

Tuesday – October 28, 2008 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 30, 2008, AS "INSULATE! DAY"

Councilwoman Cape read the proclamation proclaiming October 30, 2008, as "Insulate! Day" in the City of Asheville. She presented the proclamation to Mr. Phillip Ray Gibson, Director of Community Outreach at Warren Wilson College, and others, who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING NOVEMBER 2008 AS "LONG-TERM CARE AWARENESS MONTH"

Councilman Newman read the proclamation proclaiming November 2008 as "Long-Term Care Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Betty Doll, with Long Term Care Insurance Services, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Councilwoman Cape, Consent Agenda Item "A" was removed from the Consent Agenda for discussion and/or an individual vote.

At the request of Councilman Mumpower, Consent Agenda Items "B", "C", "E", "F", "G", "I", "K", "L" and "M" were removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON OCTOBER 14, 2008; AND THE WORKSESSION HELD ON OCTOBER 21, 2008

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

B. ORDINANCE AMENDING CHAPTER 9 OF THE CITY OF ASHEVILLE CODE OF ORDINANCES TO LEVY A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

RESOLUTION LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

These items were removed from the Consent Agenda for discussion and/or an individual votes.

C. BUDGET AMENDMENT TO TRANSFER FUNDS FROM THE STORMWATER ENTERPRISE FUND TO THE DINGLE CREEK PROJECT FUND TO COVER THE COST OF THE CONTRACT AMENDMENT WITH MCGILL ASSOCIATES FOR A STORMWATER ENGINEERING ANALYSIS OF THE DINGLE CREEK WATERSHED

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

D. RESOLUTION NO. 08-207 – RESOLUTION SETTING A PUBLIC HEARING ON DECEMBER 2, 2008, TO CONSIDER PERMANENTLY CLOSING A PORTION OF WALLACK STREET

Summary: The consideration of a resolution of intent to close an unopened portion of Wallack Street and request a public hearing for December 2, 2008, regarding this issue.

N. C. Gen. Stat. sec.160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, property owners Asheville Buncombe-Community Christian Ministry Inc. and Robert and Joan Ledford have requested the City of Asheville to permanently close an unopened portion of Wallack Street.

The Greenway Commission is scheduled to review the closure of the unopened portion of Wallack Street at their meeting on November 13, 2008.

Regarding the Strategic Operating Plan, this closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more effective use of the existing adjacent properties.

Con:

- In consideration of the location of the unopened right-of-way, staff can find no potential challenges regarding the closure of the alley.

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt a resolution setting a public hearing for December 2, 2008, to close an unopened portion of Wallack Street.

RESOLUTION BOOK NO. 31 – PAGE 334

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH GLADHEART FARMS, LLC, FOR THE COMMERCIAL PRODUCTION OF AGRICULTURAL CROPS ON UNUSED PORTIONS OF CITY-OWNED PROPERTY AT AZALEA PARK AT 395 AZALEA ROAD

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

F. BUDGET AMENDMENT FROM THE U.S. DEPT. OF JUSTICE TO CREASE A BUDGET FOR THE THIRD YEAR OF THE WEST RIVERSIDE OPERATION WEED AND SEED INITIATIVE

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

G. BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION TO CREATE A BUDGET FOR THE WEST RIVERSIDE GUN VIOLENCE PREVENTION PROJECT IN ASHEVILLE'S WEEK AND SEED TARGETED AREA

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

H. RESOLUTION NO. 08-209 – RESOLUTION ACCEPTING EAST SCHENCK CRESCENT, COLUMBINE ROAD, DEARBORN STREET, TOWN SQUARE BOULEVARD AND DAYFLOWER DRIVE AS CITY-MAINTAINED STREETS

Summary: The consideration of a resolution accepting various developer constructed streets as City-maintained streets in the recently annexed area of the City of Asheville known as Town Square East that is described in the Annexation Services Plan dated April 26, 2005.

Ordinance # 7-15-1(e)(4)a requires that streets dedicated for public use by accepted by resolution of the City Council.

- East Schenck Crescent from Schenck Parkway to Columbine Road is a developer constructed street that has an average width of 38 feet, a length of 0.18 mile, and a right-of-way width of 50 feet.
- Columbine Road from Town Square Boulevard to Heathbrook Circle is a developer constructed street that has an average width of 26 to 42 feet, a length of 0.18 mile, and a right-of-way width of 50 feet.

- Dearborn Street from Town Square Boulevard to Leucothoe Lane is a developer constructed street that has an average width of 38 feet, a length of 0.12 mile, and a right-of-way width of 50 feet.
- Town Square Boulevard from Schenck Parkway to Schenck Parkway is a developer constructed street that has an average width of 32 feet, a length of 0.10 mile, and a right-of-way width of 42 to 46 feet.
- Dayflower Drive from Columbine Road to Dearborn Street/White Ash Drive/Olmsted Drive is a developer constructed street that has an average width of 24 feet, a length of 0.24 mile, and a right-of-way width of 45 feet.

Transportation and Engineering Department staff and Public Works Department staff have inspected these streets and recommend their change of ownership from privately-maintained streets to City-maintained streets.

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

This action complies with the City Council 2008-09 Strategic Operating Plan within the Sustainable Focus Area by accepting street infra-structure as a part of a voluntary annexation which helps support the healthy growth of the City.

Pros:

- The City of Asheville will receive Powell Bill Funds from the N.C. Dept. of Transportation to maintain the streets (*Total mileage = 0.82 mile*).
- The streets provide access and connectivity in a residential and non-residential community (*town center*).

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

- There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street. Currently, the Powell Bill Funds equate to \$1,886 per mile compared to the City's maintenance cost of \$8,200 per mile.

- Staff recommends that City Council accept the subject streets as city-maintained streets.

RESOLUTION BOOK NO. 31 – PAGE 336

I. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM THE DEPT. OF JUSTICE OF COMMUNITY ORIENTED POLICING SERVICES METHAMPHETAMINE PROGRAM GRANT

BUDGET AMEMENT FROM THE DEPT. OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES TO ASSIST THE POLICE DEPARTMENT WITH THE PURCHASE OF METHAMPHETAMINE LAB INVESTIGATION EQUIPMENT, PROVIDE FOR OFFICER TRAINING AND OFFICER OVERTIME IN METH LAB INVESTIGATIONS

These items were removed from the Consent Agenda for discussion and/or an individual vote.

J. ORDINANCE NO. 3665 – BUDGET AMENDMENT TO ACCEPT A \$500 DONATION FROM EMPLOYMENT STAFFING INC. FOR THE PURPOSE OF DISBURSING THIS DONATION TO WESTERN CAROLINA RESCUE MINISTRIES INC.

Summary: The consideration of a budget amendment to accept a five hundred dollar (\$500) donation from Employment Staffing, Inc. (ESI) for the purpose of disbursing this donation to Western Carolina Rescue Ministries, Inc. (WCRM).

After discussion at the Tuesday, August 26, 2008, the City Council responded to a request from WCRM asking the City to provide transit passes for some of the agency's homeless clients who had been offered work opportunities at Arvato Digital Services in Weaverville and needed transportation assistance. On Friday, August 29, 2008, ESI donated \$500 to the City for this purpose. However, to provide the funds to WCRM an outside agency agreement would be required. In the end, ESI purchased the transit passes for the homeless clients directly from the City Transit office.

Shortly thereafter, City staff requested direction from ESI as to the final use of the \$500 donation. Mr. Bobby Walker, CFO of ESI, requested that the City disburse the donation directly to WCRM.

This request supports and implements the City's 2008-09 Strategic Plan goal of affordability by supporting initiatives to end homelessness. This request also supports the City's Continuum of Care and 10-year Plan to End Homelessness through partnering with other agencies that provide services and support to the homeless.

Pro:

- Completes the request by ESI to disburse the \$500 donation to Western Carolina Rescue Ministries.

Con: None noted.

- Budget amendment is only a technical adjustment to reflect the \$500 ESI donation; therefore, it will have no impact on the City's budget. Recognizing the donation is required to then disburse the funds to WCRM.

City staff recommends City Council approve a budget amendment to accept a five hundred dollar (\$500) donation from Employment Staffing, Inc. (ESI) for the purpose of disbursing the funds to Western Carolina Rescue Ministries, Inc.

ORDINANCE BOOK NO. 25 – PAGE

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE RURAL ECONOMIC DEVELOPMENT CENTER FOR P.E.G. SUPPORT FUNDS FOR A PASS-THROUGH GRANT TO URTV, INC.

BUDGET AMENDMENT TO ACCEPT A GRANT FOR P.E.G SUPPORT FUNDS FROM THE RURAL ECONOMIC DEVELOPMENT CENTER AND FACILITATE A PASS-THROUGH GRANT TO URTV, INC.

These items were removed from the Consent Agenda for discussion and/or an individual vote.

L. BUDGET AMENDMENT FROM A COMMUNITY DEVELOPMENT BLOCK GRANT AND AVAILABLE TRAFFIC CALMING FUNDS FOR THE BURTON STREET TRAFFIC CALMING PROJECT

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

M. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED MEMORANDUM OF UNDERSTANDING FOR THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION

This item was removed from the Consent Agenda for discussion and/or an individual vote. Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON OCTOBER 14, 2008; AND THE WORKSESSION HELD ON OCTOBER 21, 2008

- Upon inquiry of Councilwoman Cape, City Attorney Oast said that Councilwoman Cape could abstain from voting on the October 14 and October 21 minutes since she was not in attendance of either meeting.

Councilman Newman moved for the adoption of the October 14 and October 21, 2008, minutes. This motion was seconded by Councilman Mumpower and carried unanimously (with Councilwoman Cape abstaining from voting).

B. ORDINANCE NO. 3660 – ORDINANCE AMENDING CHAPTER 9 OF THE CITY OF ASHEVILLE CODE OF ORDINANCES TO LEVY A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

RESOLUTION NO. 08-206 – RESOLUTION IMPOSING A TAX ON GROSS RECEIPTS FROM THE RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

Summary: The consideration of (1) an ordinance amending Chapter 9 of the Code of Ordinances to levy a tax on gross receipts derived from retail short-term lease or rental of heavy equipment; and (2) a resolution imposing a tax on gross receipts from the retail short-term lease or rental of heavy equipment.

Senate Bill 1852 entitled "An Act to Resolve Problems with Applying Property Tax to Heavy Equipment Rented on a Short-Term Basis by Replacing the Property Tax on this Equipment with a Tax on the Gross Receipts from Renting the Equipment" (the "Act") was signed into law on August 2 and has been designated as Session Law 2008-144. Prior to the enactment of this legislation, municipalities had the authority to levy ad valorem property taxes on heavy equipment. The Act repeals that authority with regard to heavy equipment, now designating these items of heavy equipment as property classified and excluded from the tax base.

The Act does, however, provide a mechanism to replace the ad valorem property tax previously levied on this equipment. The Act authorizes a municipality to levy a gross receipts tax on the gross receipts from the short-term lease or rental of heavy equipment at retail. Under the terms of the statute, the tax is eight tenths (0.8%) percent. This gross receipts tax is in addition to the privilege taxes authorized by G.S. § 160A-211 and any other gross receipts tax that may be applicable in a municipality.

The Act states that the new gross receipts tax may not become effective before January 1, 2009. However, in order to begin collecting the gross receipts tax on January 1, 2009, municipalities must adopt a resolution imposing the tax prior to the end of October 2008. Staff is recommending that Council adopt this resolution and ordinance in order to ensure that the City of Asheville begin receiving this gross receipts revenue on January 1, 2009.

Pro:

- Offsets the loss of property tax revenue on heavy equipment.

Con:

- None noted.

According to the Buncombe County Tax Assessor, the City of Asheville previously collected approximately \$56,000 in property tax revenue from heavy equipment business owners. Adoption of this resolution will replace this lost property tax revenue with revenue from a gross receipts tax. Thus, there is no fiscal impact associated with this resolution.

City staff recommends City Council adopt (1) an ordinance amending Chapter 9 of the Code of Ordinances to levy a tax on gross receipts derived from retail short-term lease or rental of heavy equipment; and (2) a resolution imposing a tax on gross receipts from the retail short-term lease or rental of heavy equipment.

Councilman Mumpower felt this was not the time to levy any taxes on any business, especially heavy equipment companies.

When Mayor Bellamy asked for a motion on these two items, none was received and thus the ordinance and resolution failed due to lack of a motion.

Councilman Newman then asked for these items to be revisited.

Budget Director Tony McDowell said that this is basically shifting the tax burden from the owners of the equipment to the users of the equipment.

Mr. McDowell confirmed Councilman Newman's statement that if Council does not take action on these items, there will be a kind of property in the community exempted from taxation of any form.

Councilman Newman moved for the adoption of Ordinance No. 3660. This motion was seconded by Councilwoman Cape and carried on a 4-3 vote, with Mayor Bellamy, Vice-Mayor Davis and Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

Councilwoman Jones moved for the adoption of Resolution No. 08-206. This motion was seconded by Councilman Newman and carried on a 4-3 vote, with Mayor Bellamy, Vice-Mayor Davis and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 333

C. ORDINANCE NO. 3661 – BUDGET AMENDMENT TO TRANSFER FUNDS FROM THE STORMWATER ENTERPRISE FUND TO THE DINGLE CREEK PROJECT FUND TO COVER THE COST OF THE CONTRACT AMENDMENT WITH MCGILL ASSOCIATES FOR A STORMWATER ENGINEERING ANALYSIS OF THE DINGLE CREEK WATERSHED

Summary: The consideration of a budget amendment, in the amount of \$21,000, to transfer funds from the Stormwater

Enterprise Fund to the Dingle Creek project fund to cover the cost of the contract amendment with McGill Associates for a stormwater engineering analysis of the Dingle Creek Watershed.

On August 26, 2008, City Council adopted resolution authorizing the City Manager to execute an agreement with McGill Associates for the Dingle Creek Stormwater Engineering Analysis in the amount of \$21,000 for additional survey work and application of a Clean Water Management Trust Fund grant.

Money for this project is budgeted in the current year fiscal budget in the Stormwater Utility Enterprise Fund and this budget amendment is necessary in order to transfer \$21,000 from the Stormwater Enterprise Utility to the Dingle Creek project.

This action complies with the Dingle Creek Watershed Master Plan in that the engineering analysis conducted is necessary in order to apply and obtain the Clean Water Management Trust Fund Grant in which will be used to implement a portion of the watershed master plan.

Pros:

- Implement a portion of the watershed master plan through the Clean Water Management Trust Fund Grant
- Improve water quality to the area

Con:

- None

Money from this project is budgeted in the current year fiscal budget in the Stormwater Utility Enterprise Fund.

Staff recommends City Council adopt the budget amendment, in the amount of \$21,000, to transfer funds from the Stormwater Enterprise Fund to the Dingle Creek Grant fund to cover the cost of the contract amendment with McGill Associates for a stormwater engineering analysis of the Dingle Creek Watershed.

Councilman Mumpower felt that due to the economic climate, the timing of this is less than ideal and we continue to spend dramatic dollars on planning.

Councilwoman Jones moved for the adoption of Ordinance No. 3661. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

E. RESOLUTION NO. 08-208 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH GLADHEART FARMS, LLC, FOR THE COMMERCIAL PRODUCTION OF AGRICULTURAL CROPS ON UNUSED PORTIONS OF CITY-OWNED PROPERTY AT AZALEA PARK AT 395 AZALEA ROAD

Summary: The consideration of a potential agricultural lease with Gladheart Farms, LLC, a locally based certified organic farm, for 11 +/- acres of land for commercial agricultural production at Azalea Park.

Prior to the City's acquisition of the Azalea Park, the land was used as an agricultural farm. Now, the former farmland has been converted to a state-of-the-art soccer and park facility, however there is still potential for unused lands within the park to be utilized in farm production. Gladheart Farms, LLC is proposing to use 11 +/- acres of Azalea Park for certified organic vegetable, fruit and hay production. Gladheart has offered to enter into a three-year lease with option to renew for one additional three year term at a rent of \$1,500 per year, with an annual escalation of 4%. The rental rate was generated through input provided by area farmers, the NC Cooperative Extension Service, and the National Park Service, a governmental agency that also administers agricultural leases on public lands. In that 5 acres of the property will require extensive clearing of overgrowth of native and invasive plant species, such as bamboo, tree of heaven and privet, Gladheart proposes to perform the clearing in lieu of paying the first two years' rent.

Gladheart sells only within the wholesale market, therefore no retail or U-pick operations would exist on the City Park property. The proposed lease will respect all stream buffers, conservation easements, wetlands and proposed greenway paths that exist at Azalea Park. Gladheart will maintain all necessary liability insurance for the property as well as limit access to authorized personnel and representatives of Gladheart. Only USDA organically certified fertilizers, pesticides and herbicides will be permitted at the property and annual soil and water quality reports will be provided to the City. The proposed agricultural use will have no impact on the recreational use of the Azalea Park or the soccer facility. The Parks & Recreation Advisory Board reviewed and approved this proposed agricultural lease on October 13, 2008.

This complies with the Strategic Operating Plan in that it promotes sound land management per the Parks and Recreation Master Plan.

Pros:

- Increased income to dedicate to the Parks Department Land Banking fund.
- Clearing of overgrowth is compatible with the future uses of Azalea Park.

Con:

- There is no negative impact.

The fiscal impact will be \$1,500 per year beginning in November 2010, with 4% annual escalations thereafter.

The Economic Development staff recommends adoption of this resolution.

In response to Councilman Mumpower, Real Estate Manager Nikki Gunter confirmed the rent is appropriate for the use of City property.

Councilman Mumpower moved for the adoption of Resolution No. 08-208. This motion was seconded by Councilwoman Cape and carried unanimously.

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F. ORDINANCE NO. 3662 – BUDGET AMENDMENT FROM THE U.S. DEPT. OF JUSTICE TO INCREASE A BUDGET FOR THE THIRD YEAR OF THE WEST RIVERSIDE OPERATION WEED AND SEED INITIATIVE

Summary: The consideration of a budget amendment, in the amount of \$150,000, for a grant from the U.S. Department of Justice to create a budget for the third year of the West Riverside Operation Weed and Seed initiative

In October 2004, elected officials, city staff and Asheville citizens mobilized to develop comprehensive strategies to address issues of law enforcement, neighborhood restoration, and prevention/intervention/treatment programs and activities in the West Riverside area of Asheville as part of a Weed and Seed initiative. The strategy was introduced to the community via a series of public meetings to determine the concerns of residents of the target area, and was received favorably with the understanding that residents would be integrally involved in the planning and implementation of the initiative.

An application was submitted in October 2005 to the U.S. Department of Justice for official recognition as an official Weed & Seed site. In July 2006, the U.S. Department of Justice announced the designation of Asheville as an "Officially Recognized" site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life. Official recognition made the City of Asheville eligible to apply for Weed & Seed funds once a year over a five year period. The first funding application was approved and awarded in August 2006.

In July 2008, Acting Assistant Attorney General, Jeffrey L. Sedgwick announced the City of Asheville's application for third year funding as a continuing site was approved in the amount of \$150,000. 50% of the funds will be used to support law enforcement and community police programs; and 50% will be used to support neighborhood initiatives such as youth services, parenting programs, health and nutrition programs, vocational programs, neighborhood clean ups, housing services, and the salary of the Weed & Seed Site Coordinator. No additional City funding will be required to support this third-year grant.

The West Riverside Operation Weed and Seed Steering Committee, residents and several community based resource agencies such as the Housing Authority, Asheville City Schools, Children First, OnTrack Financial Education and Counseling, Quality Forward and others continue to collaborate to improve quality of life for the residents of the West Riverside area and Asheville.

This action complies with the City Council Strategic Operating Plan in that it supports small business development in the Affordable Focus Area. It also complies with the following goals in the Safe Focus Area: 1) expand community policing initiatives, 2) reaffirm commitment to eliminate open air drug market in Asheville, 3) partner with intergovernmental agencies including the judicial system to comprehensively address drug-related crime, and 4) support recreation and employment alternatives for youth at risk of gang exposure. Finally, it complies with the Sustainable Focus Area in that it expands partnerships with UNCA, AB Tech and other institutions to achieve goals in health and wellness, workforce development, and economic development.

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Pros:

- Significantly reduce violent crime and drug activity in an area of Asheville that has high crime activity.
- Provide a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs for the residents of the target area.
- Mobilize community residents to collectively improve the conditions in the target area.
- Provide resources for residents as a means of personal growth and development.
- Multi-agency collaboration to address the social, educational, economic and cultural issues in the target area.

- Leverage resources to sustain the program and replicate the strategies in other problem areas in the city.

Con:

- Some resistance to change by the residents who live in the target area.

- The fiscal impact is grant revenue of \$150,000 to implement the comprehensive Weed & Seed strategy which funds police overtime, police equipment, a coordinator position, and community service contracts among other things at no additional cost to the City. The effort will sustain itself after the fifth year of implementation when Weed & Seed funding is no longer available.

- City staff recommends City Council adopt a budget amendment authorizing the City Manager to establish a budget in the amount of \$150,000 for the third year of the West Riverside Operation Weed and Seed initiative.

Councilman Mumpower had no problem with the Weed and Seed Initiative other than it is a federal initiative to fix local problems. He was concerned that we have a \$11 Trillion national debt and he could not support the City accepting a federal grant of borrowed money from foreign counties that our children and grandchildren will have to repay.

Mayor Bellamy thanked the people who are helping to lead the Weed and Seed, which include people from the non-profit sector as well as the residents of the impacted neighborhoods. She also thanked the police officers who are working additional time in these particular neighborhoods because we are seeing, through collaboration, a decrease in crime in these areas.

Councilwoman Cape moved for the adoption of Ordinance No. 3662. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

G. ORDINANCE NO. 3663 – BUDGET AMENDMENT FROM THE N.C. GOVERNOR'S CRIME COMMISSION TO CREATE A BUDGET FOR THE WEST RIVERSIDE GUN VIOLENCE PREVENTION PROJECT IN ASHEVILLE'S WEED AND SEED TARGETED AREA

Summary: The consideration of a budget amendment in the amount of \$15,000 for a grant from the N.C. Governor's Crime Commission to create a budget for the West Riverside Gun Violence Prevention Project in Asheville's Weed & Seed targeted area.

In October 2004, elected officials, city staff and Asheville citizens mobilized to develop comprehensive strategies to address issues of law enforcement, neighborhood restoration, and prevention/intervention/treatment programs and activities in the West Riverside area of Asheville as part of a Weed and Seed initiative. The program was introduced to the community via a series of public meetings to determine the concerns of residents of the target area, and was received favorably with the understanding that residents would be integrally involved in the planning and implementation of the initiative.

In July 2006, the U.S. Department of Justice announced the designation of Asheville as an "Officially Recognized" site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life. Weed & Seed sites are required to leverage additional funds to carry out their respective goals and objectives. This grant award will address the community driven Weed and Seed goals of: 1) reducing crime and improving public safety, 2) enhancing the relationship between the community and law enforcement, 3) providing accessible programs for youth, and 4) increasing parent involvement in education and after-school activities.

An amount of \$10,010 will be used for Asheville Police officer investigative overtime and FICA in the Weed and Seed area with a concentration on crimes related to gun violence and gang activity. The project also provides a prevention element in which gang detectives will teach the "Gang Resistance Education and Training Families" (GREAT) curriculum in the Weed and Seed area. This will enhance the GREAT curriculum currently being taught at Randolph Learning Center. The GREAT curriculum is also being taught at Asheville Middle School as classes become available. An amount of \$4990 will be used for gang suppression unit detective supplies and equipment. No additional City funding will be required to support this grant.

This action complies with the City Council Strategic Operating Plan in that it supports the following goals in the Safe Focus Area: 1) Expand community policing initiatives, 2) reaffirm commitment to eliminate open air drug market in Asheville, and 3) support recreation and employment alternatives for youth at risk of gang exposure.

- Pros:

- Reduce gun crimes and gang activity in an area of Asheville that has high crime activity.
- Enhance the Weed and Seed strategy of providing a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs for residents of the target area.
- Mobilize community residents to take an active role in gun violence and gang prevention.
- Provide resources for residents as a means of personal growth and development.

- Multi-agency collaboration to address gun violence and gang prevention in the targeted area.
- Leverage resources to sustain the GREAT Families program which can be replicated in other areas of the city.

Con:

- Some resistance to change by the residents who live in the target area.

- The fiscal impact is grant revenue of \$15,000 for new equipment for Gang Suppression Officers and the facilitation of Gang Resistance Education and Training Families program at no additional cost to the City.

- City staff recommends City Council adopt a budget amendment authorizing the City Manager to establish a budget in the amount of \$15,000 for the Project Safe Neighborhoods Gun Violence Prevention Project for the Weed & Seed area.

Councilman Mumpower felt the state should be investing their resources into addressing our court systems.

Councilwoman Jones moved for the adoption of Ordinance No. 3663. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

I. RESOLUTION NO. 08-210 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM THE DEPT. OF JUSTICE OF COMMUNITY ORIENTED POLICING SERVICES METHAMPHETAMINE PROGRAM GRANT

ORDINANCE NO. 3664 – BUDGET AMEMENT FROM THE DEPT. OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES TO ASSIST THE POLICE DEPARTMENT WITH THE PURCHASE OF METHAMPHETAMINE LAB INVESTIGATION EQUIPMENT, PROVIDE FOR OFFICER TRAINING AND OFFICER OVERTIME IN METH LAB INVESTIGATIONS

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds under Department of Justice Office of Community Oriented Policing Services Methamphetamine Program Grant; and the associated budget amendment in the amount of \$93,530.

The City of Asheville has been awarded a grant from Department of Justice Office of Community Oriented Policing Services for the Methamphetamine Program in the amount of \$93,530 with no local match. The purpose of the grant program is to fund Methamphetamine projects, allowed under the grant program designed to train officers in proper handling and evidence collection, train the public on cues to meth lab operation, to pay for officer overtime for investigation of suspected methamphetamine sales, and provide needed equipment for proper response to meth labs.

This action complies with Asheville City Council Goals and Vision Priority Area: Community Building- Development strategies for youth and educational programs; and Priority Area: Economic Development- Continue commitment to public safety and drug enforcement priorities.

Pros:

- Will provide the public with needed information on how to spot possible meth lab operation which will enhance public safety.
- Proper officer training will aid in reduction of injure to officers responding to possible meth labs.
- Will provide special concentrated investigations into methamphetamine sales
- The equipment will increase officer safety in response to possible meth labs.

Cons:

- The City Of Asheville and the Asheville Police Department would be required to maintain the upkeep of the equipment purchased
- Provide overtime pay for officer's investigation illegal meth activities once the grant funds were depleted.

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

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to enter into an agreement with Department of Justice Office of Community Oriented Policing Services Methamphetamine Program Grant for grant monies in the amount of \$93,530; and (2) the budget amendment in the amount of \$93,530.

Councilman Mumpower felt we should not be accepting money from the federal government with their trillion dollar deficit, and that we should fund our own police and services.

Councilwoman Cape stated that the federal government gets its money from local people and this is coming back to help us with an issue that causes a lot of problems in our community.

Mayor Bellamy said that the City is following the correct process by writing grants and competing against cities across our nation. Since the federal government has said they would no longer earmark monies, we must compete for those funds via grant applications.

Councilwoman Cape moved for the adoption of Resolution No. 08-210. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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Councilwoman Cape moved for the adoption of Ordinance No. 3664. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

K. RESOLUTION NO. 08-211 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE RURAL ECONOMIC DEVELOPMENT CENTER FOR P.E.G. SUPPORT FUNDS FOR A PASS-THROUGH GRANT TO URTV, INC.

ORDINANCE NO. 3666 – BUDGET AMENDMENT TO ACCEPT A GRANT FOR P.E.G SUPPORT FUNDS FROM THE RURAL ECONOMIC DEVELOPMENT CENTER AND FACILITATE A PASS-THROUGH GRANT TO URTV, INC.

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Rural Economic Development Center to provide funds for expansions and improvements to the Public Access Media Center; and the associated budget amendment, in the amount of \$24,960, to accept a grant for P.E.G. support funds from the Rural Economic Development Center and facilitate a pass-through to URTV, Inc.

The State of North Carolina has made funds available through a grant from the E-NC Authority, grant number: 2008-101-80315-102, to implement improvements to the public access media center managed by URTV, Inc. under a management agreement with the City of Asheville. The purpose of this grant is to continue activities of the Public Access Media Center and provide needed capital expenditure improvements.

The City of Asheville submitted this grant on behalf of URTV, Inc. under the terms of the NC State Video Franchise Law which allows for the award of a grant up to \$25,000 for P.E.G. channel operations. This is a matching grant with P.E.G. funding already allocated by the city to URTV, Inc. in the city's 2007/2008 adopted budget.

This action complies with the City Council Strategic Operating Plan in that it keeps costs for services to the public as low as possible.

Pros:

- Provides for expansion of media center technical capabilities by URTV, Inc.
- Improves cost effectiveness and support of public access media center activities conducted through the management agreement with URTV, Inc.
- Grant provides additional funding designated for public access television from a source other than the City of Asheville.

Con:

- None noted

There is no fiscal impact associated with this grant as it is a matching grant that matches funding previously provided to URTV, Inc. This action simply seeks City Council approval of the budget amendment needed to pass through the grant funds.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Rural Economic Development Center to provide funds for expansions and improvements to the Public Access Media Center;

and the associated budget amendment, in the amount of \$24,960, to accept a grant for P.E.G. support funds from the Rural Economic Development Center and facilitate a pass-through to URTV, Inc.

Councilman Mumpower felt that the state should spend their monies on our dysfunctional court system and not on a public access station.

Councilman Newman moved for the adoption of Resolution No. 08-211. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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Councilman Newman moved for the adoption of Ordinance No. 3666. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 - PAGE

L. ORDINANCE NO. 3667 – BUDGET AMENDMENT FROM A COMMUNITY DEVELOPMENT BLOCK GRANT AND AVAILABLE TRAFFIC CALMING FUNDS FOR THE BURTON STREET TRAFFIC CALMING PROJECT

Summary: The consideration of a budget ordinance, in the amount of \$16,850, to set up the project budget for the Burton Street Traffic Calming Project.

This project includes the installation of five 14-foot asphalt speed humps along Burton Street from US 19-23 (Haywood Road) to Florida Avenue.

The Transportation & Engineering Department received and publicly opened bids on Friday, October 10, 2008, at 2:00 p.m. Two bids were received and opened, one from JLS Company, LLC for a total bid amount of \$26,800 and the other one from Asphalt Unlimited of Asheville, Inc. for a total bid amount of \$18,470. After a thorough review of the bid documents by the Transportation & Engineering Department, Asphalt Unlimited of Asheville, Inc., was found to be the lowest responsible bidder with a total bid of \$18,470. All contract work was solicited in accordance with Federal guidelines including the Davis-Bacon wage requirements since Federal Funds are involved. At a pre-construction meeting that was held on Wednesday, October 15, 2008, it was agreed by the City of Asheville and the contractor that the signing items would be deleted from the contract thereby reducing the total bid to \$16,850. The Public Works Department will install the appropriate signs at a potential savings of about \$1,400.

The total anticipated cost to complete the project is \$20,825 and is itemized as follows:

Design	\$3,975
Traffic Calming Devices Construction	\$16,850
Total =	\$20,825

The project will be financed with monies received from a Community Development Block Grant (CDBG) in the amount of \$15,000 that was approved during April 2007 and \$1,850 from the traffic calming account. The \$3,975 in funding for the design work came from the Fiscal Year 2007-08 Traffic Engineering operating budget.

Asphalt Unlimited of Asheville, Inc. has demonstrated in a satisfactory manner that it has satisfied all of the requirements as stated in the contract documents including evidence that it will adhere to the requirements of the City of Asheville's "DRUG FREE WORKPLACE".

Asphalt Unlimited of Asheville, Inc., a minority owned company, has submitted a responsive bid according to Minority Business compliance guidelines for the City of Asheville.

The construction time period for the project is identified as not more than 15 calendar days from the written notice to proceed as stated in the contract documents. The work to be performed shall commence from the written notice to proceed as stated in the contract documents. Depending on weather conditions, the contractor anticipates completing all work within five calendar days during the timeframe between November 3, 2008, and November 18, 2008.

This action complies with the City Council 2008-09 Strategic Operating Plan within the Green Focus Area by supporting traffic calming as a means to reduce vehicular speed and "cut-through" traffic to provide a better quality of life for the Burton Street community.

Pros:

- The subject project will satisfy the wishes of the Burton Street community as indicated in the verified 60% petitions.

- The revised bid amount of \$16,850 for the construction of the Burton Street Traffic Calming Project is equitable, as compared to the engineer's estimate of \$15,500, considering current economic conditions.

Con:

- The only foreseeable disadvantage of constructing the subject project is that up to 40% of the affected community members might be opposed to the recommended traffic calming devices/measures.

The total financial impact for the subject project is \$20,825 including \$15,000 from a CDBG grant, \$1,850 from the traffic calming account, and \$3,975 from the Fiscal Year 2007-08 Traffic Engineering operating budget.

Staff recommends that City Council adopt a budget amendment, in the amount of \$16,850, to set up the project budget for the Burton Street Traffic Calming Project.

Councilman Mumpower felt that due to the economy we should conserve our resources and not spend it on non-essential things.

Councilwoman Cape moved for the adoption of Ordinance No. 3667. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

ORDINANCE BOOK NO. 25 – PAGE

M. RESOLUTION NO. 08-212 – RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED MEMORANDUM OF UNDERSTANDING FOR THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION

Summary: The consideration of a resolution authorizing the Mayor to sign an amended Memorandum of Understanding (MOU) for the French Broad River Metropolitan Planning Organization.

The French Broad River Metropolitan Planning Organization is in the process of revising its Memorandum of Understanding. A new MOU is required to reflect the change in Lead Planning Agency (LPA) from the City of Asheville to Land-of-Sky Regional Council. NCDOT has also requested several other minor changes to the MOU, in part to bring it into compliance with the Open Meetings Law.

The change in Lead Planning Agency is based on a resolution of the Transportation Advisory Committee adopted in March 2008.

This action does not directly tie to the City Council Strategic Operating Plan, but it is a necessary action based on the changes in the structure of the Metropolitan Planning Organization.

Pros:

- Demonstrates continued cooperation by the City of Asheville in regional transportation planning.

Con:

- None noted.

Transferring the planning responsibilities to the Land of Sky Regional Council reduces unrecovered overhead costs for the City of Asheville.

City staff recommends City Council authorize the Mayor to sign a resolution adopting the amended Memorandum of Understanding.

Councilman Mumpower felt there is some merit to this action at some level; however, he was concerned that we support a large bureaucracy in the Land-of-Sky Regional Council.

Councilwoman Jones and Vice-Mayor Davis were very supportive of this action. This is a perfect example of Asheville being regionally geared.

Councilwoman Jones moved for the adoption of Resolution No. 08-212. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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III. PRESENTATIONS & REPORTS:

A. FUEL UPDATE

City Manager Jackson briefed Council on the fuel conservation measures in that the fuel supplies have stabilized and we have more than adequate reserves. We are shifting from short-term conservation to long-term planning.

Mayor Bellamy said there are continuing community meetings with municipalities in our county and other service providers to address the fuel issue as well.

Councilwoman Cape noted that the biggest energy peak is in the mornings. As we face the possibility of fuel oil shortages, she urged the community to consciously think about conservation and turn down their thermostats, don't turn on extra appliances, etc.

B. ORDINANCE NO. 3668 – BUDGET AMENDMENT TO ACCEPT SPONSORSHIP FROM THE GROVE PARK INN FOR THREE FIREWORKS SHOWS IN DECEMBER 2008

Mayor Bellamy was pleased to announce an initiative with the Grove Park Inn, the Chamber of Commerce, the Buncombe County Tourism Development Authority, the Asheville Citizen-Times and hopefully the City of Asheville to look at ways to increase ways to attract people to our downtown during the month of December. The initiative is called "21 Days of Holiday Sizzle." The Grove Park Inn has offered to donate \$40,000 to the City of Asheville for fireworks on December 6, 13 and 20, 2008, with each night being called "Seasonal Sizzle at Seven."

Mr. Ron Warren, the Grove Park Inn's Executive Director of Operations, was pleased to offer the City of Asheville a \$40,000 gift to fund the downtown fireworks display at 7:00 p.m. on December 6, 13 and 20, 2008. The purpose of the display is to add more excitement to downtown during the upcoming holiday season. We have a unique variety of independent restaurants and shops and we hope that the fireworks will draw residents and visitors downtown to visit these shops and visit these restaurants, as we have a lot of people employed downtown. If Council chooses to accept this gift, they are ready to move forward in marketing these events, while working with City staff.

Mr. Kevin Schwartz, the Grove Park Inn's Assistant Director of Food & Beverage and board member of the Independent Restaurants Association (AIR), felt that engaging the community into action during these challenging times is the best course of action. The AIR is working on "Experience the Sizzle" in the restaurants. He explained some of the promotions they are working on to tie into the overall Seasonal Sizzle campaign. He felt this will be a well organized promotion to stimulate both the Asheville economy and the confidence of the Asheville community. He reminded Council that when you dine in local independent restaurants, a large amount of that stays within the community.

Mayor Bellamy explained that the request to Council is to oversee the fireworks portion. The location is the Public Works Department parking lot with the City in charge of that portion.

Councilwoman Cape suggested having a canned drive promotion be folded into this initiative, or some component where people are bringing into the community that which we can give back outward. Mr. Schwartz felt this is a great idea which he will pass along to the AIR.

In response to Vice-Mayor Davis inquiry about fireworks for Light Up Your Holidays, Ms. Diane Ruggiero explained that that was an event produced by an outside organization. The City produced the Downtown Countdown and First Night, which happened on New Year's Eve, which we are currently seeking a sponsor.

Mayor Bellamy said that this is not just about tourism, but about our local economy and making sure that the people who work in our community remain employed.

After a brief discussion about the next step, City Attorney Oast said that a budget amendment can be done at anytime.

Councilman Mumpower supported the concept; however, if there are City dollars involved for police, fire, traffic management, etc. he suggested they be raised by outside sources. Because we have established procedure in place for co-sponsorship of events, he could not support any motion that did not include language along the lines that the taxpayers will not incur any costs associated with this event.

City Manager Jackson said that his plan of action is to pursue three shows at an estimated cost of \$35,000 and some to be left in reserve to offset police and fire overtime, if necessary.

The following individuals spoke in support of the City accepting the \$40,000 gift from the Grove Park Inn for this initiative:

Joint President of the AIR

Mr. James Sheeler, west Asheville resident
Mr. Isaac Coleman
Ms. Raya June, Executive Director of AIR

Councilwoman Cape moved for the adoption of Ordinance No. 3668. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 - PAGE

C. CAPITAL IMPROVEMENT PLAN PLANNING PROCESS UPDATE

Chief Financial Officer Ben Durant said that the purpose of this presentation is to provide Council with an overview the City's existing and future debt capacity as it relates to a potential General Obligation Bond Issue.

During deliberations on the Fiscal Year (FY) 2008-09 Annual Operating Budget, City Council requested that staff evaluate the financial feasibility of issuing General Obligation Bonds to support an expanded capital improvement program for critical infrastructure and basic services. Staff was directed to report back to Council in the September/October timeframe to coincide with presentation of the First Quarterly Financial Report for FY 2008-09.

To assist with the feasibility study, staff engaged the services of Davenport & Company, a financial advisor that specializes in capital planning and local government finance. As part of the feasibility study, Davenport produced the following deliverables:

- A series of Peer Group Comparisons and benchmarks on the City's current and future financial position
- A detailed analysis of the City's Existing Debt Profile
- A series of key financial ratios indicating the City's existing debt profile and Future Debt Capacity
- An initial perspective on "Debt Affordability"
- Measurements of the impact of potential future borrowings to position the City to develop Financial Policies and Guidelines.

Mr. Bob High, First Vice-President/Head of North Carolina Group of Davenport & Company, LLC, reviewed the following aforementioned deliverables from the feasibility study:

He explained the goals and objectives being (1) develop a series of meaningful Peer Group Comparables and benchmarks with which to gain a perspective on the City's current and future financial position; (2) present a Detailed Analysis of the City's Existing Debt Profile; (3) apply the comparatives and benchmarks to a Series of Key Financial Ratios so as to Better Understand the City's Existing Debt Profile and Future Debt Capacity; (4) provide the City staff and Council with an initial perspective on "Affordability" of Potential Funding and obtain detail on the City's Capital Improvement Program such that we may measure the impact of specific projects (i.e. Debt Affordability); (5) use a number of Key Financial Ratios to measure the impact of Potential Future Borrowings and position the City to set/amend parameters in the form of Financial Policies and Guidelines; and (6) identify All Capital Improvement Projects and work towards establishing a Responsible Comprehensive Plan of Finance which produces minimum impact on the constituency while maintaining a healthy financial position.

Using charts he showed the market overview and regarding peer group comparisons he showed tax rates, assessed value, a 5-year assessed value growth, total general fund balance vs. revenue, debt per capita, debt vs. assessed value, and debt service vs. expenditures.

Using charts he explained the General Fund revenues, General Fund expenditures; General Fund revenues vs. expenditures; General Fund balance; and General Fund balance as of % of General Fund expenditures.

Using charts he explained the existing debt service, decline in debt service, payout ratio, debt per capita, debt vs. assessed value, and debt service vs. expenditures.

Mr. Mitch Brigulio, Associate Vice President of Davenport & Company then explained the following cases with charts to illustrate: (1) Case 1: maximize debt vs. assessed value – limit of 1.3% debt vs. assessed value – results (a) \$169 Million of debt issued 2010-2016; (b) debt services increases from \$4.9 Million to \$16.9 Million in 2016; and (c) equivalent real estate tax impact of 11.6 pennies; (2) Case 2: maximize debt service vs. expenditures – limit debt service vs. expenditures at 10% - results (1) \$128 Million of debt issued 2010 – 2016; (b) debt service increases from \$4.9 Million in 2009 to \$13.3 Million in 2016; and (c) equivalent real estate tax impact of 8.1 pennies; (3) Case 3: maximize debt without an equivalent tax impact (no structuring) – use decline in

existing debt service to layer in new debt without an equivalent tax impact – results (a) \$34.6 Million of debt issued 2010 – 2016; (b) no increase in debt service from 2009-2016; and (c) no equivalent tax impact; (4) Case 4: maximize debt without an equivalent tax impact (structured) – (a) interest only for one year, maximized 4:1 backfilling of principal (b) maintain payout ratio of at least 55% - results (a) \$28.6 Million debt issued 2010-2016; (b) no increase in debt service from 2009-2016; and (c) no equivalent tax impact; (5) Case 5: additional \$1,000,000 in revenue available for debt service – an additional \$1,000,000 per year is available to pay debt service – results (a) \$46.3 Million of debt issued 2010-2016; (b) debt service increases from \$4.9 Million in 2009 to \$5.9 Million in 2016; and (c) no equivalent tax impact; and (6) Case 6: \$75,000,000 debt issued from FY 2010 – FY 2015 - \$75,000,00 issued over 6-year Capital Improvement Plan – results (a) \$75.0 Million of debt issued 2010-2016; (b) debt service increases from \$4.9 Million in 2009 in 2016; and (c) equivalent real estate tax impact of 3.7 pennies.

He then explained the debt capacity/debt affordability summary of results as follows (1) Asheville can issue approximately \$34 Million over the next five Fiscal Years without any equivalent tax impact; (2) Asheville can issue approximately \$46 Million over the same period without an equivalent tax impact if \$1 Million is dedicated to debt service vs. pay-go funding; and (3) A \$75 Million borrowing program over the same period would require an equivalent tax impact of approximately 3.7 pennies.

Mr. Durant said that this study complies with Council's direction to initiate policy discussions regarding a potential General Obligation Bond issue to support critical infrastructure and services.

City staff recommends that City Council provide further direction to the City Manager to regarding issuance of General Obligation Bonds and development of an expanded Capital Improvement Plan.

Throughout discussion of Council members voicing their stance on this issue, Mr. High responded to various questions/comments from Council, some being, but are not limited to: what is an estimate of interest rates on debt; is Asheville too conservative; and how does a General Obligation Bond stack up against what people are choosing to invest in.

Mayor Bellamy said that this presentation was an overview the City's existing and future debt capacity as it relates to a potential General Obligation Bond issue. She didn't think there is any desire on behalf of Council to issue General Obligation bonds at this time, but we do need to plan for the future. It would be her goal that the underlying reason for any debt would be for quality of life for the individuals who live in our community. She would support looking at our community centers and other places within the community that need an infusion of renovations and improvements.

City Manager Jackson said that staff did an extensive inventory of the deferred maintenance, the current demands we are hearing from the community, and some long range planning for City facilities. At this point there are two questions. One is timing – is this the time to go to the next step. The second step is to seek community prioritization of that inventory. He recommended Council take this under advisement and look at it at the Council retreat or in a future worksession. But before we raise expectations and start seeking community input, he felt it is important to determine what really is affordable and then let's prioritize to that level.

City Manager Jackson said that what staff does with each project is to ask for fiscal impact, focusing largely on what is the operating impact. However, we will try to do some benchmarking on the secondary and economic impacts of public construction projects and provide information to Council.

In response to Mayor Bellamy's request that there be a component that we hire locally, City Attorney Oast said that we have a local vendor encouragement program that is administered by the City's Office of Economic Development.

At 7:15 p.m., Mayor Bellamy announced a short recess.

D. HOMELESS INITIATIVE ANNUAL UPDATE

Ms. Amy Sawyer, Homeless Coordinator, updated City Council on the implementation of the 10-year Plan to End Homelessness.

In November 2007, the City of Asheville, in partnership with Buncombe County, became the lead agency for the implementation of the 10-Year Plan to End Homelessness. The Plan is in its 3rd year of implementation through the efforts of the Homeless Initiative project, which supports the City's goal of providing sufficient, safe, and affordable housing opportunities for all citizens. The Homeless Initiative Coordinator manages and tracks the progress of the initiative and is a member of the Planning and Development Department.

The Homeless Initiative also develops resources, promulgates policy, manages initiatives, and works with community agencies to develop and sustain programs that provide shelter, rent assistance, temporary housing, and services targeted to ending homelessness in Asheville and Buncombe County. There are 4 areas of focus for the Homeless Initiative:

Coordination of homeless and mainstream resources:

The Homeless Coalition, a core group of local service providers, along with other key community planning groups, meets regularly to evaluate and address community gaps in the areas of emergency services, housing, health, and substance abuse. The Coalition also collaborates with the Homeless Initiative, offering historical perspective, expertise and the Coalition's strong partnerships.

The Co-chairs of the Homeless Coalition are also members of the Homeless Initiative Advisory group, a group of volunteers from the non-profit, faith, and business sectors. The Advisory Group oversees the implementation of the 10-Year Plan by sharing, applying, and tracking groundbreaking strategies that make a permanent and measurable difference in the effects of homelessness on our community.

As a result of the extensive community networking among all partners, the third annual Project Connect, for anyone in the City or County experiencing homelessness, in tandem with the VA Stand Down for veterans experiencing homelessness, took place on September 12, 2008.

In summary, the coordination of resources include (1) Homeless Coalition (experienced service providers collaborate and act on solutions); (2) Homeless Advisory Group (volunteer leadership group oversees 10 Year Plan process); (3) other community groups (open communication and shared interests); and (4) Project Connect and VA Stand Down (exemplifies community commitment and partnerships).

Data Collection

The community needs the ability to collect homeless data to understand what has occurred in the past, what the current gaps and strengths of the homeless system are, and to document whether interventions are successful. The need for valid data has led to increased focus on cross systems data collection.

Data collection techniques include:

- The Point in Time count, initiated by the Homeless Coalition, which continues to provide our community with a "snapshot" of how many people are homeless on the night of the count. The most recent count was on August 27th, 2008. 592 people experiencing homelessness were documented, which is a 17% increase from the January, 2008 count. Of that group, 148 were experiencing chronic homelessness, an 8% reduction from January's count.

Homeless Information Management System (HMIS), will provide our community with a more dynamic and valid way to evaluate the needs and services provided to people experiencing homelessness. While the number of agencies using the system is growing, there is not yet enough data to draw conclusive results on successes and gaps in our service system from HMIS alone. The ultimate goal is to have all homeless service providers participate in the consolidation of data through the HMIS system.

Review of existing data from the jail system, the mental health system, veterans' services system, and the health system.

Housing First outcomes are currently being evaluated by the University of North Carolina, Chapel Hill Jordan Institute. Housing First allows tenants to access affordable housing and the supportive services necessary to maintain that housing.

In summary, data collection techniques include (1) point in time count (a) "snapshot" of homeless population; (2) review of existing data sets; (3) HMIS (a) can provide up-to-date detailed, consistent information; (b) will produce reports for federal, state and local funders; and (c) HMIS used at Project Connect; and (4) Housing First Research at UNC-Chapel Hill (a) reviewed history of service use two years prior to entering supportive, permanent housing and two years afterwards; and (b) research completed, evaluation underway.

Funds Management & Development

Homeless funding from federal, state, and local governments support projects that provide outcomes based on 10-Year Plans. Working with these funders allows the Homeless Initiative to develop and support local programs that meet community needs and the needs of people experiencing homelessness. Examples of such funding are: Continuum of Care funding, State Housing Support Trust funding, VA Grant and Per Diem for Homeless Veterans, Homeless Veterans Reintegration Program, Veterans Workforce Investment Program, CDBG funded homeless programs, and HOME funded rent assistance housing programs.

The Homeless Initiative works with other local funding sources building awareness of homeless issues. For example, the Asheville Downtown Association's Foundation (Spare Change for Real Change), the Community Foundation of Western North Carolina, and the United Way have worked with the Homeless Initiative.

In summary, regarding funds management and development (1) federal (a) continuum of care; (b) Community Development Block Grant homeless services; (c) HOME rental assistance; and (d) Veterans funds; (2) State (a) Housing Support Team grant; and

(b) 10-Year Plan Technical Assistance grant; (3) Local – City and County; and (4) foundation funding and local donations.

Increasing Housing and Services Resources to Move People out of Homelessness

Buncombe County continues to work on a crisis-response plan, including a crisis assessment center. The Neil Dobbins center is now open for mental health and substance abuse crisis intervention services, and there are two wet shelter beds each for men and women. The City provided \$86,000 in 2006 CDBG funds to support the County's renovation of the facility. Law Enforcement officers in Asheville and Buncombe County have been trained in how to use these resources through Crisis Intervention Training (CIT). Buncombe County has contracted to provide "wet shelter beds" with ABCCM's Women and Children's Shelter (2) and the Western Carolina Rescue Mission (4).

The Western Highlands LME has hired a housing specialist to coordinate housing resources within their eight county catchment area for mental health, developmentally disabled, and substance abuse populations.

The Housing Authority of the City of Asheville has changed priorities for public housing to focus on just two categories: people experiencing chronic homelessness who are also receiving case management services, and domestic violence survivors living in a shelter, allowing people who are identified as the most vulnerable in the 10-Year Plan to obtain housing.

Western North Carolina Community Health Services received 16 Section 8 housing choice vouchers to provide supportive housing services through the Housing Opportunities For persons With HIV/AIDS (HOPWA) program.

The VA received 35 Section 8 housing choice vouchers and funding for one staff position that provides supportive housing services through the Veterans Administration Supportive Housing (VASH) program.

As part of the Department of Housing and Urban Development Continuum of Care funding, Homeward Bound received \$44,768 in bonus funding for the community to be used for tenant based rental assistance over two years.

ABCCM received a national grant from the VA and Federal Home Loan Bank. A motel facility was obtained in 2007. In May 2008 the 200-bed facility opened and includes emergency beds, 100 transitional beds, and 40 permanent supportive housing SRO rooms. Veterans Based on successful performance, the ABCCM Veteran's Restoration Quarters (VRQ) was named "Best Practice of the Year" on August 5, 2008 by Department of Labor and VA Homeless Providers. The American Legion Post 526 meets at the VRQ, and is run by formerly homeless veterans for our homeless vets.

The SSI/SSDI Outreach Access and Recovery (SOAR) Project, received seed money from Buncombe County. This project will build community capacity to complete successful applications in a coordinated fashion through caseworker and clinician training, building relationships with records departments, and communicating with the Social Security Administration offices in order to help people access social security benefits in a reasonable amount of time.

In summary, (1) collaborative problem solving is needed to ensure success of the 10-Year plan; (2) data about interventions and programs is vital to understand where and how to invest energy and resources; and (3) investment is needed to further 10-Year Plan goals. The Homeless Initiative Advisory group will identify which priorities to focus on for the coming year.

The Homeless Initiative implements the City's 2008-09 Strategic Plan goal of affordability by supporting initiatives that will end homelessness, the Continuum of Care Plan and the 10-year Plan.

City staff recommends that City Council accept this annual update report on progress to date on the implementation of the 10-year Plan to End Homelessness.

Mayor Bellamy was pleased to report that as of the publication of this report, there are currently a total of 197 emergency shelter beds, 344 transitional beds, and 214 people in permanent, supportive housing. Eighty-five percent (85%) of the people who experienced chronic homelessness that moved into the City's initial 33 Housing First units built in Asheville have remained housed, which serves as a model for housing people who have experienced chronic homelessness and is further being evaluated by the UNC School of Social Work.

Vice-Mayor Davis explained that the City Attorney is working on a formal City-County Homeless Initiative Advisory Committee.

At the request of Vice-Mayor Davis, Ms. Sawyer explained how the HMIS will provide our community with a more dynamic and valid way to evaluate the needs and services provided to people experiencing homelessness. As agencies sign new contracts, those agencies are using the HMIS and we are developing a consolidation of data to provide Council.

Mayor Bellamy reiterated that the most recent count on August 27, 2008, was 592 people experiencing homelessness, which is a 17% increase from the January, 2008 count. Of that group, 148 were experiencing chronic homelessness, an 8% reduction from

January's count. She noted that we are on target to end chronic homelessness with the 10-Year Plan. She asked if there was any way we can document where those 17% of homeless people are coming from, e.g., people who are not from Asheville, people who have no families ties, or people who are choosing to be homeless in Asheville. In response, Ms. Sawyer said that HMIS documents the last address of people, but in talking with service providers, she has also heard that family homelessness is increasing dramatically and people who have housing are needing transportation to work or food.

When Mayor Bellamy asked how we can focus on making sure we can address the populations where families are having hard times, etc., but still identify ones that are coming here by choice to be homeless. Ms. Sawyer said there are different ways of supporting people, depending on their characteristics. We know certain housing interventions for veterans that may not be as successful for families. What we are doing is looking at the population and providing supports that directly meet their needs based on best practices.

When Mayor Bellamy offered the City's support in helping Ms. Sawyer get the agencies to enter data for the HMIS, Ms. Sawyer said that she is educating agencies on how to run the system and how the system will be a benefit for everyone.

On behalf of City Council, Mayor Bellamy thanked Ms. Sawyer for her efforts. She then said that Ms. Sawyer will be reporting back to Council again in six months. She noted the Homeless Initiative Advisory Committee will have appointments from the City and County. She also said that the recently formed Task Force, looking at some of those issues identified by the Buncombe County Tourism Development Authority, will probably have some good ideas as well that could be used going forward.

E. URTV PRESENTATION

Ms. Pat Garlinghouse, Executive Director of URTV Inc. provided Council with the URTV's Q1'09 Operations Report for the months of July, August and September 2008. She explained what public access does, how it is really committed to media, and how in some places it's the area's only media center. She explained that URTV is unique in WNC! In two short years we've achieved proven success. Webcasting and Video-On-Demand (VOD) are up and running. The website has a new look and we welcome any and all suggestions. For those who would rather watch programming on their own schedules, VOD is your choice. Otherwise, you may watch real-time URTV on your computers.

Since the name Public Access, the 'P' in PEG, has long since been abandoned, URTV can now begin its campaign as a community Media Center, which it is. For the most part, public access throughout the country stopped using the old name as far back as the early 90s. Because in the 90s public access became community media by offering services as assistance with information technology needs, everything from consulting to web design; radio and television announcements and interviews, depending on the technology available; television production classes, everything from digital camera and editing to studio and radio production; training for NPO staff in computerized technology; involvement of youth and seniors, who may not be as familiar with digital technology as the mainstream, in beginning production or TV spots; and of course, media literacy classes in the schools, that replaces some of the skill sets that schools find themselves unable to offer. Using television, Internet and radio, community media centers are able to craft a customized fit for all NPO's media service needs. How URTV fits into this design will be discussed and demonstrated over the ensuing months.

Operation and membership (users) of URTV remains stable. The population of Asheville and Buncombe County can sustain an average of 300+ participating members. In the first quarter of 2009 earned income totals = \$7,000. Money Market total is \$101,294. (\$50,000 will need to be withdrawn for Fiscal Year 2009 and again \$50,000 for Fiscal Year 2010.) The annual budget for Fiscal Year 2009 is \$248,391. (This includes \$45,000/yr. rent and \$136,273 personnel services for 3.5 full-time employees).

There are 300+ members; \$5:\$1 (For every \$1 invested, \$5 actually received); and 1 commercial violation suspension on air.

In response to Mayor Bellamy's request, City Attorney Oast said that he would provide Council with information on (1) when our contract expires with Charter Communications; (2) when we can begin re-negotiating; and (3) how can we entertain other contracts and how that will impact the funding for URTV.

On behalf of City Council, Mayor Bellamy thanked Ms. Garlinghouse for her informative presentation.

F. DOWNTOWN MASTER PLANNING PROCESS UPDATE

Ms. Sasha Vrtunski, Project Manager, said that the Downtown Master Plan process has been lengthened to work on specific issues and look for areas of compromise, so that the overall process is successful. Staff expects the master plan to come to City Council in early 2009.

The Asheville City Council approved funding for the Downtown Master Plan in 2007. The Selection process began in late summer 2007 and Goody Clancy was selected as the consultant team in February. The consultant team began work in late March and their first visit in April, 2008. There have been a series of public meetings beginning in May, with the last one in September. The citizen participation and interest in this process has been very high.

As a part of this process, there is an Advisory Committee made up of 30 citizens representing a wide variety of interests in the downtown. This committee is a sounding board for the consultants to make sure all the voices are heard in the process and that the public process is a quality one. The Advisory Committee met on September 8 and reviewed a very early draft of the plan, and unanimously felt that a public meeting to review it would be premature, and could undermine the success of the plan's adoption and implementation. They decided that they would like to spend some time to see if gaps can be closed

Currently, we have a sub-group of the Advisory Committee that is meeting with a local mediator/facilitator. The group is working on finding the "middle way" for certain development issues that takes into account the needs of developers and the community. So far, the group has had productive meetings. This smaller group will report back to the Advisory Committee, and the consultants. Ultimately, the recommendations will go to the consultant team, who will decide on the content of the draft plan. The goal is to finish this process by mid-November, and begin the process of reviewing it with the public and involved city boards.

Because of the Thanksgiving holiday, and the need to publicize the next public meeting, it will not be until early December or January that a public meeting could be held to review the draft plan. Clearly, this is not as fast a process as Council and the larger community expected, but perhaps staff and the consultant team were too ambitious in terms of finishing a plan that will address several contentious and complicated issues. After the public meeting and a comment period, the final draft would come before City Council for consideration.

On behalf of City Council, Mayor Bellamy thanked Ms. Vrtunski for her update.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE MASTER PLAN AND REZONING FOR THE PROJECT IDENTIFIED AS HORIZONS, LOCATED AT 136, 176 AND 180 MERRIMON AVENUE AND 17 AND 23 ELOISE STREET FROM HIGHWAY BUSINESS DISTRICT, COMMUNITY BUSINESS I DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN VILLAGE DISTRICT FOR A MIXED USE DEVELOPMENT

Mayor Bellamy said that this public hearing was continued from January 15, 2008, at the applicant's request in order to work with the neighborhood, especially since a valid protest petition was submitted, which remains in effect. Then again on July 15, 2008, the public hearing was continued to October 28, 2008, at the applicant's request in that it became necessary, due to the recent economic conditions, for the ownership group to try to secure financing and/or additional partners to help with the project economics.

Urban Planner Julia Cogburn said that this is consideration of a request for a twelve (12) month additional continuance of the public hearing on the rezoning petition for the Horizons Urban Village Project.

On October 15, 2008, a letter was received from Mary Kocot from LandDesign which reads "The ownership group (Mr. Foster Shriner, Mr. Chris Peterson and Mr. Cam Pace) of the proposed "Horizons" Urban Village project have asked me to formally request an additional twelve (12) month extension on the Urban Village Rezoning currently in progress. It is and has always been the desire of the partnership group to create a wonderful project on the Merrimon Avenue site as a gateway point to the City. The continued economic slowdown is hampering their efforts on securing financing and investors for the project. We are hopeful that this additional time will allow the economic market to improve and the project to move forward for approval."

In November of 2007, the Asheville Planning and Zoning Commission reviewed a rezoning petition for the Horizons Urban Village project located on an 8.54 acre site on Merrimon Avenue. The Commission voted to recommend the rezoning (7-0) and the conceptual site plan (5-2) presented by the developers/property owners of the project, and the matter was scheduled to be heard by Asheville City Council in January of this year. At that time, the developers requested a six (6) month continuance in order to review the site design particularly as it related to the height of some of the buildings. Building height was a major issue for the adjoining neighbors of this project. In June of this year, the property owners requested an additional three (3) month continuance primarily due to economic conditions.

The property owners are now requesting an additional twelve (12) month continuance due to the continuing economic slowdown. The ownership group is exploring financing, partnerships, and investors with hopes of proceeding with an urban village project. Some of the original development partners are no longer with the project.

Pro:

- Allows the property owners additional time to work on the details of an urban village project for this property.

Con:

- Gives extensive continuation to a project that was first submitted to the City of Asheville in June of 2007.

Although the extent of this continuance is contrary to past practice, staff is supportive of the request to continue the public hearing until October 27, 2009. We recognize that current economic conditions are impacting development here in Asheville as in other parts of the country. The Asheville City Development Plan 2025 promotes this area as an urban village and staff would like to

see such a project on this site which is currently zoned Highway Business. The property is in an important gateway to the Central Business District and its development will be significant to the Merrimon Corridor as well.

In response to Councilman Mumpower, City Attorney Oast said that Council does not have a formal policy regarding continuances.

With the understanding that continuance requests will be determined on a case by case basis, Councilman Mumpower moved to continue this public hearing until October 27, 2009. This motion was seconded by Councilman Russell.

Ms. Cogburn responded to various questions/comments from Council, some being, but are not limited to: since there is a "for sale" sign on the property, how will that affect this project; how will new regulations be addressed between the time the application was applied for and the ultimate public hearing; why don't the applicants withdraw the application and re-submit when the economic condition improves; and if the property is sold, what uses will be permitted.

The motion made by Councilman Mumpower and seconded by Councilman Russell carried on a 6-1 vote, with Councilwoman Jones voting "no."

B. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE LEGAL BUILDING, LOCATED AT 10-14 SOUTH PACK SQUARE, AS A LOCAL HISTORIC LANDMARK

Mayor Bellamy said that on October 10, 2008, Stacy Merten, Director of the Historic Resources Commission, received the following letter from Gerald Green, Principal of GreenPlan: "I am providing this letter as a follow up to our telephone conversation this morning in which we discussed the request for historic property designation for the Jackson, Westall, and Commerce Buildings. This request is scheduled to be heard by the Asheville City Council at their October 28, 2008, meeting. The Historic Resources Commission provided a unanimous recommendation for approval of the requested designation. Upon consideration of the current economic condition we have decided that this is not the appropriate time to pursue this designation. With the designation comes a 50% reduction in the property taxes for the buildings. While we agree with the Historic Resources Commission that the buildings are worthy of the designation, we want to contribute fully to the City of Asheville's revenues during this difficult time. Therefore, we are withdrawing the request. We likely will pursue the designation when the economy improves, hopefully in the near future. My understanding based on our conversation this morning is that another review of the request by the Historic Resources Commission will not be required provided we pursue the designation within a year or so. Please let me know if this is incorrect."

C. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE JACKSON-WESTALL BUILDING, LOCATED AT 20-22 SOUTH PACK SQUARE, AS A LOCAL HISTORIC LANDMARK

Mayor Bellamy said that on October 10, 2008, Stacy Merten, Director of the Historic Resources Commission, received the following letter from Gerald Green, Principal of GreenPlan: "I am providing this letter as a follow up to our telephone conversation this morning in which we discussed the request for historic property designation for the Jackson, Westall, and Commerce Buildings. This request is scheduled to be heard by the Asheville City Council at their October 28, 2008, meeting. The Historic Resources Commission provided a unanimous recommendation for approval of the requested designation. Upon consideration of the current economic condition we have decided that this is not the appropriate time to pursue this designation. With the designation comes a 50% reduction in the property taxes for the buildings. While we agree with the Historic Resources Commission that the buildings are worthy of the designation, we want to contribute fully to the City of Asheville's revenues during this difficult time. Therefore, we are withdrawing the request. We likely will pursue the designation when the economy improves, hopefully in the near future. My understanding based on our conversation this morning is that another review of the request by the Historic Resources Commission will not be required provided we pursue the designation within a year or so. Please let me know if this is incorrect."

D. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF TWO LOTS LOCATED ON CROWELL ROAD AND FARM STREET

ORDINANCE NO. 3669 – ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE TWO LOTS LOCATED ON CROWELL ROAD AND FARM STREET

Mayor Bellamy opened the public hearing at 8:13 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance for the voluntary annexation of two lots located on Crowell Road and Farm Street. This public hearing was advertised on October 17, 2008.

Crowell Park Apartments, LLC has petitioned the City for the annexation of two parcels located at Crowell Road and Farm Street (PINs 9617.08-79-9568 and 9617.08-89-2443) containing approximately 3.53 acres.

The property is located approximately a quarter of a mile (driving distance) from Smoky Park Highway. The property is contiguous at one point (63 feet in width) to the City of Asheville's primary corporate limits and is, therefore, subject to the standards for annexation of contiguous areas contained in N. C. Gen. Stat. sec. 160A-31. The parcel and the petition meet all applicable requirements of the State of North Carolina.

The property contains the Crowell Park Apartments, comprised of 63 affordable dwelling units. A tax valuation has not yet been placed on this development as it has only recently been completed. Before development, the land had a tax appraisal of \$372,900.00.

Pursuant to N. C. Gen. Stat. sec. 160A-31 a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, it is proposed that the annexation become effective on December 31, 2008.

This action complies with the Strategic Operating Plan in that it complies with the Council goal of working to enable voluntary annexation to support healthy growth of the City.

Pro:

- Complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

Con:

- Marginal increase in service costs.

The fiscal impact of this annexation cannot be accurately assessed as the County Tax Office has yet to place a value on the newly developed land.

Information from the Fire Department indicates costs would include a \$100.00 debt service payment to the Enka Fire Department and emergency responses. The Department indicates that these expenses would be negligible.

The Police Department indicates that this annexation should not have a significant impact on the operation.

City staff recommends City Council adopt the ordinance annexing the property set forth in the petition.

Ms. Cindy Weeks, representing Mountain Housing Opportunities (MHO) (developer of Crowell Park Apartments), said that this apartment complex was developed with housing tax credits. The reason they are voluntarily annexing is because of the cooperation they have received from the City with loans and pass-through home funds for this project. MHO pays full property taxes. They believe this project will be appraised for \$4.4 Million and based on past assessments received from the County would increase their taxes by \$18,522, but they will be getting police and fire protection.

Mayor Bellamy closed the public hearing at 8:15 p.m.

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

Vice-Mayor Davis moved for the adoption of Ordinance No. 3669. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 25 - PAGE

V. UNFINISHED BUSINESS:

Minority Business Coordinator Brenda Mills said that City Council requested living wage policy recommendations from staff in consideration of adoption for contracting with the City of Asheville

Analysis of research on the living wage includes the following information:

1. Contracting statutes for the State of North Carolina as it pertains to award of contracts.

Review of Statutes: Statutory bidding requirements apply to the following types of contracts: (1) contracts for the purchase of apparatus, supplies, materials, or equipment and (2) contracts for construction or repair work. These general statutes provide instructions on the award of these particular contracts (GS 143-128 and GS 143-129 and GS 143-131) which specifically states that "contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract." These areas of contracting are not

subject to the living wage as part of the basis for award as they have defined award criteria.

Contracting for professional services has general statutes which govern the award of these contracts such as architectural and engineering services. Because the living wage is targeted to jobs that are low skill and non-trade which tend to be paid below living wage rates (current rates are explained in #3), professional service contracting does not necessitate and cannot be subject to a living wage.

The other area of contracting is for general services which includes but is not limited to grounds maintenance, commercial cleaning services, trash collection, catering, etc. While service contracting is discussed in the general statutes, there are no specific criteria for award only that price is not the only consideration. Service contracts take into account ability to perform based on the specific qualification and experience criteria for the services needed. This type of contracting has been the area where the living wage has been systematically applied keeping in mind that public bidding has to be fair, the unit of government has to be willing to the increase in expenditures on this contracts in order to keep the bidding process fair to all interested vendors.

2. Living wage policies of other municipalities and counties and details of those policies.

Review of Other Polices: Currently, the City of Durham (2006) and Durham County (2004) have living wage policies which they apply to general service contracting. They have one wage rate which is reviewed by the respective governing bodies every two years for inflation and cost of living increases.

Durham County is the only entity that monitors contracts for the living wage through their purchasing division staff. The City of Durham does not directly monitor their contracts. Both agree that the change significantly increased their expenditures for general service contracting.

3. Current City contracts that would be subject to a living wage policy and the status of the hourly wage paid on these contracts.

Analysis of Current Service Contracting: City staff looked at the current service contracting in the following areas: mail management, janitorial services, waste services, cemetery services and mowing services. For mail management, waste services and cemetery services, there is a living wage (\$10.86 per hour with benefits or \$11.35 without benefits) being paid on the contracts for the City of Asheville. The remaining contracts for janitorial and mowing do not pay the current living wage rate. The mowing service contract does pay in the range of \$9.00 to \$10.00 an hour and with janitorial, the rate is \$7.00 to \$8.00 an hour. For janitorial contracts in particular, these jobs are contracted labor. The majority of these employees work full-time jobs.

4. Implementation of a living wage policy to the City's contracting process.

Program Considerations: The implementation of a proposed living wage policy on general service contracting would increase the cost of contracting expenditures for the City. The City would agree to pay the additional cost of vendors who pay a living wage (see #3 for living wage explanation) when contracting. The approval of a policy would include the following:

- A. Consider the living wage provisions for general service contracts above a certain threshold. Currently, the State of North Carolina requires bidding requirements at \$30,000 and above for contracting.
- B. Appointment of staff for monitoring of general service contracts with living wage provisions for compliance. It would be feasible for the first year to consider monitoring all of them. There would need to be requirements by contractors to provide documentation duly notarized to City staff during specified intervals for the duration of the contacts.
- C. City Council would consider cost of living and inflation for review of a living wage rate annually or more as council deems necessary. Setting one rate has been the norm for other local units of governments. City Council would be provided annual update information on general service contracting by staff.
- D. All vendors would be advised about the living wage provision through marketing efforts. These would include the city's access channel, website, contracting documents with special emphasis to notify interested bidders on new provisions with an affidavit of the successful contractor to provide payroll and other required paperwork to the City for review as set out in the documents, modification of the current vendor application to include the living wage provision and contact current general service contract owners of the change and the expectation for future contracting with the city.
- E. In order to keep general service contracting fair, the City of Asheville would have to bear the increase cost of the living wage provision. This would keep contracting with the City fair to all businesses in the bidding process and award would not be determined beyond other requirements, on the ability to pay a living wage to employees.
- F. Exceptions to the proposed living wage policy would be sole source contracts, emergencies, projects that run over

budgeted costs, energy savings, information technology, contracting with other governmental agencies and contracting with non-profit agencies.

Pros:

- Steps toward increasing pay to lower wage or non-trade employees in the general service contracting area for the City of Asheville.
- Encouragement on the business community to work towards paying a living wage.

Cons:

- Limitations by North Carolina bidding laws to the general services area of contracting
- Increase to service contracting dollars to be absorbed by the City of Asheville
- Living wage is not a permanent wage change for employees of businesses who work under contracts that expire.

The exact increase in dollars is not known at this time. It would be necessary to review current contracts to look at the impact of a living wage if applied to what the City is currently expending for general service contracts.

City staff is prepared to follow City Council's policy direction on this matter as outlined above.

After a brief discussion, it was the consensus of the majority of Council to refer this matter to the Finance Committee in order to (1) look more into the estimated fiscal impact to the City; (2) the best estimates for the different policies and how they would look financially; (3) the administrative cost to the City in terms of staffing to monitor a policy; and (4) what the administrative costs would be to the contractors. Councilman Mumpower suggested stakeholder input be sought with perhaps an economist from UNC-Asheville.

Mayor Bellamy said that there would be no public comment at this time as it has been referred to the City Council's Finance Committee. Public comment will be allowed at that meeting which is on November 11 at 3:00 p.m. in Room 209 of the City Hall Building. At such time when the matter is before City Council for a formal vote, public comment will be taken then.

VI. NEW BUSINESS:

A. RESOLUTION NO. 08-213 - RESOLUTION AUTHORIZING EXECUTION OF DOWNTOWN DEVELOPMENT AGREEMENT

RESOLUTION BOOK NO. 08-214 - RESOLUTION DECLARING THE INTENT OF THE CITY OF ASHEVILLE TO REIMBURSE ITSELF FROM THE PROCEEDS FOR CERTAIN OBLIGATIONS TO BE EXECUTED AND DELIVERED IN THE YEAR 2008 FOR CAPITAL EXPENSES INCURRED

RESOLUTION NO. 08-215 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH KIMLEY-HORN TO SERVE AS THE OWNER'S REPRESENTATIVE IN THE DESIGN AND CONSTRUCTION OF A PARKING GARAGE LOCATED AT 51 BILTMORE AVENUE

Director of Transportation and Engineering Cathy Ball gave a broad overview of the following items in order to move forward with a public private partnership to construct a parking garage on 51 Biltmore Avenue. Staff is requesting the following actions:

- Adoption of a resolution authorizing the City to enter into the Downtown Development Agreement;
- Adoption of a reimbursement resolution to allow certain expenses to be paid from proceeds of financing; and
- Adoption of a resolution authorizing an amendment to the City's contract with Kimley-Horn engineers to act as the City's representative during design and construction.

The City of Asheville currently provides public parking in Downtown Asheville as an economic development incentive for businesses, and as a public convenience for citizens and visitors. The City currently operates a parking system that consists of three parking garages, several surface parking lots and on-street parking. A parking study prepared by Kimley-Horn and Associates this year evaluated the demand for parking versus the supply in the Central Business District. The study determined that the south Biltmore Avenue area had a current peak deficit of parking in the amount of 622 and a normal deficit of 476 parking spaces. It was the only area of downtown shown by the study to have both current day and evening/weekend deficits and projected future day and evening/weekend deficits. The proposed location of the garage is a private surface parking lot with approximately one hundred parking spaces.

Project Description - The project is a mixed-use building that includes: a Starwood Aloft Hotel; sub-leased retail spaces along Biltmore Avenue; a City owned parking garage (431 spaces); and potential second phase along Biltmore Avenue and Lexington Avenue to include workforce housing units. The second phase portion of the project will come back through the review process including the Downtown Commission. Creating a public/private partnership to develop a parking garage in this location was one of the specific goals in the City's 2006 Downtown Parking Action Plan. This site is also identified in the City Development Plan 2025 and

Center City Plan as both a potential parking garage site and as a possible location for a catalytic development because of its important location and size. Catalytic developments are projects that because of their size, location or programming have the potential to stimulate additional investment or provide missing uses that are critical to maximizing downtown vitality.

The initial concept for the building was nine levels above grade on the Biltmore Avenue site and four levels under ground. The Downtown Commission was concerned about the height of the building, parking spaces fronting on Biltmore Avenue and the lack of retail space on Biltmore Avenue. The design team addressed Downtown Commission concerns and moved the lobby to the second level and created a balcony and expanded the footprint of the building to the Hot Dog King site. The Downtown Commission has approved the project.

The current proposed parking garage will have 431 spaces. The garage has access points from three streets: one-way in from Biltmore Avenue and Aston Street, and two-way movement at Lexington Avenue. Several garage levels are below grade with the design taking advantage of the natural terrain across the site to eventually meet Aston Street and Biltmore Avenue at grade. The retail spaces and hotel line and top the garage along Biltmore Avenue and the hotel tops the garage along Aston Street. Along Aston Street the garage fronts directly at the street and provides a driveway into the garage. Public restrooms are provided in the garage with direct access from Aston. Because of the presence of the garage on the sidewalk edge, a space for public art will be provided to soften the façade and create pedestrian interest.

The building is seven stories along Biltmore Avenue and measures about 95 feet to the top of the roof structure. Ground level retail space along Biltmore Avenue will total about 4,800 square feet which will likely be subdivided and leased depending on demand. The hotel use occupies the second floor and above as measured from Biltmore Avenue and has 145 guest rooms. A balcony space for the hotel is located on the second level of the building and will, along with the retail below, serve to activate the street. A hotel amenity deck is provided at the top of the garage level.

Phase Two areas of this project are made up of a long narrow area lining the garage along Lexington Avenue and a smaller area south of and adjacent to the retail spaces on Biltmore Avenue. Public Interest Projects (PIP) will hold these properties and develop plans for them at a later date.

Project Cost - The cost associated with building a parking garage includes property acquisition, design and hard construction.

When PIP, the owner of the property at 51 Biltmore Avenue, approached the City with a public/private partnership, they did not want to sell the property but rather proposed to lease it to the City. Following the financial analysis, the City determined that it saved the City approximately \$1 million dollars over the projected life of the deck to purchase the property rather than lease, and PIP agreed to sell the property. The price agreed upon for the garage site was \$3,110,000.

During the course of the last year, staff determined that the addition of the Hot Dog King property adjacent to 51 Biltmore Avenue, might save the City significant construction costs. Our parking consultant, Kimley Horn Associates, evaluated the potential to expand the footprint of the garage to the Hot Dog King property. Preliminary cost estimates indicate that the City would save \$5,200 per parking space or \$2,272,400 by utilizing the Hot Dog King property. In light of the potential savings to the City, PIP sought and obtained a contract for the Hot Dog King property in the amount of \$1,450,000. Although this is higher than the appraised value, the net construction cost savings after purchasing the Hot Dog King property is approximately \$800,000.

Kimley-Horn has developed an opinion of probable cost for the parking garage on the expanded footprint of \$1,800 for design and \$26,200 for hard construction. The total estimated cost for design and hard construction of the 431 car parking garage is estimated at \$12,236,000.

PIP has agreed to sell a portion of the property at 51 Biltmore Avenue and the Hot Dog King Property for \$4.56 million dollars. This sale would include all cross easements and air-rights necessary to build the project as currently designed. Additionally, the City would have staging rights for the project on PIP's remaining property along Lexington, as well as the "right of first offer" for the property owned by PIP at 85 South Lexington Avenue, adjacent to the site, to allow for possible efficient expansion of the garage.

Easements and Air-rights - In efforts to facilitate a good urban design of the project to include mixed-uses, there are a number of easements and air-rights required for the project. The project fits together like a three dimensional puzzle. The lowest level of the parking garage fronts under the hotel on Biltmore Avenue, requiring subjacent rights. Some of the hotel will be constructed over the parking garage along Aston Street, requiring air-rights. PIP will retain air-rights over the parking garage on the Hot Dog King property for a future residential development. Discussions among legal counsel for the parties have indicated that a condominium form of ownership, together with condominium agreements, may be the best legal structure for this Project. The legal effect of the condominium would be the same as the other more conventional instruments that are described in the Agreement, but would be easier to administer. The Downtown Development Agreement allows for this form of ownership as well.

Project Terms - As part of the Project, MHG and PIP will receive certain considerations for parking in the form of reserved spaces or reduced rates. The term of the parking arrangement is proposed for sixty years. McKibbin Hotel Group, MHG, has requested a maximum of 35 monthly 24/7 reserved parking spaces on the Biltmore Avenue level. They have requested an additional

115 evening/weekend parking spaces.

Because the number of spaces anticipated to be used by PIP and MHG will require that a proportionate amount of the financing for the deck to be provided at a taxable rate, the costs associated with those spaces are higher. Accordingly, the rate that the City will charge for those spaces will be higher than for restricted spaces. In order to cover this additional expense, the City will charge about \$39 per month more for each "taxable" space.

MHG and PIP have requested that this taxable monthly space premium be waived if private sector involvement in the construction phase of the Project generates further savings for the City. Staff would agree with this provided that hard construction cost is reduced by at least \$1,000 per space. MHG may be able to reduce the construction cost through economies of scale by building the hotel and parking garage at the same time. With this in mind, the City and MHG propose to enter into an agreement whereby MHG will manage the design and construction of the hotel and the deck. The Downtown Development Agreement statute specifically contemplates such an arrangement, and further provides that projects constructed in this way are not subject to public bidding or contracting procedures.

PIP has requested that the City adopt a rate structure that provides favorable rates for downtown workforce housing in return for PIP giving up their dedicated or taxable spaces. PIP included a stipulation in the parking agreement with the City and PIP that would allow them to get 50 spaces if the City did not allow a special rate intended for workforce housing. The Agreement requires PIP and the City to commit to a definite number of spaces prior to the City seeking approval of its financing, so that the taxable impact of those spaces will be known in advance.

Public Input and Approvals - This project is consistent with the current draft recommendations of the Downtown Master Plan, City Council's Downtown Parking Plan, Council's Strategic Goals and the 2025 Plan.

The Downtown Commission approved the design of the project on September 12, 2008. The Technical Review Committee of the City of Asheville approved the project with conditions at its September 15, 2008 meeting. Planning and Zoning Commission unanimously recommended approval of the conditional zoning for the project on October 1, 2008. The City Council adopted the conditional zoning on October 14, 2008.

A community meeting was held on August 19, 2008. Approximately 40 people attended the meeting.

City Attorney Oast broadly reviewed the following agreements with Council:

Downtown Development Agreement - The approval of the Downtown Development Agreement is the first action that staff is requesting on this project. This allows the City to move forward in finalizing the other documents. The significant financial commitment at this stage of the agreement is to spend approximately \$500,000 on preliminary and final design costs that can be reimbursed if we move forward by issuing Certificates of Participation (COPs) to build the parking garage. The MHG will own the fee interest in the property that fronts on Biltmore Avenue and the City will own the fee interest in the property that is right behind that. PIP will continue to own the strip along Lexington Avenue. This approval will encompass approval of the Construction Management Agreement. Both the City and MHG retain the right to terminate, prior to property acquisition, if, among other things, either actual construction costs or financing terms are not satisfactory. In recognition of the unsettled current financial markets and to protect the investment in design costs, PIP has agreed to allow the option of two (2) six month contract extensions, if needed.

Reimbursement Resolution - The second item staff is requesting approval for is a reimbursement resolution that would allow proceeds from the sale of COPs to be used to reimburse the parking enterprise fund for expenses incurred within 60 days preceding the date of this resolution.

We anticipate issuing COPs in six to eight months. This resolution would allow money for final design drawings as well as owner's representative expenses to be reimbursed from money we receive from COPs proceeds.

Contract with Kimley-Horn for Owner's Representative during Design and Construction -

The third item for Council's consideration is a resolution authorizing the City Manager to amend the contract with Kimley-Horn in an amount of \$215,000 to serve as the owner's representative for the design and construction of a parking garage at 51 Biltmore Avenue. Additionally, staff requests authorization for the City Manager to execute amendments to this contract up to 10% of the total contract amount.

On July 3, 2008, the City entered into a contract with Kimley-Horn to provide cost estimates and design criteria for a proposed parking garage located at 51 Biltmore Avenue. The amount of this contract was \$42,000. The original scope of work consisted of the following: (1) providing probable cost estimates for the proposed garage; (2) developing design criteria; and (3) serving as owner's representative during the design and construction of the project.

At that time, we elected to move forward on the first and second phase of the scope, pending the feasibility of next phase. We are requesting approval to move forward with the third and fourth phase of the work. The amount of this change is \$215,000 for

a total contract amount of \$257,000.

Next Steps - Following approval of the Downtown Development Agreement, reimbursement resolution, and contract amendment with Kimley-Horn, the project team will move forward with final design and construction drawings. We anticipate this process will take four to six months. Following completion of the final drawings, the project will be bid. If the bids are within the project budget, we will move forward in the acquisition of the property and construction of the parking garage.

The construction is estimated to take twelve to fifteen months. The garage should be completed by January 2011.

Pros:

- Generates 431 public parking spaces, shown by the City's Parking Study to be needed in this area of downtown, while at the same time increasing the tax base significantly over existing uses, and generating additional hotel tax revenue. The Project is anticipated to create over 400 jobs during the construction phase, and over 100 permanent jobs.
- Project should allow the development of workforce housing more feasibly due to reduced capital requirements for constructing private parking, which in turn supports lower priced housing units.
- Capitalizes on the opportunity to work with a mixed use developer willing to partner with the City and make private property available for public use.
- Provides a catalyst for additional private sector investment, tax base increase, and job creation in the surrounding area, in the same manner as the existing Haywood/Wall Street area garages have encouraged development in that area.
- Public parking helps sustain existing investments and future growth of retail and office uses in the area.
- Public parking is critical for downtown office job expansion.
- Project's positive economic impact.
- Facilitates density and sustainable development in downtown area.

Cons:

- Public-private partnerships tend to be complicated and require additional coordination between the City and the private sector than traditional stand-alone projects.
- Specific performance guarantees must be made by the City to third parties. Corresponding grantees are required of the developer to the City regarding the quality and sustainability of the mixed use components.
- The cost of the land is higher than the appraised value. Originally the owner did not want to sell the property but rather lease the property to the City for sixty years. After the City determined that it was a better financial decision for the City to purchase the property, the owner agreed to sell but with the restriction that they recoup the capital gains taxes.

Approval of the requests above will cost approximately \$700,000. This total includes \$500,000 for preliminary and final design plans and \$200,000 for owner's representative services. If the City issues bonds for the project, this money will be reimbursed to the parking enterprise fund.

The pro forma for this project indicates that the annual operating deficit for the first year to be approximately \$650,000. This amount will be reduced every year until the debt service (loan) is paid. After the debt service is paid, the revenues for the parking garage will exceed the expenditures. All of the operating deficit will be paid from the parking enterprise fund.

Staff recommends that City Council approve the following items in order to move forward with a public private partnership to construct a parking garage on 51 Biltmore Avenue:

- Downtown Development Agreement;
- Reimbursement Resolution; and
- Amendment to contract with Kimley-Horn for owner's representative during design and construction.

Mr. Stephen Schemmel, Managing Director, Municipal Products Groups for Wachovia Securities, spoke to Council about the issuance of Certificates of Participation as a method of financing and what that might mean to the City in terms of this particular project.

Ms. Ball said that public parking as a utility (1) encourages economic development (a) retail, (b) office; and (c) entertainment; (2) increases density; and (3) supports less expensive housing.

The current parking proposal for the public includes (1) 431 parking spaces; (2) public restrooms; (3) City owns and operates parking garage; and (4) bike lockers. For the private section (no public funds will be spent on private development), (1) 145 hotel room; (2) ground floor retail on Biltmore Avenue; and (3) future workforce housing linear on Lexington Avenue.

She showed an approved design. Then she explained the action to date from the different commission and committee reviews.

She explained the probable costs include (1) design (soft) (\$1,800 per space for 431 spaces) = \$775,800; (2) hard construction (\$26,200 per space for 431 per parking space) = \$11,292,200; (3) land/air rights/subjacent easements - \$4,560,000; and (4) bond issuance = \$300,000. Total is \$16,928,000. In this year's budget this project is budgeted at \$18.5 Million.

Economic Development Director Sam Powers said that the City is approaching this from a public parking standpoint, not an economic development project standpoint. There are, however, economic development benefits as a result of this project: (1) construction phase (a) 405 jobs; (b) \$15.3 Million of income; and (c) \$4.3 Million additional tax revenue - \$2.9 Million Federal collections and \$1.4 Million State/Local collections; and (2) on-going operations (a) 118 jobs; (b) \$3.2 Million of income; and (c) \$1.6 Million additional tax revenue - \$795,000 Federal collections; and \$860,000 State/Local collections.

Fiscal benefits include (1) property taxes (a) City - \$94,500; (b) School - \$33,750; and (c) County - \$118,125; (2) sales taxes to State - \$368,736 (distribution to Asheville is \$13,500); and (3) hotel occupancy tax - \$200,250.

Mr. Matt Taylor, with Real Estate Research Consultants, reviewed the pro forma assumptions which they performed two scenarios each with (a) 431 spaces; (b) 25 year term; (c) 5% tax exempt rate for 281 spaces; and (d) 7% taxable rate for 150 spaces. Scenario A Current City Estimate for construction is \$28,000 and contingency of \$3,800 per space – estimate of \$31,800 per space. Scenario B of MHG construction savings for construction is \$26,000 and contingency of \$1,000 – estimate of \$27,000 per space.

He then reviewed the rate structure for MHG (1) 35 guaranteed 24/7 spaces - \$140 per month; (2) 35 evening and weekend rate (4:30 p.m. to 10:00 a.m.) - \$96 per month*; and (3) 80 evening and weekend rate (7:00 p.m. to 10:00 a.m.) - \$86 per month*. *Increases – every year but not to exceed 10% over 3 years; (2) incentive for reduction in construction costs; and (3) PIP waives taxable parking spaces provided the City adopts parking rate structure incentivizing workforce housing.

The rate structure for the proposed public rates include (1) monthly guarantee 24/7 spaces - \$120 per month; (2) monthly daytime guaranteed 6 a.m. to 6 p.m. - \$100 per month; (3) monthly non-guaranteed 24/7 (residential only - \$80 per month). These are to be approved as part of the budget process.

He then reviewed in detail the pro forma output for the two scenarios. Under Scenario A Current City Estimate – Year 1 Debt Service is \$1,366,800; Year 1 Cash Flow is (\$767,000); and total positive cash flow over 50 years is \$23,179,100. There will be a positive cash flow in Year 26. Under Scenario B MHG construction savings – Year 1 debt service is \$1,209,300; Year 1 cash flow (\$644,500); and total positive cash flow over 50 years is \$24,432,300. There will be a positive cash flow in Year 26. Therefore, Scenario B delivers 1.25 Million additional cash flow to the City.

Ms. Ball said that regarding approval of the Downtown Development Agreement (1) City commits to preliminary/final design cost; (2) establishes contractual relationship between City/MHG/PIP to include: (a) real estate purchase; (b) easements/air rights/subjacent rights; and (c) construction management terms; and (3) City/MHG can terminate Downtown Development Agreement prior to issuing bonds or closing on property.

With approval of reimbursement resolution, the City can reimburse costs from the sale of bonds for costs incurred within past 60 days.

With approval of owner's representative contract, (1) there is an owner's representative for the design and construction of parking garage; and (2) a termination clause.

Next steps – (1) due diligence; (2) final design documents; (3) bid project; (4) issue bonds (requires Council action); (5) close on real estate; and (6) construction.

Value engineering (1) \$1 Million savings to City (land purchase vs. land lease); and (2) \$943,000 savings (purchase HDK vs. excavation).

A cost comparison for 51 Biltmore Avenue property is (1) nine levels above grade; (2) four levels below grade; (3) construction cost (a) hard construction \$31,400; (b) design \$2,120; (c) total of \$33,520; and (d) 431 spaces; and (2) land is \$3.11 Million. Total is \$17.56 Million.

Cost comparison for 51 Biltmore Avenue + Hot Dog King property (1) seven levels above grade; (2) two levels below grade; (3) construction cost (a) hard construction \$26,200; (b) design \$1,800; (c) total of \$28,000; and (d) 431 spaces; and (2) land is \$3.56 Million (additional \$1.45 Million). Total is \$16.63 Million. The total project savings is over \$943,000.

Mr. W. Louis Bissette, Jr., attorney representing MHG, said this does meet a number of downtown needs. He spoke about the economic impact of providing jobs. He hoped City Council would approve the agreements and continue this process. He understood that financing is an issue for the City and it is for MHG as well. There are a lot of uncertainties; however, the documents

will allow this design process to go forward while giving all the participants a further opportunity next spring to review the economic and credit climates before giving final approval to this project. He recalled when the Wall Street and Rankin Avenue Parking Decks were built and he hoped Council would continue this development process as it will reap many benefits for the City over the next 20 years.

Mr. Wes Townson, representing MHG, felt this was an excellent public/private partnership in which many compromises were made to get to this point. He felt this project will be considered one of those projects around the south as a model for public/private cooperation and MHG is proud to be a part of it. He felt this is the time to be under construction because when this project opens in the later part of 2010 the economy will be on an upswing.

Mr. Pat Whalen, President of PIP, said that the City hasn't built a parking garage downtown in the past 20 years. He acknowledged the serious shortage of parking in this area and noted that PIP has been filling some of that gap for the last 10 years. They wanted this to be a public/private use than a private use alone and he urged Council to approve these documents.

Mr. Tom Tveidt, at the Asheville Metro Business Research Center, gave a brief analysis Asheville's economy.

Throughout discussion, Ms. Ball, Mr. Tveidt, Mr. Schemmel, City Attorney Oast and Parking Services Manager Harry Brown responded to various questions/comments from Council, some being, but are not limited to: how is the outlook for construction jobs in Asheville in the next 18-24 months; if COPs are issued, how is it viewed in the market place of being paid back; what is the projected revenue source to repay the debt; would our overall debt capacity be impacted if we repay the debt back from the Enterprise Fund; is there some financial product available, like a performance bond, to require the hotel component part of the project to be completed if MHG walks off the job; why was the Local Government Commission established; how will we ensure that we don't have a lot of cost over-runs if we contract with an owner's representative; limiting construction traffic on Biltmore Avenue; how much have we set aside for this type of initiative in the Parking Enterprise Fund; update on the revenue from the Parking Enterprise Fund; and of the two scenarios presented, which would staff support.

Councilman Mumpower supported parking as a City responsibility, especially in places where users pay most of their costs through an Enterprise Fund. However, his concern is that we are going to obligate the City approximately \$17 Million, and until the economy clears he felt it would be a mistake on Council's part. He also voiced concern that the number of jobs anticipated for this project will not be for American or citizens.

Councilwoman Cape felt that one of the worst things that can happen is people get so fearful that they quit participating in creating a future. The City will be using the proceeds from our parking decks that we paid off to re-invest in another sound investment that has proven to help downtown. We are not borrowing money at this time, but moving forward to see if this is a viable project. This is just the next step, with time to watch the market and recovery.

Upon inquiry of Mayor Bellamy, Mr. Schemmel said that the Local Government Commission is a state mandated financial advisor to local governments and they are very conservation. Any bond issuance has to be approved by them. They would not approve moving forward if they didn't believe it was appropriate.

Mayor Bellamy confirmed that with the issuance of COPs, the security on the debt is the land and the facility for which the money is being borrowed.

Upon inquiry of Mayor Bellamy, City Manager Jackson said that staff will provide Council with more detail on how the owner's representative will perform their duties.

When Mayor Bellamy asked that a commitment be placed in the Downtown Development Agreement to hire locally, City Attorney Oast said that in the Downtown Development Agreement there is a commitment to work with the City's Minority Business Program Coordinator for minority and local vendors.

In response to Mayor Bellamy, Ms. Ball said that one of the recommendations from the draft Downtown Master Plan is to begin enforcement of parking until 10:00 p.m. – Monday through Saturday and enforce parking on Sundays. She said that staff would need City Council approval prior to making that change.

Mr. John Mark Stroud, property owner on Biltmore Avenue, presented City Council with a petition of support from 21 business owners on Biltmore Avenue, who support the new public parking deck on Biltmore Avenue.

The following individuals spoke in support of the parking deck on Biltmore Avenue and requested Council consider a policy prohibiting chain stores in downtown in order to keep the uniqueness of that area:

Ms. Raya June, Executive Director of Asheville Independent Restaurants Association (AI)
Joint President of AIR
Co-Owner of Fiore's

Mr. Kevin Schwartz, Board member of the AIR

In response to Councilwoman Cape regarding prohibiting chain stores out of downtown, City Attorney Oast said that there is a formula ordinance that some cities have adopted, but they have been challenged. He will continue to keep abreast of that issue and let Council know of any changes.

City Attorney Oast noted that with regard to this project, a statement was made at the conditional zoning of this project that the size of the retail units in this structure are such that they would not encourage chain stores, because it does not meet their size requirements.

Mayor Bellamy said that the AIR will be meeting with local developers, builders and owners to educate them on AIR; how AIR contributes to our community, and the impact of chains in the downtown area.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilwoman Cape moved for the adoption of Resolution No. 08-213. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION NO. 08-213 - RESOLUTION BOOK NO. 31 – PAGE 345

Councilman Newman moved for the adoption of Resolution No. 08-214. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION NO. 08-214- RESOLUTION BOOK NO. 31 – PAGE 346

Vice-Mayor Davis moved for the adoption of Resolution No. 08-215. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION NO. 08-215 - RESOLUTION BOOK NO. 31 – PAGE 348

B. RESOLUTION NO. 08-216 – RESOLUTION SUPPORTING THE PROPOSED IMPROVEMENTS TO VICTORIA ROAD IN THE IMMEDIATE AREA OF MISSION HEALTH SYSTEM AS A PART OF THE HOSPITAL'S OVERALL MASTER PLAN

Assistant Director of Transportation and Engineering Ken Putnam said that this is the consideration to approve a resolution supporting the proposed improvements to Victoria Road in the immediate area of Mission Health System as a part of the hospital's overall master plan.

Mission Health System is actively pursuing their overall master plan and it includes certain street improvements to Victoria Road in the immediate area of the main campus area. The existing section of Victoria Road that connects with SR 3214 (Biltmore Avenue) will be widened to a multi-lane facility and a new multi-lane connection to US 25 (McDowell Street) will be constructed. Victoria Road will be relocated to create a new cross type intersection that will be signalized. This section of Victoria Road will also be a multi-lane facility transitioning back to a two-lane road at the existing tunnel over US 25 (McDowell Street). A traffic signal will also be installed at the new intersection with US 25 (McDowell Street). The proposed roundabout will be part of the hospital's new main entrance and it will be privately-maintained.

It should be noted that when the subject improvements are completed, a new name should be given to the section of street between SR 3214 (Biltmore Avenue) and US 25 (McDowell Street). Victoria Road would then begin at the newly created intersection.

Mission Health System contacted the North Carolina Department of Transportation (NCDOT) to see if they would provide part of the needed funding for the proposed street improvements. Since the completion of the hospital's overall master plan will probably create new job opportunities, the NCDOT is considering approving up to \$500,000 towards the proposed street improvements. This funding does **not** impact funding in the current Transportation Improvement Program (TIP).

Buncombe County will consider a similar resolution at their November 4, 2008, Board of Commissioners meeting.

This action complies with the City Council 2008-09 Strategic Operating Plan within the Sustainable Focus Area by improving existing and creating new street infra-structure in order to enhance traffic flow and safety.

Pros:

- Traffic flow and safety in the immediate surrounding area of the hospital including A-B Tech should be enhanced.

- Once completed, the new street connection will become a city-maintained street that will increase the overall total of city-maintained streets, which should result in an increase of Powell Bill Funds.

Con:

- Powell Bill Funds will not cover 100% of the cost to maintain the new street connection.

There is no initial anticipated financial impact to the City of Asheville. The City of Asheville will be responsible to maintain the street infra-structure including the new street connection and the new traffic signal at the intersection with Victoria Road.

Staff recommends that City Council approve a resolution supporting the proposed improvements to Victoria Road as a part of Mission Health System's overall master plan.

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

Councilman Newman asked what NCDOT pool of funds this would be coming from if it is not affecting the current TIP. Mr. Putnam said that this is the money that the local NCDOT board member controls. These funds will be coming from the NCDOT's Public Access Road infrastructure money and Economic Development funds where a project will generate new jobs.

When Councilman Newman asked how much money does the local NCDOT board member have at their sole discretion, Mr. Putnam said that when he worked for NCDOT, the member used to control about \$1 Million a year. For this project, the total amount is \$500,000.

Councilman Newman was concerned that there are a lot of different small transportation projects that our community needs and our area of the state gets a certain amount of transportation funds. We work very hard to get NCDOT support. He felt that funding could go to a variety of different projects, not just in Asheville, but our part of the state. He wondered if the funding controlled by the local board member can go to a variety of different kind of transportation projects in the City, then he would like to have the ability to see how that project stacks up against other types of project that could be funded with those same dollars. We have been working on a Priority Needs List with the Metropolitan Planning Organization and felt we should not be looking at the projects on an individual basis because we have limited dollars. If the funding is unique enough to be only used for this project and no other in Asheville, then that's not a problem. This feels like an isolated decision for him and he wanted us to review this in a more systematic way in the future.

Mayor Bellamy said that she and Vice-Mayor Davis met with the Chair of the Buncombe County Commissioners and a member of the Commissioners about land use planning and transportation needs. Outside of the I-26 Connector and the TIP our region isn't asking for any other long-range transportation planning funding. Whereas, other cities have already put in place what they want their transportation system to look like for 20 years. We need to plan. We need to work with the County to actively collaborate on our future transportation needs. In addition to this funding, Representative Goforth is going to the Speaker for \$250,000 for this initiative. There are pools of money that we didn't know existed. We need to identify those pools and see how they can benefit the greater community. She was glad about this new connector street; however, we do have other transportation needs that she would like to be able to tap into for the greater community. She asked City Clerk Burleson to place this as a tickler item on the Council's calendar.

In response to Councilman Newman, Mr. Putnam said that projects like this do not presently go before the Metropolitan Planning Organization body.

At the request of Councilman Newman, Mr. Putnam said that he would be happy to look at other funding opportunities available to the City.

Councilman Russell spoke in support of this project in that Mission Hospitals is the number one employer in Asheville and this new connector will be a critical part of our community and it will serve our area.

Councilman Mumpower felt we are basically approving a resolution saying it's okay to sidestep the planning process and he could not support the action.

A representative from Mission Hospitals clarified the planning process. They have been working with the City's Planning & Engineering Departments and have gone through the City's Technical Review Committee. The total project budget is \$10.3 Million. Mission Hospitals is willing to invest in infrastructure and donate its property to widen the road. Mission Hospitals have been transparent through the entire process.

Councilwoman Jones moved for the adoption of Resolution No. 08-216. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Mumpower voting "no".

C. RESOLUTION NO. 08-217 – RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Davis said that the term of Davidson Jones (east representative) expired on June 30, 2008.

At the September 16, 2008, worksession, it was the consensus of Council to interview Kyle Ann Ross, Brock Moore and Ronald Maynard. Due to the fuel conservation measures, Mr. Maynard was unable to attend the interview date and another date was set up for the interview.

After Council spoke highly of the candidates, Kyle Ross received no votes, Brock Moore received one vote and Ronald Maynard received 5 votes. Therefore, Ronald Maynard was appointed as the east representative on the Citizens-Police Advisory Committee to serve a three year term, term to expire June 30, 2011, or until his successor has been appointed.

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D. RESOLUTION NO. 08-218 – RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Vice-Mayor Davis said Tebbe Davis has resigned from the Civic Center Commission, thus leaving an unexpired term until June 30, 2009.

At the October 21, 2008, worksession, it was the consensus of Council to interview Jodi Shell, Arthur Allen and Brian Woods. Mr. Allen was unable to attend the interview.

After Council spoke highly of the candidates, Jodi Shell received no votes, Arthur Allen received no votes and Brian Woods received six votes. Therefore, Brian Woods was appointed as a member of the Civic Center Commission to fill the unexpired term of Mr. Davis, term to expire June 30, 2009, or until his successor has been appointed.

RESOLUTION BOOK NO. 31 - PAGE 352

E. RESOLUTION NO. 08-219 – RESOLUTION APPOINTING A MEMBER TO THE GREENWAY COMMISSION

Vice-Mayor Davis said Christopher Gilbert has resigned from the Greenway Commission, thus leaving an unexpired term until December 31, 2010.

At the October 21, 2008, worksession, it was the consensus of Council to interview Susan Barlow, Russell Pierce, Stephanie Pankiewicz, Justin Fletcher, Ellen Bailey, Brian Etheridge and David Borcharding. Ms. Bailey and Mr. Etheridge are not interested in the vacancy at this time.

After Council spoke highly of the candidates, Susan Barlow received 4 votes, Russell Pierce received 7 votes, Stephanie Pankiewicz received 7 votes, Justin Fletcher received no votes and David Borcharding received 3 votes. Therefore, Russell Pierce was appointed as a member of the Greenway Commission to fill the unexpired term of Mr. Gilbert, term to expire December 31, 2010, or until his successor has been appointed.

In addition, due to the terms of David Tuch and Linda Giltz expiring on December 31, 2008, it was the consensus of Council to appoint Susan Barlow and Stephanie Pankiewicz to each serve a three-year term respectively, terms beginning January 1, 2009, and expiring on December 31, 2011, or until their successors have been appointed.

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VII. OTHER BUSINESS:

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Asheville Police Department Dignitary Protection

Councilman Mumpower requested a brief report from Police Chief Hogan regarding the Gov. Sarah Palin event at the Asheville Civic Center on October 26, 2008.

Mayor Bellamy said that regarding all rallies, staff has looked at what best practices they can use in the future and what requirements need to be put in place prior to the event.

City Manager Jackson said there were six presidential campaign events that the City was directly involved; and two non-

public presidential campaign visits. Chief Hogan will go over how the City was called into these events and how the Gov. Palin event on Sunday relates to prior requests.

Police Chief Hogan explained that the Asheville Police Department (APD) provides mutual aid to Secret Service agendas for dignitary protection.

Statistics regarding the Sarah Palin event include (1) Asheville Civic Center – Saturday, October 26, 2008; (2) met with US Secret Service on Friday, October 24, 2008; (3) 34 officers assigned to event venue (5 from Buncombe County Sheriff's Office); (4) 21 officers assigned to motorcade; (5) 28 officers held over from regular day shift as safeguard for potential problems; (6) roll call at 3 p.m.; (7) on-site at 3:30 p.m. – 10:00 p.m.; (8) primary responsibility is mutual aid to U.S. Secret Service for dignitary protection; (9) 7 officers assigned to foot patrol outside of venue; (10) additional officers that moved between inside and outside as needed; (11) projected crowd of 8,000; (12) actual crowd of 10,000 plus; (13) large protest crowd in close proximity, due to venue; and (14) no fights; two cases of exhaustion; safe event for protectee.

Statistics regarding the Barack Obama event include (1) Asheville High School football field – October 5, 2008; (2) met with U.S. Secret Service on Tuesday, September 23, 2008; (3) 43 officers assigned to event venue (17 from Buncombe County Sheriff's Office); (4) 10 officers assigned to motorcade; (5) roll call at 9:15 a.m.; (6) on-site at 10:00 a.m. – 4:30 p.m.; (7) primary responsibility is mutual aid to U.S. Secret Service for dignitary protection; (8) 5 officers assigned to patrol outside of venue; (9) projected crowd of 15,000; (10) actual crowd of 22,000 plus inside – 6,000 outside; (11) small protect crowd in front of school; (12) no fights; (13) 4 attendees suffered from heat exhaustion; and (14) safe event for protectee.

Statistics regarding the Michelle Obama event include (1) UNC-Asheville – May 2, 2008; met with U.S. Secret Service on Thursday, April 24, 2008; (3) 13 officers assigned to event venue (2 from Buncombe County Sheriff's Office, UNC-Asheville Police Department assisted also); (4) no officers assigned to motorcade – Highway Patrol provided motorcade; (5) roll call at 3:30 p.m.; (6) on-site at 4:00 p.m. – 9:30 p.m.; (7) primary responsibility is mutual aid to U.S. Secret Service for dignitary protection; and (8) safe event for protectee.

Statistics regarding Hillary Clinton event include (1) Thomas Wolfe Auditorium – April 24, 2008; (2) met with U.S. Secret Service one week prior; (3) 35 officers assigned to event venue; (4) 6 officers assigned to motorcade (in conjunction with the Highway Patrol); (5) roll call at 3:00 p.m.; (6) on-site at 3:30 p.m. – 11:30 p.m.; (7) primary responsibility is mutual aid to U.S. Secret Service for dignitary protection; (8) 2 officers assigned to patrol outside of venue; additional officers used during motorcade arrival; (9) projected crowd of 4,000; (10) actual crowd of 4,000 plus inside – 2,000 outside; (11) small protest crowd in front of venue; (12) crowd control issues related to candidate greeting crowd out front; and (13) no fights; no injuries; safe event for protectee.

Statistics regarding the Bill Clinton event include (1) Asheville High School Gymnasium – March 28, 2008; met with U.S. Secret Service one week prior; (3) 14 officers assigned to event venue; (4) 1 officer assigned to motorcade; (5) roll call at 5:30 p.m.; (6) on-site at 6:00 p.m. – 11:30 p.m.; (7) primary responsibility is mutual aid to U.S. Secret Service for dignitary protection; and (8) safe event for protectee.

Major preliminary conclusions for Gov. Palin visit includes (1) attendance exceeded capacity; (2) inadequate volunteers for crowd support; (3) limited security scanners at entrance due to underestimated crowd size; (4) confrontational personalities with conflicting values in close proximity; (5) Zombie Walk happening at the same time; (6) no fights; no physical confrontations; no injuries; no arrests; (7) additional evaluation needed and further planning for future events; and (8) Secret Service comments from agents throughout the U.S.

Mayor Bellamy apologized to the individuals who had a negative experience in our downtown; however, there were some things that were out of our control, e.g., like the protestors, security scanners at the entrance.

Councilman Mumpower felt this was a learning process for us and perhaps in the future we might be in a position to warn organizers about what they might expect and what they need to provide for to make sure all bases are covered.

In response to Councilman Mumpower, City Manager Jackson said that the Civic Center staff, with the assistance of the Police Department staff and the Fire Marshal, was between the National Republican Party organizers and U.S. Secret Service in terms of staging the event. Their primary concern was inside the Civic Center and that the event was properly managed.

Police Chief Hogan said that as far as the external part of the building, we normally have a large core of volunteers that organize and support the waiting crowd. At this event, all the volunteers were on the inside. The police officers were not capable of answering questions about who would get in. We were watching the crowd very closely. Some people took offense to things said and signs made, but it was all constitutional.

In response to Councilman Mumpower, City Manager Jackson said he didn't believe there was chaos on the inside of the Civic Center. In terms of the dignitary, the U.S. Secret Service had the ability to limit the number of people allowed in. It did not detract from our ability to manage the number in the building.

Councilwoman Cape said that some people were offended by the police officers talking to Rev. Chiaronmonte but part of community policing is knowing who the community is and who's a problem and who isn't. The Zombie Walk had been planned for a long time. She felt the APD did a good job. Hopefully in the future we can recommend no political rallies in downtown Asheville. She also noted that Gov. Palin arriving 1.5 hours late didn't help the frustration of the crowd as well.

Chief Hogan thanked Capt. Sarah Benson for her excellent work with the U.S. Secret Service and her organization of these events.

Living Wage

When Mr. Steve Agan, representing the Living Wage Committee, asked to speak, Mayor Bellamy said that the Council has sent that issue to the Finance Committee. No public comment was allowed because there was no motion on the floor.

Councilman Newman asked for clarification of the policy in that because there was no public comment allowed during the meeting, shouldn't the public be allowed to comment on it under Informal Discussion and Public Comment. He asked that the policy be clarified that people should be allowed to speak under "Informal Discussion and Public Comment" unless there has been a public comment period earlier in the meeting on that specific issue.

City Attorney Oast said that City Council Rule Section 7 (d) reads "At each 'regular' meeting of the Council, under the 'Informal Discussion and Public Comment' section of the agenda, any group or person wishing to address the Council on any matter not previously considered during the meeting may do so."

When Mayor Bellamy said that she would entertain a motion to waive the rules, Councilman Newman moved to waive the rules and allow Mr. Agan to speak. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Mr. Agan spoke to Council about the legal issue of what Council has the power to do in terms of regulating contracts.

Copwatch Program

Mr. David Ireland, from the Asheville Copwatch Program, spoke to Council about complaints from citizens alleging harassment and brutality from Asheville police officers. Police Chief Hogan, who was present in the room, said that he would be happy to meet with Mr. Ireland and discuss his concerns.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 11:04 p.m.

CITY CLERK

MAYOR