's efforts to battle drugs in our community he felt that Council may see fit to fund a portion towards the DTC in the treatment aspect.

Judge Payne responded to various questions and comments from Council, some being, but are not limited to: are the clients ordered to pay restitution; what happens if a person is convicted of another felony while in DTC; are records expunged if the person graduates; how much have the treatment costs gone up since the overhaul of the mental health system; and what type of crimes are committed by the clients in the program.

Vice-Mayor Mumpower said that it was Council's interest to respond to an immediate crisis and since the grant has been extended, the crisis may have been abated for a period of time. He said this is about drug interdiction, however, there is a concern about the City getting too heavily involved in treatment matters, which he personally feels is more of a state and county function. With the knowledge that the DTC has some temporary relief, he would prefer to temporarily tabling the matter until to the first of 2005, when the financial pictures becomes clearly in terms of permanent funding. He did feel this is a powerful program that has a positive impact on Asheville and the surrounding area.

Upon inquiry of Councilman Newman, Judge Payne said that Buncombe County has invested \$25,000 to the program for each of the last three years, for the match of the Crime Prevention grant. The ABC Board has given them \$12,000 a year, which is also used towards the match. Since Buncombe pays part of Mr. Moody's salary and they provide the office space and making of copies, he did not ask them for more funds. He did note though that Mecklenburg County receives funding from both the City and County.

Councilman Newman could see the tremendous value of the program and would like to see it continue. His only concern is that the criminal justice process is primarily a county responsibility, although the benefits for the citizens are self-evident. He would like to be supportive, however, he did think Buncombe County should be playing some significant leadership role.

Upon inquiry of Councilwoman Jones, Judge Payne could only guess that approximately 40% or more are City residents in the program. He explained that they only verify that they are a Buncombe County resident.

Councilwoman Jones would like to be supportive as well of this program and felt that a one-time matching of what the County has done in terms of dollars for two months is a way to be supportive.

Councilwoman Bellamy has seen the Charlotte program and they, along with Judge Payne, are committed to ensuring that people stay out of trouble long-term. She felt this program should qualify as an outside agency and the City of Asheville should invest in this successful model annually. She noted that in the past the City did provide outside agency funding for the Drug Commission, which is no longer in existence.

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Judge Payne stated that one of the reasons he has not asked the City for funding in the past is because he believes the courts should be funded by the state. That said, they don't want to run out of money and then ask for funds. He said that he would not ask the City to assist in funding through June 30 because he did not think it is the role of City government – or the role of County government. He believes it is the role for the State government.

Vice-Mayor Mumpower suggested a resolution of support to our legislative delegation.

Councilman Davis would be supportive to help the program one-time and felt the end of the year would be an appropriate time to decide what the City can contribute.

When Councilman Brownie asked what will happen if the State doesn't fund the program, Judge Payne said he would approach Buncombe County and ask them to approach people in the community that might take an interest in this sort of effort.

Upon inquiry of Councilman Newman, using an approximate figure, Judge Payne said that if they received \$20,000 they could run the program through June 30 and be able to serve the maximum number of participants (44).

It was the consensus of City Council to have Judge Payne check for other funding sources and then come back to Council with a specific request in November or early December. If, however, in the interim, if new information is obtained about funding sources or matching monies, City Council would be willing to bring up this issue prior to that time.

REPORT ON PANHANDLING, PUBLIC DRUNKENNESS AND GRAFFITI/COUNCIL PRIORITIZATION OF STAFF PROJECTS

- It was the consensus of City Council to consider this matter when the worksession is continued to September 28, 2004.

DEVELOPMENT REVIEW PROCESS TEAM

- It was the consensus of City Council to continue this matter until the October 19, 2004, worksession when all Council members will be present to hear the presentations.

REQUEST FOR PROPOSALS FOR WATERSHED MANAGEMENT PLAN

- It was the consensus of City Council to consider this matter when the worksession is continued to September 28, 2004.

QUARTERLY REPORT ON THE COUNCIL'S STRATEGIC PLAN

- It was the consensus of City Council to consider this matter when the worksession is continued to September 28, 2004.

UDO AMENDMENT REVIEW

Agreements as to Removal, Relocation and Reconstruction of Non-Conforming Off-Premise Signs

It was the consensus of City Council to hear the presentation at the public hearing scheduled on September 28, 2004.

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BOARD/COMMISSION VACANCIES

- It was the consensus of City Council to instruct the City Clerk to re-advertise for the Alternate vacancy on the Board of Adjustment.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Geraldine Melendez to the Asheville-Buncombe Fair Housing Commission.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Eva Estelle Williams to the Firemen's Relief Fund Board of Trustees.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Pattiy Torno, as one of the two property owners within the River District, to the River District Design Review Committee.

It was the consensus of City Council to instruct the City Clerk place the vacancy on the Buncombe County Tourism Development Authority on the next formal City Council agenda for action.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Councilman Joe Dunn to the Regional Water Authority.

FLOOD UPDATE

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City Manager Westbrook updated City Council on matters related to the recent floodings as a result of Hurricanes Frances and Ivan and responded to various questions/comments from Council.

CONTINUATION OF WORKSESSION

At 6:37 p.m., Councilman Dunn moved to continue the City Council worksession until 3:30 p.m. on Tuesday, September 28, 2004, in the Council Chamber, Second Floor of the City Hall Building. This motion was seconded by Councilwoman Jones and carried unanimously.

CONTINUATION OF TUESDAY, SEPTEMBER 21, 2004, WORKSESSION

September 28, 2004 – 3:30 p.m.
Council Chamber – City Hall

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower (arrived at 3:54 p.m.); Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

REQUEST FOR PROPOSALS FOR WATERSHED MANAGEMENT PLAN

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Interim Water Resources Director David Hanks said that City Council approved the implementation of a watershed management plan for the North Fork and Bee Tree watersheds. This plan was the first phase in a comprehensive management plan covering the next five (5) years and beyond. The request for proposals (RFP) is the second phase of the watershed plan to ensure long range proper management of the watersheds.

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Submitting watershed management firm must be qualified to address the best watershed management concepts and the scope of the proposal must include but is not limited to the following:

- Provide annual detailed recommendations to City of Asheville Water Resources staff for managing the watershed in the next fiscal year (July 1 – June 30)
- Insure that the annual recommendations maintain water quality as the primary objective
- Approval of the annual plan by City Council during the annual budget process for each fiscal year plan in order to proceed
- Provide detailed information on cost and any projected revenues of the annual proposed plan
- Identify areas within the watershed which require annual maintenance and specifically identify ways to address the annual maintenance needs using best forestry management techniques
- Provide recommendations for riparian buffer designs in order to reduce sedimentation and provide protection for streambanks
- Provide recommendations to reduce the risk of catastrophic events, such as fire, insects or disease to preserve the watershed in order to maintain high water quality
- Identify trees, underbrush, plants, shrubs, etc. which require one time maintenance or removal
- Identify trees, underbrush, plants, shrubs, etc. which require ongoing maintenance or removal during the life of the contract
- Identify roads, bridges, stream crossings, and road shoulders that require immediate maintenance
- Identify roads, bridges, stream crossings, and road shoulders that require long-term maintenance
- Identify invasive plant and tree species and provide action plans for removal or termination to insure continued health of the watershed
- Provide annual watershed plans that are compatible with the North Carolina Conservation Trust easement
- Provide annual watershed plans that protect and preserve the scenic view sites of the watershed from the Blue Ridge Parkway
- Assist in determining which emergency access roads should be maintained, closed or developed within the watershed
- Determine sites within the watershed for re-establishment of the American Chestnut tree

- Identify endangered/threatened species in the watershed area and provide recommendations for management
- Provide annual plans that will enhance native plants, wildlife, and other species found within the watershed
- It is the desire of the City to appoint a Watershed Advisory Committee made up of Water Resources and other City staff, representatives from the North Carolina Conservation Trust, Blue Ridge Parkway, and City of Asheville Tree Commission. This committee will be used to provide technical assistance and recommendations to the watershed management plan
- Any water-related work the firm is qualified to do (or sub-contract), as directed and mutually agreeable to both parties

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Staff will bring an annual plan to City Council outlining specific details of what will be done within the watershed, except emergency maintenance, for the next fiscal year for Council approval.

Mr. Hanks noted that due to recent storm events some items in the RFP will not need to be performed, e.g. several trees have already blown down and every bridge that has been accessible for them are gone.

City staff recommends City council's approval of the proposed RFP for the next phase of managing the North Fork and Bee Tree watersheds.

Councilwoman Bellamy initiated discussion about the need to receive as much public input as possible before it is brought to City Council. It was the desire of Council to have the Watershed Advisory Committee receive public input prior to the matter being considered by Council. Councilwoman Jones suggested another item in the RFP should include a public input process for the firm to do as well. This way, the public input would be in the formulation of the plan and then public input when the plan is finalized.

Mayor Worley felt it would be appropriate for staff to formalize the Watershed Advisory Committee and the ground rules under which they operate and bring that back to Council for approval.

Upon inquiry of Councilman Newman, Mr. Hanks said that they are looking for an individual or firm who has the resources to look at the entire 22,000 acres of the watershed.

In response to Councilman Newman, Mr. Hanks said that we are soliciting RFP's so we can gauge on how much it will cost based on the scope of what we want done. He has requested in the RFP an hourly rate and a flat rate for the entire project. We may have to go with an hourly rate, depending on the cost factor. He has called around and has gotten estimates on projects done with similar size watersheds and they range from \$50,000 to \$500,000, depending on the level and scope.

Councilman Newman felt we clearly need to have the a plan to identify which roads are vital, have the vital roads cleared, bridges maintained, and a plan for ongoing maintenance of those roads. He supports the chestnut restoration and preserving hemlocks, however, we only need a plan to maintain an adequate road network, with bridge repairs, and removal of the exotic species.

Mr. Hanks said that we are looking at a 5-10 year project. After we get the rates, then Council can determine what they want done, if anything, on a priority basis.

Councilman Newman said that in his opinion the main benefit of using forestry as a management tool in the watershed is to produce revenue to either accomplish other management goals or to create significant revenue for the Water Department. He feels that the watershed takes care of itself and even the consultant Council hired stated that forestry management on the watershed doesn't reduce the risk of fire. He felt Council needed to be more clear on if we want to use forestry as a tool and to what degree. If we aren't going to do much forestry on the property then he didn't see a need to hire a big firm to create an expensive plan.

A brief discussion surrounded the reason for the RFP and the need to have capable people to follow-through on any of the services City Council want to move forward on.

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City Manager Westbrook said that Council will tailor what the firm does each year, if anything.

Councilman Newman asked that this matter not be on the consent agenda for the formal meeting.

QUARTERLY REPORT ON THE COUNCIL'S STRATEGIC PLAN

Assistant City Manager Jeff Richardson said that this multi-year plan document outlines seven (7) key focus areas that City Council has identified as critical to the overall long-term positive growth and vibrancy of the Asheville community. Within those seven key focus areas, 45 goals and 94 operational tasks are identified. Timeframes were identified for each of the tasks. This report outlines staff progress in the first 90 days after adoption of this plan for those tasks with timeframes conducive to this fiscal year.

Pros - City Council will continue to receive quarterly updates to insure city staff are progressing as directed by City Council.

Mr. Richardson asked for direction on the following two tasks:

(1) The focus area of economic development, Goal # 3. It was the consensus of Council for staff to invite Dr. James Johnson, Director of the Investment Strategies Center from UNC-Chapel Hill's Kenan-Flagler Business School to speak at the annual strategic planning summit between the City of Asheville, Buncombe County, AdvantageWest, Economic Development Commission, Tourism Development Authority, Asheville Regional Airport Authority and other economic development organizations.

(2) The focus area of community building, Goal #1, Objective A: Conduct evaluation of City Council's current legislative process to determine if it best facilitates effective Council decision-making. After a brief discussion, it was the consensus of Council to review Task #1 (appoint City Council task force to analyze process) in the second quarter of 2005 with possible appointment in the third or fourth quarter of 2005. In addition, Objectives B and C will be coordinated with direction given for Objective A.

Upon inquiry of Vice-Mayor Mumpower, Mr. Richardson explained the work in progress utilizing the web/internet and other media forms to increase knowledge of vision, city services and Council decision-making. He suggested more frequent feedback on this task.

REPORT ON PANHANDLING, PUBLIC DRUNKENNESS AND GRAFFITI/COUNCIL PRIORITIZATION OF STAFF PROJECTS

Planning & Development Director Scott Shuford said that Downtown Social Issues Task Force (DSITF) has made recommendations to City Council concerning panhandling, public drunkenness, and graffiti. City Council asked staff to examine these recommendations and report back in terms of implementation.

Pursuant to this direction, staff evaluated the Task Force recommendations and placed them into three "Status" categories. **Status 1** represents items that can readily be accomplished by City staff without additional resources or workload prioritization. **Status 2** items require additional resources and/or workload prioritization. **Status 3** items require action by agencies outside direct Council control, such as statutory authority for an additional tax. He reviewed the following DSITF recommendations and their status rankings.

IMPLEMENTATION ITEM	STATUS	COMMENTS
PANHANDLING		
1. Lock box program <ul style="list-style-type: none"> • Locate 4 lockboxes • Brochure development/distribution • Support PR campaign • Urban Neighborhood Watch Program 	2 2 2 1	Legal review needed Support brochure development Support PR campaign Neighborhood Watch program already in place
2. Maintain current ordinance; improve	1-2	Improving implementation may take add'l resources
PUBLIC DRUNKENNESS		
1. Improve detox facilities	2-3	May require legislative authority; need to determine roles of other players
2. Housing First Program	1-2	Part of 5-Year Strategic Plan work; may require funding
3. Emergency detox/treatment/recovery center	2-3	Funding responsibility determination; possible statute change needed
4. Inebriate Safety Zones	2	Legal review; Police implementation
5. City park alcohol possession ordinance	2	Legal review
6. Resolution addressed to District Attorney	1	Council resolution
GRAFFITI		
1. 48-hour graffiti removal pilot program	2	City fund part of program
2. 48-hour graffiti removal ordinance	2	Legal review; City funding
3. Webpage marketing of anti-graffiti program	1	Minor staff time (requires program to be established)
4. Support for <i>Asheville Mural Project</i>	1	Council resolution of support
5. Additional kiosks	2	City funding and placement
6. Resolution addressed to District Attorney	1	Council resolution
7. Greater police presence	2	Allocate resources
8. Consideration of "legal graffiti wall" concept	1	Staff may be involved in location and marketing issues

There are several items that can be pursued immediately by staff, including: writing a resolution asking the District Attorney to treat panhandling, public drunkenness and graffiti offenses as serious crimes; writing a resolution in support of the Asheville Mural Project (and exempting the murals from sign code regulation): and maintenance of existing ordinance enforcement and the existing Neighborhood Watch program.

Several of the Task Force recommendations raise issues of constitutionality and/or the City's legal authority and practical ability to implement them. The possibility of such issues was generally recognized by the Task Force in its presentation. There are significant First Amendment issues associated with placing collection boxes on public property or right of way, significant State law pre-emption issues associated with some of the alcohol-related recommendations, and both constitutional and State law consistency issues associated with the designation of inebriate safety zones. These are examples, but not a complete list.

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Special legislation--if it is even possible (and there are constitutional limitations on local acts)--may be required for some of the recommendations, and further practical and legal analysis is needed with respect to how some of the recommendations will be administered or enforced.

The City Attorney's Office will be glad to perform the necessary research and analysis, and to make recommendations to Council as to what may be done under current law, what may require special legislation, and what the City may lack the power to do for constitutional or legal reasons. This research will require consultation with other municipalities (in NC and around the country), the Attorney General's Office, and/or the Institute of Government, as well as some of the national organizations that provide assistance in such matters. This is extensive work and may require the department to reprioritize our workload or seek other resources such as added staffing or outside consultants. We will ask the Task Force to direct us to examples of the recommended programs or ordinances elsewhere in the State or country to facilitate our work.

Additionally, several of the recommended implementation items require potentially significant enhancements of existing resources. The Police Department will need to examine the degree to which some of the recommendations, if implemented, will require additional or reallocated staffing (especially the call for greater police presence), although, most of the recommendations would have minimal impact. The Planning and Development Department will need to become involved in marketing and promoting the programs. The Public Works Department will need funds for kiosk construction, graffiti removal kits, and enhanced light pole graffiti/poster removal and other cleanup efforts.

Finally, for the public drunkenness issue, please note that City involvement in the treatment aspect of this matter will represent a major shift in policy. In North Carolina, counties are the local governments statutorily charged with providing social services; cities typically don't run these programs or provide significant financial support to them (most do as we typically do with our outside agency allocations, for example). In the Healing Place example from Raleigh, Wake County is a major funder, while the City of Raleigh funds only 3.2% of the total. (See funding breakdown below.) The City has begun dialogue with Western Highlands area mental health and local health officials about their efforts to expand existing detox facilities within the next year. Once established, this expansion could significantly assist the City in addressing downtown public drunkenness issues. Buncombe County will shortly begin construction of a major detention center and should be approached about assisting with the public drunkenness problem by providing additional overnight detention/treatment space. We recommend considerable dialog with the ABC Board, the County and existing providers of this service before we move forward with any implementation measures.

HEALING PLACE FUNDING – PERCENT OF \$1.4 MILLION ANNUAL BUDGET	
ABC Board - \$650,000 or 46.4%	Wake County - \$242,000 or 17.3%
City of Raleigh - \$45,000 or 3.2%	Private Donations - \$463,000 or 33.1%

Also are work program priorities already established by Council for the City departments most affected by the implementation of **Status 2** and **Status 3** items. These departments are: Legal and Planning and Development (possibly, in the future, Police). In order to add these implementation items to our current work programs, we will need to reprioritize our work and will need Council to assist us in determining which work program tasks have a higher level of Council priority. Additionally, Council may choose to provide us with additional resources to allow all priorities to be met.

City staff recommends City Council receive staff presentation and provide direction as to the implementation priorities for the DSITF recommendations.

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Upon inquiry of Councilwoman Bellamy about maintenance of our existing kiosks, Mr. Shuford said that he will provide Council with information on how they are working from a Public Works perspective.

Discussion occurred regarding the comments and the reasoning behind some status categories.

Regarding funding, Councilwoman Jones said that there be other groups in the community that have an investment in seeing

some of these items implemented in terms of tourism.

After discussing the current workload of the Planning & Development Department and the City Attorney's Office, it was the consensus of Council to ask Mr. Shuford to convert the list of items into a checklist with a little more information associated with it, e.g., which legal items will require an extensive amount of research, minor research, extensive funding or less expensive funding. He will send that checklist to Council and ask for each Council member to prioritize them and return the list to him. He will then compile it and give the entire Council a composite of the results at an upcoming worksession.

ADJOURNMENT:

Vice-Mayor Mumpower adjourned the meeting at 4:45 p.m.

CITY CLERK

MAYOR