

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding (excused from meeting at 7:20 p.m.); Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilman Kelly M. Miller; 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 Burlison

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Newman gave the invocation.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING MARCH 28, 2009, FROM 8:30 P.M. – 9:30 P.M. AS “EARTH HOUR”**

Mayor Bellamy read the proclamation proclaiming March 28, 2009, from 8:30 p.m. – 9:30 p.m. as "Earth Hour" in the City of Asheville. She presented the proclamation to Ms. Maggie Ullman, the City's Energy Coordinator, who urged all citizens to join in the millions of people around the globe in turning off the lights for one hour in order to make a statement about climate change. The City has initiated (1) a computer shut-down program at 8:00 p.m. every evening; (2) Better Energy Savings Today Program; and (3) a 4-day work week in Public Works. Regarding Earth Hour, we will have the spot lights on City Hall turned off and she will send out an e-mail encouraging non-essential city buildings to participate. The e-mail will double to let employees know they can chose to participate at home.

Councilwoman Cape, member on the Community Energy Advisory Council, thanked City Manager Jackson and City staff for their work to address energy efficiency and finding creative ways to look at our own footprint as an organization.

**B. PROCLAMATION PROCLAIMING APRIL, 2009, AS ‘CHILD ABUSE AWARENESS MONTH’**

Mayor Bellamy read the proclamation proclaiming April, 2009, as "Child Abuse Awareness Month" in the City of Asheville. She presented the proclamation to Mr. Bill McGuire, with Child Abuse Prevention Services, and Ms. Tammy Shook, Chair of the Community Child Protection Team, who thanked City Council for their support in this effort and briefed Council on some activities taking place during the month.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 10, 2009**

After Mayor Bellamy asked for public comments 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.

**III. PRESENTATIONS & REPORTS:**

**A. GREAT SMOKY MOUNTAIN PARK 75<sup>TH</sup> ANNIVERSARY**

Mr. Bill Wright, Chief Ranger at the Great Smoky Mountain Park, extended his apologies that Mr. Dale Ditmanson, Great Smoky Mountain Park Superintendent, was unable to attend; however, Mr. Ditmanson is looking forward to attending several events in Asheville. Mr. Wright then was pleased to highlight the 75<sup>th</sup> Anniversary of the Great Smoky Mountain Park and outlined some activities that will be taking place.

The 75<sup>th</sup> Anniversary focuses on nature, culture, stewardship and partnerships through special events and programs.

Great Smoky Mountains National Park, its neighbors and partners have announced plans to celebrate the diamond anniversary of the congressional action that gave birth to the national park on June 15, 1934. Straddling the border between North Carolina and Tennessee and covering 800 square miles, Great Smoky Mountains National Park is one of the largest federally protected reserves east of the Mississippi River and the most visited national park in the National Park System.

The anniversary will serve to commemorate and showcase the Park's biologically diverse natural resources, cultural history and the host of recreational and education opportunities it offers the more than 9 million visitors who come annually. The celebration, a year of special in-Park events and over 100 community-partner events, will also highlight opportunities and the need for long-term stewardship of the Park.

The first of the Park's special activities is a media event on April 24 at Clingmans Dome to recognize and celebrate the efforts of the North Carolina-Tennessee states and local governments and early Park support groups that led to the creation of the Park. Local and state officials and other dignitaries, including both state governors, are being invited.

A three-day series of special events will occur during the "Anniversary Weekend", June 13-15. The first event will be on Saturday, June 13, when the Knoxville Symphony Orchestra (KSO) will perform in Cades Cove, reminiscent of its performance during the Park's 50<sup>th</sup> anniversary. The outdoor concert will be a ticketed event, based on a first-come, first serve basis, and the process for obtaining a "vehicle pass" and other logistical details will be announced early 2009 and posted on the 75<sup>th</sup> anniversary website.

The other two events during the Anniversary Weekend are June 14 when the Park will hold an Open House at Park Headquarters, near Gatlinburg, Tenn., to showcase Park operations and provide visitors with a "behind the scenes" view of administration and management activities such as search and rescue, exotic species control, wildlife management, archival displays, and exhibits on managing the Park's complex infrastructure of roads, trails, and bridges. On June 15, the Park's actual anniversary date, programs will take place at the Oconaluftee Visitor Center, near Cherokee, N.C., and highlight the cultural heritage of Southern Appalachians and Cherokee Indians through music, storytelling and exhibitry. The day will culminate with a groundbreaking ceremony of a new visitor center to be privately funded by Great Smoky Mountains Association and Friends of the Smokies.

The last of the in-Park special events will be held on September 2 at Newfound Gap to recognize a significant event in the Park's history—the dedication of the Park in 1940 by President Franklin D. Roosevelt. The event--at the Rockefeller Memorial which straddles the Tennessee/North Carolina boundary at Newfound Gap--will have limited attendance. An invitation will be extended to President Barack Obama. If the President is able to attend, he will be the first sitting President since FDR to visit the most popular national park in the National Park System. The event will be supplemented by live broadcasts to be screened for a broader audience in venues located in or near the Park in gateway communities.

In addition to the events mentioned above, visitors will have a chance to celebrate the Park through many of its annual programs and educational services which will also incorporate aspects of the anniversary theme, "Celebration of our Past – Stewardship for our Future". Throughout 2009, a wide variety of community events officially sanctioned as 75<sup>th</sup> anniversary activities, will be everything from hikes and scavenger hunts to musical performances and cultural demonstrations held in and around neighboring communities to mark the occasion and showcase the nation's most visited national park.

As a major thrust throughout the celebration, the Park and its partners will be focusing on opportunities to create support for the continued health of the Park over the next 75 years.

All of the activities, sponsorship opportunities, and a variety of 75th Anniversary logo sale merchandise are listed on: [www.greatsmokies75th.org](http://www.greatsmokies75th.org).

On behalf of City Council, Mayor Bellamy appreciated the hard work that has gone into preparing the 75<sup>th</sup> Anniversary activities.

## **B. HOPE VI PRELIMINARY STUDY**

Mr. David Nash, Chief Operations Officer of the Housing Authority, briefed Council on the HOPE VI preliminary study. He said that they have updated the City's Housing & Community Development Committee. They have also met with residents at each of the three developments and although there are some clear concerns among the residents, those meetings have been reasonably positive. He reviewed the following PowerPoint presentation:

Primary purpose of the feasibility study

- ▶ Preliminary analysis of Public Housing developments based on HOPE VI threshold of “severe physical distress”:  
*“Requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original (including inappropriately high population density) deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project.”*

Physical inspections:

- ▶ Inspected 5% of 914 Units in 5 developments selected based on:
  - ▶ Age
  - ▶ Overall appearance
  - ▶ Vacancy rate
  - ▶ Police calls for service
  - ▶ Ongoing maintenance issues

For the Aston Park Tower and Garden Apartments:

- ▶ Property
  - ▶ Built in 1970
  - ▶ 162 efficiency & 1 bedroom units
  - ▶ 35.8 units/acre
  - ▶ 2007: 6.4 police calls/unit (Note: 2008 police calls declined to 3.7/Unit)
  - ▶ 2008 vacancy rate: 6.7%
- ▶ Conditions:
  - ▶ Poor accessibility
  - ▶ All electric with no AC or insulation
  - ▶ Obsolete systems; solid concrete chases
  - ▶ Exterior brick issues
  - ▶ Conclusion: severely physically distressed HOPE VI candidate

For Lee-Walker Heights

- ▶ Property
  - ▶ Built in 1950
  - ▶ 96 units, 1-4 bedrooms
  - ▶ 8.2 units/acre
  - ▶ 2007: 15.4 police calls/unit (14.3 in 2008)
  - ▶ 2008 vacancy rate: 6.2%
- ▶ Conditions
  - ▶ Oldest in Asheville
  - ▶ Narrow streets, high population density
  - ▶ Functionally obsolete electrical, plumbing, and heating systems
  - ▶ Conclusion: severely physically distressed HOPE VI candidate

For Pisgah View Apartments

- ▶ Property
  - ▶ Built in 1951
  - ▶ 262 units, 1-4 bedrooms
  - ▶ 10 units/acre
  - ▶ 8.6 police calls/unit in 2007 (6.3 in 2008)
  - ▶ 2008 vacancy rate: 7.3%
- ▶ Conditions
  - ▶ Largest and 2nd oldest in Asheville
  - ▶ Obsolete electrical system
  - ▶ Conclusion: functionally obsolete – possible HOPE VI candidate

Two other developments analyzed:

- ▶ Deaverview Apartments
  - ▶ Built in 1971, 160 units
  - ▶ 7.7 police calls/unit in 2007; 7.3 in 2008
  - ▶ Standard condition - not a HOPE VI candidate
- ▶ Hillcrest Apartments
  - ▶ Built in 1959, 234 Units
  - ▶ 7.4 police calls/unit in 2007; 7.7 in 2008
  - ▶ Standard condition - not a HOPE VI candidate

Fundamental considerations:

- ▶ One-for-one physical unit replacement
- ▶ Generous relocation benefits
- ▶ Strong support from City leadership, staff and other community partners
- ▶ Decision must be mission driven – healthy, low-income housing communities
- ▶ HOPE VI - funding to prepare strong application

Aston Park:

- ▶ Opportunities
  - ▶ Potential collaboration with City and other community partners in Aston Park/Clingman Greenway area
  - ▶ Expand number of truly accessible one bedroom units.
  - ▶ Eliminate central office and/or maintenance warehouse
- ▶ Challenges
  - ▶ Limited development footprint of 4.52 acres – is one-for-one replacement possible on site?
  - ▶ Temporary loss of 162 0-1BR units (35% of our entire stock)
  - ▶ Office and shop relocation costs
  - ▶ Cost of HOPE VI application; current lending and tax credit environment

Lee-Walker:

- ▶ Opportunities
  - ▶ Replace our oldest, most concentrated development with highest crime rate
  - ▶ Only 96 units, so good possibilities for mixed income development with up-to-date standards and amenities
  - ▶ Convenient to many jobs; potential public/private partnerships
  - ▶ Potential to add to 1 BR stock
- ▶ Challenges
  - ▶ Topography limits development footprint (11.66 acres but not all buildable)
  - ▶ Long term residents have significant concerns
  - ▶ Cost of HOPE VI application; current lending and tax credit environment

Pisgah View:

- ▶ Opportunities
  - ▶ Replace second oldest facility with highest vacancy rate
  - ▶ Large site: 26.14 acres
  - ▶ Convenient to Carrier Park and transportation
  - ▶ Potential to add to 1BR unit stock
- ▶ Challenges
  - ▶ Very large project - 262 units hard to replace with on-site mixed income development
  - ▶ Disruption of current community building efforts
  - ▶ Cost of HOPE VI application; current lending and tax credit environment

Recommendations:

- ▶ Focus on options at Aston Park and Lee Walker
- ▶ Aston Park
  - ▶ Can tower be preserved and renovated?
  - ▶ If so, consider smaller scale replacement of garden units and maintenance facility

- ▶ Lee Walker
  - ▶ Will NOFA require “family” development?
  - ▶ Explore potential public/private partnerships
- ▶ Pisgah View
  - ▶ Potential for future redevelopment, but address immediate needs through capital/stimulus funding

Councilman Newman, Chair of the Housing & Community Development Committee, said that the Committee heard this presentation and felt it was a useful process in terms of the information. The concept of the HOPE VI has a lot of inherent appeal. He felt that if we are going to go forward with a HOPE VI effort, this would be investing in developing very specific plans for redevelopment of properties. He also encouraged Council to think about a partnership with the Housing Authority to use some of our properties that border Housing Authority properties for creating some new 1 bedroom units as part of the HOPE VI process before we lose any existing units, so that there is not much of a displacement challenge.

Mr. Nash responded to various questions/comments from Council, some being, but are not limited to: is there a deadline for applying for the HOPE VI funds; how many projects do you think will come forward seeking HOPE VI funds; how many opportunities are there nationwide for HOPE VI funds and does the Housing Authority feel like our applications will be successful; and how much did the City participate in the HOPE VI study.

In response to Councilwoman Cape regarding the funding proposal to design a HOPE VI project, Mr. Nash said that the Housing Authority would like split the approximately \$200,000 cost with the City. The Housing Authority would also use whatever development funds they have available to put in their share, along with staff resources. Mayor Bellamy also hoped the Housing Authority would contact Buncombe County as well.

Councilman Mumpower explained why he felt public housing is a very dangerous place to live in Asheville, and even though progress is being made, it continues to be a playground for drug dealers, users and their supporters. In addition, he was concerned that the mixed use model, as it can be realistically implemented, has not been demonstrated to him to succeed.

In response to Mayor Bellamy, Mr. Nash said that the leader of the feasibility study was Mr. Larry Holt. He explained Mr. Holt’s experience and success levels with the HOPE VI initiatives.

Mayor Bellamy felt that we are fortunate to have a citizen (Mr. Holt) in our community that has had a proven success rate with HOPE VI initiatives. She said that she has visited Charlotte, Greensboro, Raleigh and Atlanta to see first hand the success of the HOPE VI developments. She noted the last Council voted to support police officers to work with the Housing Authority, noting that we are moving forward. Regarding the long-range planning for Aston Park, she felt having our senior citizens in a high rise is not the best model, especially when emergencies arise. If HOPE VI is not the tool to address this problem, then we need to address it another way. She felt there is an opportunity for the Housing Authority to partner with Mission Hospitals for a good Master Plan for the area, which addresses both needs, e.g., another entrance for Lee Walker, improvement of that corridor, etc. She suggested the Housing Authority continue to work with Mountain Housing Opportunities on Aston Park in that their plan calls for some redevelopment with the garden apartments. She did hope that the Housing Authority will continue to look at Pisgah View. She was pleased with this first step as it is a great vision for our community. She was also pleased that the Housing Authority is involving the community in this process. She suggested they look at the successful models of mixed income affordable housing in our community.

When Mayor Bellamy asked when they could update Council next, Mr. Nash said that they will report back on their progress to Council in the next 30-60 days.

### **C. HOMELESS INITIATIVE UPDATE**

Ms. Amy Sawyer, Homeless Coordinator, provided Council with the following report on 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 entering its 4th 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.

There are 4 areas of focus for the Homeless Initiative:

#### **1. Coordination of homeless and mainstream resources:**

Workgroups of the Homeless Coalition, a partner of the Homeless Initiative, are currently focusing on the following actions:

- Ongoing meetings between homeless support staff and staff from the Buncombe County Jail and Mission Hospitals.
- Development of a community protocol to limit discharge to homelessness.
- Negotiations with landlords to work with potential tenants whose credit is challenged due to homelessness.
- Legal and credit support from local agencies to help potential tenants repair bad credit and build housing stability.
- Coordination of available housing resources so that people in a housing crisis can understand all of their options as soon as possible.

In summary, the Homeless Coalition Action Group focus is (1) coordination between homeless outreach staff, hospital, jail; (2) community protocol to limit discharge to homelessness; (3) landlord recruitment, negotiation with landlords; (4) legal and credit support from agencies to help re-build credit; and (5) coordination of available housing resources to help people in housing crisis.

## **2. Data Collection**

### Agency Surveys:

Through an award from the North Carolina Coalition to End Homelessness (NC ICCHP), the Homeless Initiative is currently working with two researchers to collect Agency Surveys to evaluate housing outcomes and complete a “map” of the Homeless Service system. To date, three agencies out of thirteen have provided agency surveys.

### Point in Time Count:

The Homeless Initiative, along with the Homeless Coalition, facilitates a Point in Time Count at least once a year. Facilitation includes staff training, volunteer recruitment, data collection, and data analysis. This year’s count occurred on January 28, 2009.

The Point in Time Count offers a “snapshot” of the homeless population. This national annual count supported by the US Department of Housing and Urban Development aims to count all homeless people in the community on one specific night. Facilities and agencies providing treatment, emergency, transitional, or permanent housing and/outreach services count and interview every person they work with. While agencies are making strides to input data into HIMIS, at this time a paper Point in Time tally sheet still is used to report how many people were counted on January 28.

Point In Time Count: January 28, 2009

Since 2008:

- Total population increased by 5%
- Total people experiencing chronic homelessness decreased 25%
- Total covered in HMIS increased 38%.

### Unsheltered or in emergency or transitional housing:

555 total

52 children and 34 caretakers, 34 households

77 Single Women

355 Single Men

37 adults in hospitals or treatment facilities

21% are experiencing chronic homelessness

31% are experiencing mental illness

44% have a diagnosable substance use disorder

29% are veterans

<1% with HIV/AIDS

18% victims of domestic violence

Permanent, Supportive Housing:

231 total

31 children and 28 caretakers, 20 households

100 single men

72 single women

100 people who were *formerly* experiencing chronic homeless

In summary:

- **Total number of people counted was 555** - This represents an increase of 5% from January, 2008.
- **The total number of people experiencing chronic homelessness was 115** - This represents a 25% decrease from January 2008.
- **The average percent of people counted using HMIS was 48% of the total number of people counted.** This represents an increase of 36% from last year.

HMIS Data Collection:

- With increased data now in the system, training has been offered to Homeless Initiative staff which will give staff the ability to easily and efficiently access system-wide reports. These reports will help the community better understand what services are accessed by people experiencing homelessness, what the outcomes are, and what gaps still exist. Additionally, the Homeless Initiative will be able to assist local agencies in better understanding how to use HMIS for their own reporting needs.

In summary, (1) agency surveys (a) voluntary; (b) any agency working with people experiencing homelessness urged to respond; and (c) will provide information to local, state, and federal decision makers; and (2) HMIS (a) monthly reports provide regular data quality evaluation; (b) Homeless Initiative staff has ability to collect system-wide reports; and (c) 2-1-1 and HMIS to share data.

HMIS Data Sharing:

- In order to provide high-quality, integrated information and referral services, United Way's 2-1-1 of WNC (2-1-1) and Carolina Homeless Information Network (CHIN) plan to work together to share a single health and human services community resource database. This data sharing partnership will enhance the capability of HMIS by giving homeless service providers a streamlined way to access the 2-1-1 database of community services. This partnership is on track to be implemented this spring. A community announcement will be made when the partnership is formalized.

In summary, the agencies that are currently signed up to use HMIS include the Asheville-Buncombe Community Christian Ministries, Buncombe County Department of Social Services, City of Asheville, Homeward Bound of Asheville, On-Track, Pisgah Legal Services, Salvation Army – Asheville, and Western North Carolina Community Health Services. The Housing Authority of the City of Asheville is an agency that is signing the HMIS contract.

**3. Funds Management & Development**

McKinney-Vento Funds:

- The Asheville-Buncombe County Homeless Coalition is happy to announce that our community has received a total of \$878,592 through the Housing and Urban Development Continuum of Care/McKinney-Vento Grants.

Funds from the Community Development Block Grant (CDBG) allowed Pisgah Legal Services to complete the grant application with support from Homeless Initiative staff. Below is a breakdown of the award:

A-Hope Center & Safe Haven: outreach and emergency housing:	\$ 182, 886
Interlace: Transitional Housing for victims of domestic violence	\$ 265,602
Bridge to Recovery: Permanent Housing	\$ 166,404
Shelter Plus Care: Permanent, Supportive Housing	\$ 263, 700

Our community has accessed all Continuum of Care grant funds that Asheville-Buncombe is eligible to receive. No new programs were funded, and existing programs are full to capacity. While the Continuum of Care award makes a great impact, funding from other sources is necessary to meet our existing community need.

#### Homeless Prevention Funds:

- The City of Asheville has been designated as an entitlement community for Homeless Prevention Funds from the president's Reinvestment and Recovery Act. The community is slotted to receive \$509,460. The U.S. Dept. of Housing & Urban Development (HUD) is expected to provide communities with guidelines for the funding within the next few weeks. A public meeting is scheduled to provide details about funding guidelines on April 1, 2009, at 11 a.m. at the Public Works Building.

#### **4. Effective Use of Housing and Services Resources to Move People out of Homelessness**

Permanent, Supportive Housing is working in this community: a preliminary report from the Jordan Institute for Families at UNC-Chapel Hill followed participants of the Housing Support Team program (HST) for twelve months. The HST pilot program serves homeless individuals with severe and persistent mental illness. Until their enrollment in the program, participants heavily utilized public systems such as hospitals, mental health hospitals, jails, prisons and homeless shelters.

Under the guidance of the program, participants have reduced their use of these public systems. In Asheville and Buncombe County, a 32% reduction in service costs (e.g., jail, prison, emergency room, and mental health inpatient services) was documented after participants entered the program.

In the two years that the pilot program has existed in Buncombe County, 74 individuals have been housed. The retention rate is 91%, meaning that just 9% of the people who accessed the program were unable to stabilize their housing. People in the program have seen improvements in mental health, a reduction in behaviors related to substance abuse, and an increase in income. Unfortunately, for some participants, disability applications are still pending or underemployment limits access to affordable housing. Subsequently, 29 adults and 7 children continue to receive funding through the program in order to afford rent. Additionally, the program was funding supportive services that help everyone in the program maintain their housing.

The Housing Support Teams program is a \$2.1 million, 26-month pilot project of the NC Department of Health and Human Services, funded through the state mental health trust fund since 2007. This program is the first state funding directed towards homelessness. Of the 2.1 million, Asheville-Buncombe was granted \$350,000 to implement HST.

This program has flourished in three North Carolina counties: Buncombe, Durham, and Guilford. Without continued funding the Housing Support Teams program will end on June 30, 2009.

The program's end will mean a loss of stability for participants currently enrolled in the program and inhibit the implementation of successful best practices interventions embraced by the Housing Support Teams program. In Buncombe County, the Western Highlands Network is the lead entity, and Homeward Bound has served as the project manager. Partners of the project include the Asheville Housing Authority, Pisgah Legal Services, and numerous mental health providers.

In summary, (1) research indicates 32% reduction in costs to community; (2) program has shown a 91% retention rate; (3) 74 individuals accessed the program since 2007, including children; (4) first dedicated homeless funding from North Carolina ever; and (5) program at risk of ending, funding for the program ends in June.

- 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 with the relationship between the Western Carolina Rescue Ministries and Housing Authority where the Rescue Mission's recipients of services are fixing up Housing Authority units in order for more people to be housed quicker.

Councilman Mumpower explained how he felt the model for the 10-Year Plan is basically opportunity without responsibility. He recalled Police Chief Hogan stating that his officers had not reported a significant difference in the impact of homelessness and related misbehaviors issues downtown. He felt we are duplicating the model that failed in public housing many years ago in that when you give people something for nothing, you create a hostile dependence and it robs people of their dignity



and their future.

In response to Councilwoman Cape, Ms. Sawyer said that the HMIS system will supply information on the root cause of homelessness. She said with the HMIS system, we can see what the population needs are and the make-up of the population.

Councilman Miller was pleased with the success seen in the point in time count.

Vice-Mayor Davis felt these statistics are important and we are addressing homelessness; however, he expressed some concern with the accuracy of the point in time count in that the count was taken only once on a rainy night.

Councilman Newman said that there has been an objective academic look at how well the Housing First strategy does work. A lot of discussion took place about how implementation of the Plan would lower the costs for police, health care, and other burdens that taxpayers have to carry that are related to chronic homelessness. We do have a 32% reduction in cost to taxpayers as a result of implementing this program. He felt that was a key finding. It does take money to fund the programs, but it also saves money.

Councilman Russell noted some success stories as well from the Western Carolina Rescue Ministries.

In response to Councilman Mumpower, and with the consensus of Council, City Manager Jackson said that he would provide Council with a report on March 27 regarding the number of calls for fire or police service in the downtown area since implementation of this program.

Councilman Newman noted that the Report entitled "The Cost Effectiveness of Housing Support Teams: The Experiences of Persons Enrolled in the First Three Months" e-mailed to all of Council by Ms. Sawyer is a good place to start for those who are interested in looking at the cost of these programs and the documented cost savings they produce, not only for the City of Asheville, but for various public institutions that are involved in providing services to homeless people.

Councilman Miller said that if we are going to look at the cost of police or fire service, we also need to look at the productivity that people are now giving back to the economic vitality.

Mayor Bellamy agreed with Councilman Miller in that we are not getting data from the Western Carolina Rescue Ministries, A-B Community Christian Ministries, A-HOPE, Mountain Housing Opportunities, etc. about their successful programs. The total population increase of 5% can relate to our current economy. If we want a comprehensive look at this, we will need to have a comprehensive report scheduled.

#### **D. ECONOMIC STIMULUS PACKAGE UPDATE**

Assistant to the City Manager Lauren Bradley introduced Ms. Brenda Mills, who has been reassigned as the project manager for the American Recovery & Reinvestment program. Mr. James Lee will be reassigned to assist Ms. Mills in the management of the Minority Business Program. Ms. Bradley then updated Council on the following application for the economic stimulus package.

#### **RESOLUTION NO. 09-53- RESOLUTION APPROVING FOUR WATER PROJECTS KNOWN AS AUTOMATED METER READING SYSTEM, PUMP STATION METERS, PUMPING SYSTEM INSTALLATIONS TO REDUCE ENERGY AND WILLIAM DEBRUHL WATER TREATMENT PLANT BACKWASH LAGOON TO BE SUBMITTED AS PART OF THE ECONOMIC STIMULUS FUNDING FROM THE DRINKING WATER STATE REVOLVING FUND**

Ms. Bradley said that as part of City staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council, staff is seeking Council consideration of a Governing Board Resolution and Certification Statement to the Public Water Supply Section in support of the four water projects submitted for economic recovery funding from the Drinking Water State Revolving Fund.

At the City Council meeting on February 24, 2009, Council approved through consensus staff submission of four Drinking Water State Revolving Fund applications to NC DENR's Public Water Supply Section. These four projects include an Automated Meter Reading (AMR) System, Pump Station Meters, Pumping System Installations to Reduce Energy, and the William DeBruhl Water Treatment Plant (WTP) Backwash Lagoon. In order to move forward with the processing of these applications, the Public Water Supply Section is requiring from applicants a Governing Board Resolution and Certification Statement by March 31, 2009. These projects are part of City Council's strategic plans to create jobs to aid in economic recovery, improve city infrastructure, and

promote the city's green and sustainability initiatives.

Pros:

- Approval of these projects will ensure continuation of the application process. If awarded, Water Resources could realize significant savings in project costs.

Cons:

- If the Resolution and Certification Statement are not approved, the application process and funding potential for these projects will not move forward, pushing these projects out into later fiscal years until the necessary funds could be allocated.
- Approval does not guarantee the state will approve any or all of these projects.

There is no fiscal impact at this time for City Council to approve this list of projects. If these projects are approved by the state, the Water Resources Department may be required to provide at least 50% of the funds. At that time, staff would reallocate funds from completed and/or existing capital projects in order to meet any potential grant obligations. A decision has not been made on how North Carolina will allocate the recovery funds, so the amount is unknown at this time. Staff will keep City Council informed as more information about the funding process becomes available.

Water Resources staff recommends that the Mayor and City Council approve Governing Board Resolution and Certification Statement for the four approved water projects known as Automated Meter Reading (AMR) System, Pump Station Meters, Pumping System Installations to Reduce Energy, and the William DeBruhl Water Treatment Plant Backwash Lagoon.

Councilman Mumpower personally did not believe we should be using other people's money to pay for our water system, especially money that is borrowed from China and Japan and money our grandchildren will be required to pay back.

After a brief discussion, initiated by Councilman Mumpower, about whether the City has anything at the local level requiring the use of the e-verify system for any economic stimulus projects, City Manager Jackson said that this is an area of uncertain legal status, providing Council with the School of Government's Local Government Law Bulletin entitled "Do State and Local Immigration Laws Violate Federal Law."

Councilman Newman noted that Council voted in support of using the e-verify system for economic stimulus projects. He understands that our City Attorney is researching that particular issue regarding our ability to require that. And, if that is not permissible, that our staff is looking at permissible ways to achieve Council's goal. He suggested City Attorney Oast provide Council with updates on his research.

Mayor Bellamy felt it was important for staff to focus on giving Asheville the authority to be able to designate our contracts to local contractors.

City Manager Jackson said that they have spent an extensive amount of time on this issue. One path is to get into the business of regulating immigration, which is clearly not advisable. The second path of regulating business licenses (requiring certain verification of their employment) is an area that has potential for us and based upon the advice we have received to date, is worth pursuing. He said he would report back to Council].

After Mayor Bellamy read the resolution and received no public comment, Councilwoman Cape moved for the adoption of Resolution No. 09-53. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **RESOLUTION BOOK NO. 31 – PAGE 465**

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

##### **A. PUBLIC HEARING TO CONSIDER ZONING A PORTION OF PROPERTY LOCATED AT 380 LONG SHOALS ROAD TO CENTRAL BUSINESS DISTRICT**

##### **ORDINANCE NO. 3716 - ORDINANCE TO ZONE A PORTION OF PROPERTY LOCATED AT 380 LONG SHOALS ROAD TO CENTRAL BUSINESS DISTRICT**

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

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of zoning a portion of property located at 380 Long Shoals Road to Central Business District. This public hearing was advertised on March 13 and 20, 2009.

Ms. Tuch said that there are a number of interrelated actions that have resulted in the zoning and jurisdictional patterns that currently exist. The actions are summarized and listed in chronological order below:

- Schenck Parkway and a portion of the area now commonly referred to as Biltmore Park Town Center came into the City's corporate limits in 1999 through a voluntary annexation – this included the Volvo plant and adjacent WLOS property and was zoned CI.
- The City's extraterritorial jurisdiction (ETJ) was expanded in 2001 and captured the balance of the Town Center area including the subject property (380 Long Shoals). CBD zoning was applied as this most closely resembled the existing Town Center buildings already developed under the County's jurisdiction. *Note: the CBD zoning did not get applied to the 1.86 acre portion of the subject property due to the then existing Limestone Township zoning.*
- The Master Plan and related zoning change for the Biltmore Park Town Center was approved in February 2006.
- City initiated an involuntary annexation in January 2007 for the subject property (380 Long Shoals) – annexation boundary was based on the property lines that existed at the time.
- A voluntary annexation was requested for the Town Center subsequent to the above action. This annexation became effective in April 2007 and proposed to recombine a small portion of property south of Ducker Creek with the subject property (380 Long Shoals). The voluntary annexation did not include this recombined portion of property. *Note: because the preceding involuntary action had already been filed, it was not possible to change the annexation boundary to include this portion of unincorporated property – this resulted in the current existing jurisdictional anomaly.*

The large majority of the subject property was zoned as part of the 2001 ETJ expansion. The 1.86 acre portion of the subject property had been zoned under the then Limestone Township zoning and could not be zoned until it came into the City's jurisdiction, which did not occur until recently. As a result, the City is now pursuing the initial zoning for this unzoned remnant.

In considering the most appropriate zoning classification for this property, city staff initially felt a compelling argument could be made to apply UV zoning to match the majority of the adjacent development. The property owner, however, expressed an interest in maintaining the existing CBD zoning to avoid the need to develop a UV Master Plan and, while the property is owned by Biltmore Farms, it is somewhat geographically separated by a small creek. Additionally, the tenant of the property is interested in re-establishing the retail gas sales that were removed as a result of the Long Shoals Road widening project. He would not be able to reestablish gas sales under UV zoning but, could potentially do so under CBD zoning, although the use would be subject to obtaining several variances from the Board of Adjustment. Staff feels comfortable that the variances would be supported by the Board of Adjustment due to the hardship of the road widening.

Highway Business was also considered and would be more flexible for re-establishing the gasoline pumps; however, this was generally not well regarded given the propensity for HB zoning to result in suburban style, automobile oriented development which would be in proximity to the pedestrian oriented development of the Town Center property where long-term goals would seek to have more compatible uses. In addition, this initial zoning will include an area that had been inadvertently left unzoned. A separate rezoning application could be considered on a portion of the property at a later date should a mutually agreeable solution be worked out between tenant and owner.

After considering the unique context and the desires of both the property owner and tenant, staff felt the most appropriate zoning designation would be CBD.

The Planning and Zoning Commission reviewed this application at their March 4, 2009, meeting. The tenant and his legal counsel informed staff shortly before the meeting that they would be in attendance. There was, therefore, insufficient time to notify the property owner of their intended attendance. The tenant's legal counsel initially requested that the Commission delay the zoning action allowing them further time to hold conversations with the property owner regarding a possible HB zoning designation.

While the Commission was sympathetic to the desire of the tenant to re-establish their gasoline sales, the discussion revealed that delaying action would adversely impact the tenant in his efforts to establish a grandfathered use. All non-conforming uses that cease for any reason have a maximum of 365 days to re-establish the use. In this case, the property supporting the use is unzoned and the use cannot be grandfathered until it is zoned. Delaying zoning action reduces the window to (1) establish the grandfathered use, and (2) make application to re-establish this use which must be accomplished by May of this year.

Ultimately, the Commission supported the staff recommendation of CBD Zoning, but stated on record that they supported the re-establishment of the retail gasoline sales use but did not want to delay zoning action (for the "grandfathering" reasons stated above). The tenant and legal counsel acknowledged that the Commission's decision may be the best course of action under these unique circumstances. The Commission vote supported the staff recommendation, 7:0.

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Pros:

- Zones property recently taken into the City of Asheville in consideration of the surrounding zoning and land use and the City's Comprehensive Plan.
- Provides the greater flexibility for both the tenant and the property owner (compared to UV zoning).

Cons:

- Expands CBD zoning outside of the City's central business area.
- Requires a Board of Adjustment variance to re-establish the gasoline pumps.

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

Mr. Paul Zurich, property owner, spoke in support of the zoning. He said they would support the tenant being able to get the appropriate variances to re-install the gas pumps on their current site.

Mayor Bellamy closed the public hearing at 6:50 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. 3716. This motion was seconded by Councilman Mumpower and carried unanimously.

**ORDINANCE BOOK NO. 25 - PAGE**

**B. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTY LOCATED ON 1498 SAND HILL ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT**

**ORDINANCE NO. 3717 - ORDINANCE TO REZONE PROPERTY LOCATED ON 1498 SAND HILL ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT**

Mayor Bellamy said that the Asheville City Council held a public hearing on this matter and January 27, 2009, and tabled consideration due to concerns expressed by a neighboring property owner. The neighboring property owner and the applicant have reached an agreement on the applicant's future plans for the property. The applicant requested to return to Council for reconsideration in light of this agreement. The request remains for a standard rezoning from RM-16 to Institutional.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to rezone property located at 1498 Sand Hill Road from RM-16 Residential Multi-Family High Density District to Institutional District. She said that the public hearing was advertised on March 13 and 20, 2009.

Mayor Bellamy opened the public hearing at 6:53 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to rezone property located at 1498 Sand Hill Road from RM-16 Residential Multi-Family High Density District to Institutional District. This public hearing was advertised on January 2 and 9, 2009.

Ms. Cogburn said that the subject property is located off of Sand Hill Road (NC 112) just past the intersection with US 19/23. Access to the property is via a private road, Chapel of Faith Drive. The property is 38.8 acres in size and is used as a cemetery with related operations/ buildings. The property is currently zoned RM-16 (Residential Multi-Family High Density District) and is in the City of Asheville's extraterritorial jurisdiction. The petitioner seeks a rezoning to Institutional.

The property is bordered by various uses and zoning district designations. To the west is the Vulcan Quarry operation (zoned Industrial); to the north are a variety of commercial, residential and institutional operations (zoned CBII and RM-8); to the east is vacant property zoned Urban Village for the proposed Main Street at Enka Village; and, to the south are multi-family dwellings (zoned RM-16).

The property is bordered by creeks and streams, although only one stream is located on the property at the northern property line. A rail line is located immediately north of the property between the northern property line and US19/23. The property is mostly flat.

Although the rezoning results in the loss of multi-family zoning, as there is presently a cemetery on the property, it is highly unlikely that any such development would be proposed. More intense uses than are present would be allowed under either zoning

district. The rezoning does allow for additional development of the cemetery operations on site.

Pros:

- Allows for more intense development in an area off a major corridor.
- Conforms to the City's goal of allowing appropriate non-residential uses in suitable locations.

Con:

- None noted.

Based on the analysis provided in this report, staff and the Planning & Zoning Commission find this request to be reasonable. This rezoning was recommended for approval by a 5-0 vote by the Planning & Zoning Commission. One person (the property manager) spoke in favor of the rezoning. Since the Planning & Zoning meeting some concerns have been expressed by owners of the Urban Village District property adjoining this property.

Ms. Cogburn said that she received a call from the previously opposing neighboring property owner, FIRC Group, and even though they are unable to attend the meeting, they authorized her to report that they are no longer going to oppose the rezoning based upon a private contract concerning the location of the pet crematory.

Mr. Patrick Bradley, Family Counselor from Forest Lawn Cemetery, explained how they are now going to relocate the crematory on the far side of the Vulcan quarry. He then spoke about pet crematories in general.

Mayor Bellamy closed the public hearing at 6:57 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3717. This motion was seconded by Councilman Russell and carried unanimously.

#### **ORDINANCE BOOK NO. 25 - PAGE**

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

- A. SECOND READING OF ORDINANCE NO. 3707 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS CROWNE PLAZA RESORT AT 1 RESORT DRIVE FOR A MASTER PLAN COMPOSED OF THREE PHASES TOTALING 364,700 SQUARE FEET OF NEW FACILITIES, CONSISTING OF (1) DETAILED APPROVAL OF PHASE I THAT INCLUDES A 61,500 SQUARE FOOT EXPANSION OF THE EXISTING SPORTS CENTER FACILITY WITH A REQUEST FOR MODIFICATION TO REQUIRED SETBACKS; AND (2) CONCEPTUAL APPROVAL OF PHASES II AND III THAT INCLUDE A 123,200 SQUARE FOOT MIXED USE BUILDING AND A 180,000 SQUARE FOOT CONDO/HOTEL BUILDING RESPECTIVELY**

Mayor Bellamy said that due to the 4-3 vote on this matter at the public hearing and adoption on first reading on March 10, 2009, the matter needed a second reading.

In response to Mayor Bellamy's request to City staff to if they could find a date when the N.C. Dept. of Transportation (NCDOT) expects to have a final decision regarding the plan for the I-26 Connector, Assistant Director of Transportation & Engineering Ken Putnam said that provided Council with the following update on the anticipated schedule for the I-26 Connector project (City Exhibit 4). The information should be considered tentative and accurate as of this date but it is subject to change.

The subject project is following the "merger process" which is a shared decision-making process designed to streamline project development and permitting by establishing a project team to ensure that all laws and rules are followed. The process establishes a series of concurrence points (total of seven) that require agreement of the team for a project to move forward. This process has been used successfully on about 240 projects throughout the state and it has consistently reduced project time and improved project quality. The anticipated schedule is listed as follows:

- |          |  |
|----------|--|
| Jun 2009 | Concurrence point meeting to solidify Alternate 4B as a viable alternate and to bring it up to the same level of review as the other alternates. |
| Aug 2009 | The supplemental draft environmental impact statement including Alternate 4B should be completed and released for public review and comment.     |

Sep 2009	The corridor public hearing meeting should be held to discuss the supplemental draft environmental impact statement.
Oct 2009	The post public hearing meeting should be held.
Dec 2009	Concurrence point meetings to select the preferred alternate and to optimize the design and benefits of the project while reducing the environmental impacts should be held.
Oct 2010	The record of decision (ROD) and the design public hearing should occur.
FY 2011	Right-of-way acquisition should begin.
FY 2013	Construction should begin.

Councilman Mumpower asked for guidance from the City Attorney regarding Council support of the property owner proceeding with his project even though NCDOT has yet to pick a final connector project being in conflict with Council's endorsement of Alternate 4-B which plan would seriously impact the viability of this project.

City Attorney Oast said that if the location for the connector has been decided on finally, that would be a concern for Council. And, if the NCDOT had begun the property acquisition process, that would also be a concern. But at this point in time, the project is in the path of several of the alternatives. Regarding condemnation, he felt if it was determined that someone upgraded their property in anticipation of getting more money, that would be an element the courts would consider in awarding damages in a condemnation case. If that is a concern, it would be up to the NCDOT to raise it.

City Attorney Oast said that it was his understanding, from the Planning & Development Department and the applicant, that this is one phase of a plan that has been in process for several years. In the face of NCDOT plans that are at this point indefinite, Council needs to consider the proposal on its merit.

Upon inquiry of Councilman Mumpower, City Attorney Oast said that he could think of no condition that Council could attach to the permit requiring any employees hired by the applicant must be legal citizens, as that is not a land-use related issue.

In response to Councilman Mumpower, Mr. David Matney, attorney for Mr. Dennis Hulsing, owner of the Crowne Plaza Resort, said that Mr. Hulsing never knowingly has hired an illegal immigrant. He said that he could not, however, guarantee there are none working for him but if there are, he doesn't know about it and he does not want that.

Mayor Bellamy was concerned that if Council approves this conditional use permit, that the community might think Council's support of Alternate 4-B is diminished and Council is supporting a different route.

Regarding Mayor Bellamy's concern, City Attorney Oast said that development is already on the property and Council is considering an approval required by an ordinance to a project that will enable the applicant to complete their plan for a project already in progress. He did not think this project should enter into the consideration of what is or is not an appropriate route.

In response to Mayor Bellamy, City Attorney Oast said that Council's record could reflect that the consideration of this conditional use permit is not meant to be any change in position of the alternate that Council's support.

Councilman Newman asked that the minutes reflect that he remains very supportive of Alternate 4-B and hope that is what plan is chosen by the NCDOT.

Mr. Matney and Mr. Hulsing explained how these plans were well in the works before Council voted to endorse Alternate 4-B. Even though they understood Council's support of Alternate 4-B, they would like the authority to proceed with this project.

Councilman Miller spoke in favor of the proposal.

In response to Councilman Mumpower, City Attorney Oast said that this is a land use issue and with the plan for the connector being as indefinite as it still is, that Council does have an obligation to evaluate the plan on its merit.

Mayor Bellamy confirmed Council's commitment to support Alternate 4-B for the I-26 Connector. She wanted to make it clear that if this project is approved, the approval does not detract from Council's support for Alternate 4-B.

Councilman Mumpower asked that the minutes reflect that he voted against the support of Alternate 4-B.

Councilman Newman moved for the send and final reading of Ordinance No. 3707, granting a conditional use permit for the project identified as Crowne Plaza Resort at 1 Resort Drive for the proposed 3-phase Master Plan with approval of the proposed setback modifications, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; (6) Bridge reconstruction may require review by the Army Corps of Engineers; and (7) No building permits shall be issued until a solution is devised concerning resolution of the property line/building code matter. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilwoman Cape voting "no."

**ORDINANCE BOOK NO. 25 – PAGE 194**

**Legislative Update**

Mayor Bellamy said that she has just returned from a N.C. League of Municipalities Board of Director's meeting in Raleigh and provided Council with copies of the legislative update. She advised Council that there are 12 potential employers coming to our state. She asked staff to contact the Department of Commerce to let them know what we have in our inventory as far as available industrial land as well as our current contact information. She briefly reviewed the bills and asked that City Attorney Oast review the update and make sure that our community is not going to be hurt in this legislative session.

At 7:20 p.m., Mayor Bellamy asked to be excused from the remainder of the meeting because she had been travelling on City business since 4:00 a.m. and was exhausted. Therefore, Councilman Mumpower moved to excused Mayor Bellamy from the remainder of the meeting. This motion was seconded by Councilman Russell.

Mayor Bellamy said that later during the meeting Council will be making an appointment to the School Board. Even though she did not participate in the interviews, she thoroughly reviewed the applications and has personal knowledge of the individuals. In the event of a tie vote, she left her vote with Vice-Mayor Davis. As the liaison to the School Board she looked forward with working with whomever Council appoints to that important position.

The motion made by Councilman Mumpower and seconded by Councilman Russell carried unanimously.

At 7:20 p.m., Vice-Mayor Davis called for a 20-minute recess.

**B. BUDGET PLANNING**

**Staff Report**

Chief Financial Officer Ben Durant said that the purpose of this staff report is to provide an update on the status of Fiscal Year (FY) 2009-10 Budget Process, including the fees and charges recommendations that were discussed at the March 17 Finance Committee meeting.

During the 1<sup>st</sup> Quarter Financial Report, which was presented to City Council in November 2008, staff provided its initial budget forecast for the 2009-10 fiscal year which projected a \$5.0 million General Fund deficit. Between November and January, staff worked to develop a set of budget balancing strategies to address this \$5.0 million forecasted deficit.

In February, staff presented to Council an updated budget forecast for the General Fund which included estimated dollar savings associated with each of these budget balancing strategy. With full implementation of these strategies, staff forecasted that the budget deficit in the General Fund could be reduced to \$375,000.

Initial Forecasted Gap	(\$5,000,000)
Eliminate Merit Pay (Salary Freeze)	\$750,000
Annexation Gain	\$325,000
Reduce Housing Trust Fund Transfer	\$300,000
Re-Engineering/Mgmt. Streamlining	\$1,000,000
Reduce Transit Fund Transfer	\$500,000

Increase Cost Recovery from Fees	\$500,000
Reduce Fund Balance from 19% to 18%	\$1,000,000
Additional Cost Savings Opportunities	\$500,000
Council Strategic Priorities	(\$250,000)

February Forecasted Deficit (\$375,000)

**Updated Budget Information**

Since the February Council meeting, staff has refined the estimates for the proposed budget strategies as well as made additional technical adjustments as updated information has become measurable and available for both revenues and expenditures.

*Revenue Update*

The strategy of Increased Cost Recovery from Fees was referred to the Council Finance Committee, and their recommendations for fee adjustments will be presented tonight. If the full Council approves the Finance Committee's fee recommendations, it will add an additional \$700,000 in revenue to the FY 2009-10 General Fund budget. In addition to the General Fund fee adjustments, the Committee also endorsed staff's recommendation for a 4% increase in the regular water rate and the water capital improvement fee, along with some other minor fee adjustments in the other Enterprise Funds. He reviewed the full set of fee recommendations and the minutes from the Finance Committee's March 17<sup>th</sup> meeting in which the fees were reviewed.

Since the February Council meeting, staff has also received an additional month of sales tax revenue from the State of North Carolina. January sales tax revenue was down 13.0% compared to January 2008, and sales tax revenue for the year is now down 4.7%. At the February meeting, staff had estimated that sales tax revenue would end the current fiscal year down 3.1%. Staff has now lowered that estimate to 4.7% based on the latest data. As a result, the budget gap has increased by \$300,000.

*Expenditure Update*

In late February, staff received updated cost estimates for the City's FY 2009-10 street lighting budget as well as information from Buncombe County regarding the City's share of FY 2009-10 costs for joint programs such as CJIS/CDE, Crimestoppers, and the Police ID Bureau. The updated costs for street lighting and the City-County joint programs both exceeded staff's original estimates in these areas. These additional costs, along with some other minor technical adjustments added approximately \$337,000 to the budget gap.

*Current Budget Projection*

The chart below shows the current budget gap once the original budget strategies were refined and the additional technical adjustments were made. At the moment the General Fund FY 2009-10 budget is out of balance by \$812,300. This gap assumes that the full Council at its April 14 meeting will approve \$700,000 in fee recommendations endorsed by a majority of the Finance Committee. The value of any fees not approved will add to the current budget gap.

February Budget Gap	(\$375,000)
Increased Utility & County Partnership Expenses	(\$337,300)
Reduction in Sales Tax Revenue Estimates	(\$300,000)
Additional Revenue from Fees & Charges	+ 200,000
<b>Current Budget Gap</b>	<b>(\$812,300)</b>

The budget gap assumes Council's adoption of fees and charges recommendations.

Mr. Durant said that staff will continue to work internally to further refine our strategies to address the adjusted gap and balance the budget in a meaningful and prudent way. In addition, staff has presented Council with the fees and charges that the Finance Committee has endorsed and will ask for consideration on those at the April 14 meeting.

Discussion occurred regarding how to address the budget gap as well as the process going forward.

Councilman Mumpower spoke against seeking short-term relief through Fund Balance in that there are flags that indicate this resource may be important going forward. He suggested staff review the budget in terms of what is necessary vs. nice or



special projects. In addition, because personnel is where all the dollars go, he supported Council leading the way and reducing their salary as a model for senior management staff and others.

### **Finance Committee Recommendations**

Councilman Russell, Chair of the Finance Committee, noted that the Finance Committee will be meeting on Friday, March 27 to (1) continue review of budget balancing strategies (a) service prioritization; and (b) compensation options; and (2) establishment of outside agency funding levels.

Councilman Russell felt there are three big budget issues – (1) salaries/payroll; (2) Fund Balance; and (3) property tax base. Council is clear that they do not support raising taxes. He wanted to make it clear that the Finance Committee will not give direction but will ask Council for consensus so the body can give direction to the Chief Financial Officer and City Manager to lead us through the budget adoption. If projections continue to drop and Council chooses to give direction to reduce salaries that direction needs to be soon in order for staff to begin re-engineering immediately. He was not opposed to going into Fund Balance to get through this tough time as he is optimistic about the future of Asheville.

City Manager Jackson said that on April 14, staff will ask for Council to act upon the fees and charges. Between now and then the Finance Committee will discuss other budget balancing strategies, such as service prioritization and compensation options. Council will also be asked on April 14 to review the recommendations from the Finance Committee on those items. On that date, staff will seek Council's direction on their major building block assumptions in order for staff to build the budget. The budget will then come back to Council in mid-May and the process will start in earnest, with adoption of the budget in June.

Councilman Newman noted that he does not like, nor never did like, the recycling fee – especially increasing it. Everyone pays property taxes, but this is a fee increase targeted at families who live in Asheville.

### **C. GREENLIFE GROCERY/MAXWELL STREET TRAFFIC CONTROL**

Assistant Director of Transportation & Engineering Ken Putnam said that the purpose of this staff report is to provide an update regarding traffic related issues along Maxwell Street, rezoning plans, and traffic enforcement.

On Tuesday, August 28, 2007, City Council directed staff to meet with Greenlife Grocery staff to look at the possibility of adding on-street parking along Maxwell Street immediately adjacent to the Greenlife Grocery property. As a result of that meeting, we determined that two on-street parking spaces could be added and the work (signs installed) was accomplished on September 13, 2007.

On October 15, 2007, the Greenlife Grocery's local attorney called City staff to let us know that their private garbage hauler could not pick up the store's garbage because on-street parking was now allowed on both sides of the street. City staff then contacted the private garbage hauler to confirm their concerns and to try and identify any possible alternatives. After these discussions and further review by staff, the decision was made to remove the two recently installed on-street parking spaces and, this work was accomplished on October 30, 2007.

During the early part of 2008, City staff, including the City's Neighborhood Coordinator, began meeting with a couple of concerned citizens to discuss the decision to remove the two on-street parking spaces and to determine if any type of compromise could be reached. At the end of this process, which included two additional meetings with the private garbage hauler, City staff and the private garbage hauler agreed that one of the on-street parking spaces could be reinstalled without causing a negative impact. This parking space was reinstalled during the early part of May 2008 and until recently, City staff has not received any complaints.

On March 11, 2009, the Asheville Police Department responded to two calls regarding a parking issue resulting in a ticket for parking in the wrong direction and a potential towing of the vehicle. Before the vehicle was actually towed, the owner of the vehicle appeared and the owner of the vehicle and the towing operator agreed upon a compromise in the towing fee.

Typically, on-street parking is encouraged along city-maintained streets, especially along residential streets, because it enables citizens and/or visitors to park in front of their homes and it serves as probably the best traffic calming measure that is available. Section 19-140 of the Code of Ordinances states that a minimum 10-foot street width for free movement of vehicular traffic must be maintained and no vehicle should be parked in such a manner to create a street width less than 10 feet. As a general rule, City staff allows on-street parking on one side of a street with a minimum pavement width of 17 feet and both sides of a street with a minimum pavement width of 24 feet. The average pavement width of Maxwell Street is 25 feet; therefore, on-street parking is allowed on both sides of the street except in the immediate area of Greenlife Grocery.

Transportation and Engineering Department staff routinely drives by the site to observe existing conditions and it is reasonable to conclude that the trucks primarily using Maxwell Street are accessing the loading dock that is located on Maxwell Street. In addition, the larger trucks that are accessing the internal loading dock only use Maxwell Street to maneuver into the loading dock. Obviously, if the access point onto Maxwell Street were closed virtually all of the truck activity related to Greenlife Grocery would be eliminated along Maxwell Street.

Transportation and Engineering Department staff subsequently met with the Asheville Police Department on site and agreed that the single on-street parking space located in the immediate vicinity of Greenlife Grocery should be marked on the street to clearly define its location and to supplement the existing signs. This work has been accomplished.

Planning & Development Director Judy Daniel said that Greenlife Grocery has no near term plans for modifications to their property. City staff spoke with their management recently and was informed that the economic downturn has affected their business, and they will not be moving forward in the near term with the modifications that would change the location of the loading dock. They cannot be compelled to proceed with a rezoning, and they are operating as authorized in terms of zoning compliance.

Councilman Newman wondered if a person is being penalized twice for one violation – given a ticket and being towed – is normal practice. Police Chief Hogan explained that incident involved two different officers arising out of two different calls at different times in the day, with the judgment of the second officer making the determination that the car was parked so far to the edge that it was obstructing the flow of traffic.

In response to Councilman Newman, City Attorney Oast said he would investigate the appeal process on the towing violation and report back to Council. Regarding the parking citation, Police Chief Hogan said that the appeal process would depend on which form the ticket was written on – a uniform citation form (which is a criminal violation) or the City's civil citation form. He said that he would be happy to direct the person to the correct appeal process if they contact him.

## **VI. NEW BUSINESS:**

### **A. ORDINANCE NO.3718 - BUDGET AMENDMENT FOR THE REMOVAL OF EXISTING STREET LIGHTS FOR THE BILTMORE PARK PHASE I DEVELOPMENT FUNDED WITH REVENUE FROM BILTMORE FARMS**

Public Works Director Mark Combs said that this is the consideration of a budget amendment, in the amount of \$33,913, to appropriate revenue and budget expenditure accounts associated with the removal of existing streetlights for the Biltmore Park Phase I development.

Biltmore Farms has requested the City to authorize Progress Energy to remove existing street lights on their Biltmore Park Phase I project to enable installation of new streetlights conducive to their development plans. Authorization to Progress Energy by the City is necessary because the accounts are in the City's name.

Street lights are installed by Progress Energy and monthly charges are incurred for a specific term. Since the existing streetlights are being removed prior to the term end, penalties are applicable. The calculation provided by Progress Energy for the removal of twenty (20) poles and associated lights is estimated at \$33,912.76. Biltmore Farms has provided the necessary funds prior to authorization for removal by the City to Progress Energy, to cover all costs. Funds are shown in the street light removal line item.

This action complies with the City Council Strategic Operating Plan in that street lighting provides a safe environment for the public and reduces carbon emissions.

#### Pros:

- Removal of the existing street lights will allow the new street lights to blend with the new development.
- The street fixtures are being swapped out from dual head to single resulting in reduction of carbon emissions.
- No cost to the City.

#### Con:

- None identified.

There is no fiscal impact.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with the removal of existing street lights for the Biltmore Park Phase 1 project.

Vice-Mayor Davis said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Mumpower moved for the adoption of Ordinance No. 3718. This motion was seconded by Councilwoman Cape and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **B. RESOLUTION NO. 09-54 - RESOLUTION AUTHORIZING THE PURCHASE OF WATER TREATMENT CHEMICAL FROM SOLE SOURCE VENDOR AMERICAN DEVELOPMENT CORPORATION TO ENSURE A MORE EFFICIENT WATER TREATMENT PROCESS AT THE WILLIAM DEBRUHL WATER TREATMENT PLANT**

Interim Water Resources Director Robert Griffin said that the Water Resources staff requests that the Mayor and City Council recognize American Development Corporation as the sole source for the water treatment chemical liquid Polyaluminum Hydroxychlorosulfate, or DelPac 2020, in mini-bulk form and compatible mini-bulk storage tank system and authorize Water Resources to purchase them from said vendor for the estimated annual amount of \$35,000.

North Carolina General Statutes allow purchases without formal bidding when a product is only available from one source of supply.

Water Production staff contacted five (5) chemical vendors in the region to see if they produce and sale DelPac 2020 in the mini-bulk form since that is the form needed for use at the William DeBruhl Water Treatment Plant in Swannanoa. While other companies produce DelPac 2020 in a drum or large bulk tank, the only chemical company to produce DelPac 2020 in the mini-bulk form is the American Development Corporation. The William DeBruhl Water Treatment Plant currently uses the drum method, which requires employees to transport the chemical up a large hill and manually feed the chemical. This method is very labor intensive and difficult. Since the dose of chemical needed to treat water at the William DeBruhl WTP does not warrant a large bulk tank, the most viable and efficient solution is to use the mini-bulk form.

Staff has determined that the treatment plant chemical liquid Polyaluminum Hydroxychlorosulfate, or DelPac 2020, in mini-bulk form and compatible mini-bulk storage tank system is needed to ensure less labor intensity and a more efficient water treatment process at the William DeBruhl WTP. After contacting various chemical vendors, the American Development Corporation has been identified as the sole source manufacturer of the chemical in the mini-bulk form. As part of the chemical procurement, the vendor supplies a mini-bulk storage tank that is required with the purchase of the chemical. The vendor's mini-bulk storage tank will be used for as long as the City purchases this chemical in mini-bulk form from them. The storage tank system and maintenance of it are included in the price, which equates to approximately \$35,000 annually.

Staff will work with the City's Purchasing Department to ensure future purchases of this chemical in mini-bulk form follow all appropriate procurement requirements.

These projects are part of City Council's strategic plans to comply with state and federal requirements for the water treatment process.

Pro:

- Recognizing American Development Corporation as the sole source manufacturer of the water treatment chemical DelPac 2020 and authorizing the purchase from this vendor will ensure better efficiency in the water treatment process and replace the labor intensive use of drums by utilizing mini-bulk storage.

Con:

- If the purchase of mini-bulk DelPac 2020 is not authorized from the sole source vendor American Development Corporation, Water Resources staff will have to continue to treat water at the William DeBruhl WTP from drums, which is very labor intensive and not the most efficient way to treat the water.

Cost of the mini-bulk water treatment plant chemical DelPac 2020 and compatible mini-bulk storage tank system, which is approximately \$35,000 annually from the Water Resources Department / Water Production Division Chemical Operations Line Item.

Water Resources staff recommends that the Mayor and City Council recognize American Development Corporation as the sole source for the treatment chemical liquid Polyaluminum Hydroxychlorosulfate, or DelPac 2020, in the mini-bulk form and compatible mini-bulk storage tank system and authorize Water Resources to purchase them through the City's Purchasing

procurement process from said vendor in the amount of approximately \$35,000 annually.

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

Councilman Newman moved for the adoption of Resolution No. 09-54. This motion was seconded by Councilwoman Cape and carried unanimously.

#### **RESOLUTION BOOK NO. 31 – PAGE 466**

#### **C. ORDINANCE NO. 3719 - ORDINANCE REGULATING NON-CONSENSUAL TOWING FROM PRIVATE PARKING LOTS**

City Attorney Oast said that this is the consideration of an ordinance regulating non-consensual towing from private parking lots.

For several years, City Council and City staff have been receiving complaints from individuals whose vehicles are towed from private parking lots. The vehicles in question are parked in private parking lots without authorization from the person in control of the lot, and are towed without consent of the vehicle owner. Sometimes, tow trucks are patrolling the lots for unauthorized parkers, and the tow is initiated almost as soon as the vehicles are parked. This practice is known variously as non-consensual towing, predatory towing, and trespass towing.

These incidents usually occur in the downtown or Biltmore Village areas, where visitor traffic is heavy and parking is at a premium. Not unusually, the incidents occur at night and on weekends, when private lots are largely empty. The complaints include reports of: vehicles being towed with pets trapped inside, vehicles being towed away even though the vehicle owner encounters the tow operator in the parking lot, fees for towing and storage being unreasonably high and arbitrary, the tow operator accepting cash only (no credit cards), vehicle storage areas being remote and unsafe, tow operators not responding to calls to retrieve vehicles, denying access to vehicle to retrieve personal property (including medicines). In addition to these complaints, the police recently completed a "sting" operation where two cars that had paid to park on a designated lot were towed. The tow operators have been charged criminally.

On the other side of this situation are the owners of the lots and the lessees of the spaces. Asheville has a substantial population of downtown residents, workers, and resident/workers, and they all depend on the availability of the space that they pay for or own in order to go about their daily business. Also, businesses depend on the availability of their parking to provide customers access to their stores or offices, and justifiably believe that they ought to have the ability to keep unauthorized parkers off their lots without having to install physical barricades or fences.

Over the years, Council has taken an incremental approach this issue beginning with simply requesting lot owners or businesses to barricade or post their lots with signs. In 2003, Council began to require the posting of lots in the downtown and Biltmore Village areas with signs prohibiting parking, and stating that unauthorized parkers will be towed. It is unknown how many incidents of unauthorized parking have been deterred by these efforts, but clearly incidents are continuing to occur.

Another factor in this equation is the tow operators. While there have certainly been legitimate complaints about non-consensual towing, most tow operators perform a sometimes necessary service for lot owners who request it. There have been reports of occasions when tow truck drivers engaged in removing a vehicle parked without authorization have been verbally abused and/or physically threatened. In addition, the operators have on occasion not received payment for the tow because stop payment orders are issued on personal checks or credit card authorizations are withdrawn, which has led some of the operators to require payment in cash only.

Non-consensual towing is really a matter between the lot owner, the vehicle owner, and the tow operator, and does not necessarily involve the City. However, when issues of public safety and the "peace and dignity" of the City arise, the City has a basis in State law for regulation. Due to the complex interplay of local, State, and federal law on this issue, determining how to structure and implement such regulations has required considerable investigation, and is continuing to evolve. Under federal law, local governments may regulate the price and other aspects of non-consensual towing as a matter of consumer protection. Within these limitations, cities in North Carolina and elsewhere have with increasing frequency been regulating nonconsensual towing.

The draft ordinance draws from ordinances that have been adopted in Raleigh and Wilmington. The main features of the ordinance are:

1. It applies only in the downtown and Biltmore Village areas.

2. It establishes a fee schedule for towing and related matters (see note below).
3. It requires the release of a vehicle if the vehicle owner encounters the tow operator in the parking lot.
4. It establishes some standards for the storage lot to which the vehicle is removed.
5. It requires the tow operator to notify the police if a tow is performed, and to respond to calls within a specified time.
6. It requires that vehicle operators be allowed to retrieve personal property from the vehicle.
7. It requires the tow operators to accept credit and debit cards, but prohibits persons from cancelling payments. He asked that Section 9 of the draft ordinance be amended to read "Failure or refusal by a vehicle operator to pay any of the fees assessed pursuant to this section is a violation of this section."
8. It prohibits interference with a tow operator performing a tow.
9. Violations of the ordinance are subject to civil and criminal penalties; repeated violations are subject to increasing civil penalties.

Note: The \$100.00 "base fee" used in the draft ordinance is based on the Raleigh ordinance, as is the 50% "release fee." The rate schedule could also be established in the Fees and Charges manual, or could be keyed to the rate for police-initiated tows, which are negotiated periodically. Research into rates is continuing.

This item is consistent with the Strategic Operating Plan in that it supports the goal of improving public safety downtown; and is a form of community policing.

This item was reviewed by the Public Safety Committee on March 17, and their comments have been incorporated into the draft where possible. A proposal to license tow operators is being explored, but may require additional review as a business regulation.

The fiscal impact is that there may be some additional costs for administration and monitoring compliance, not likely to be offset by collected fines.

Pros:

- Regulates problematic activity while recognizing interests of parties
- Establishes reasonable/predictable fees
- Promotes safety

Con:

- Increases administrative burden on already-thin City staff

Adoption of the proposed ordinance is recommended, with delayed effective date to permit notification of interested parties.

City Attorney Oast responded to Councilman Miller on why the ordinance applies only within a 10-mile radius of the Central Business District and Biltmore Village.

In response to Councilman Miller, City Attorney Oast explained how the \$100 base fee was suggested. He said that Council can establish that fee annually in the fees and charges manual. In fact, in the initial draft of the ordinance he suggested that the base fee be negotiated by the Police Department from the wrecker rotation list because that is a fee that has been negotiated with the tow truck operators and presumably they have had input into how much work is involved. That fee can be set a number of ways, but the \$100 base fee seemed reasonable.

Vice-Mayor Davis' concern of Senator Nesbitt's \$75 fee is that the tow operators who are doing a legitimate service need to be fairly compensated. Today's non-negotiated fees are higher than that and seemingly \$100 was a fair price.

Councilman Miller questioned whether the fee for storing a towed vehicle should begin to accrue at 24 hours instead of 12 hours. City Attorney Oast said that most people will know their vehicle has been towed within 12 hours.

Councilman Kelly questioned if there was discussion in making the escalated civil penalties higher in order to stress the importance of this issue. City Attorney Oast said that we don't have escalated penalties often, but when we do, these are consistent with them. Since Council is getting into this matter in an incremental way and the issue really is between the private lot owners and the vehicle operators, he suggested that if these civil penalties do not achieve the required effect, then Council might consider increasing them.

In response to Councilman Mumpower, City Attorney Oast said that he did not speak with the tow operator association; however, he has spoken with people who own and operate parking lots.

City Attorney Oast responded to Councilman Mumpower regarding the language on existing signs.

There was a brief discussion, initiated by Councilman Mumpower, regarding credit and debit card payments. In summary, City Attorney Oast suggested Section (5) of the ordinance be amended to read "Any tow service that engages in a trespass tow shall accept at least two nationally recognized credit or debit cards in payment for any fee established in this ordinance."

Councilman Mumpower questioned the \$25 a day storage fee and whether Council can put a cap on the accrual of those daily fees. City Attorney Oast said that Council can cap that amount; however, they may be getting into aspects of the tow operator where the responsibility falls on the person who owns the vehicle to do something about it than it does on the tow operator to contact them. Vice-Mayor Davis noted that tow operators have limited lot sizes and they don't want people to be encouraged to leave the vehicles for any length of time.

When Councilman Mumpower questioned whether Council could address issues regarding kick-backs, City Attorney Oast didn't know how we could regulate that practice, other than what we already do through criminal law.

There was a brief discussion, initiated by Councilman Mumpower, regarding whether the City wants to get into the business of a vehicle operator failing or refusing to pay any of the fees, or leaving that between the vehicle operator and the tow service. In summary, City Attorney Oast suggested that Section (9) of the ordinance be amended to read "Removal of a vehicle that is not a trespass vehicle from a private lot without the consent of the vehicle operator shall be a violation of this section."

Vice-Mayor Davis said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Mumpower moved to adopt Ordinance No. 3719, with the following amendments: (1) Section 5 be amended to read "Any tow service that engages in a trespass tow shall accept at least two nationally recognized credit or debit cards in payment for any fee established in this ordinance." and (2) Section (9) be amended to read "Removal of a vehicle that is not a trespass vehicle from a private lot without the consent of the vehicle operator shall be a violation of this section." This motion was seconded by Councilman Russell.

Councilwoman Cape supported Councilman Miller's suggestion that the ordinance apply to the entire City, not just for a 10-mile radius of the Central Business District and Biltmore Village. Councilman Russell explained why he could not support that amendment, with City Attorney Oast explaining that the ordinance is being applied to areas where we can require proper signage.

There was a brief discussion regarding Councilman Newman's request that predatory towing of vehicles properly parked have significant penalties. In summary, City Attorney Oast suggested Section (9) of the ordinance be amended to read "Removal of a vehicle that is not a trespass vehicle from a private lot without the consent of the vehicle operator shall be a violation of this section, and shall subject the offender to civil penalties."

Councilman Miller asked for City Attorney Oast to continue his research on the issue of licensing tow operators.

Councilman Mumpower amended his motion to adopt Ordinance No. 3719, with the following amendments: (1) Section 5 be amended to read "Any tow service that engages in a trespass tow shall accept at least two nationally recognized credit or debit cards in payment for any fee established in this ordinance." and (2) Section (9) of the ordinance be amended to read "Removal of a vehicle that is not a trespass vehicle from a private lot without the consent of the vehicle operator shall be a violation of this section, and shall subject the offender to civil penalties in an amount three times the amount specified in Appendix B." Councilman Russell accepted the amendment.

City Attorney Oast noted that this ordinance will not end non-consensual towing in Asheville, but if Council adopts this ordinance, they will have done as much as they can do and will have addressed the issues we have received complaints about.

A property owner at 144 Biltmore Avenue cited several incidences he has encountered with people parking illegally in his parking lot. He said that his lot has had probably 10 of the regulated no-parking signs and people have destroyed them in various ways. He supported adoption of this ordinance.

Mr. Ronnie Davis, Davis Automotive and Towing in west Asheville, spoke in favor of the ordinance, however, he felt it should be applied City-wide. He would welcome the opportunity to be on a committee to work through some concerns raised. Regarding acceptance of credit or debit cards, his company does accept that, however, he suggested MasterCard or Visa be the accepted cards.

In response to Councilwoman Cape, Mr. Davis said that he receives no compensation from the property owner of the 4 lots

they monitor in town. He said that they average about 3 cars per week from the 4 lots they monitor.

After a brief discussion, City Attorney Oast suggested Section (5) of the ordinance be amended to read "Any tow service that engages in a trespass tow shall accept at least two nationally recognized credit or debit cards (such as MasterCard or Visa) in payment for any fee established in this ordinance."

Councilman Mumpower moved to amend his original motion to adopt Ordinance No. 3719, with the following amendments: Section (5) be amended to read: "Any tow service that engages in a trespass tow shall accept at least two nationally recognized credit or debit cards (such as MasterCard or Visa) in payment for any fee established in this ordinance."; and (2) Section (9) of the ordinance be amended to read "Removal of a vehicle that is not a trespass vehicle from a private lot without the consent of the vehicle operator shall be a violation of this section, and shall subject the offender to civil penalties in an amount three times the amount specified in Appendix B." Councilman Russell accepted the amendment.

When Mr. Davis said that their trucks do not have portable terminals to swipe the credit cards, it was suggested the trucks be provided with inexpensive manual printers.

Councilman Miller stressed that it is not okay to park illegally no matter the length of time being parked.

The amended motion made by Councilman Mumpower and seconded by Councilman Russell carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE**

#### **D. RESOLUTION NO. 09-55 - RESOLUTION APPOINTING A MEMBER TO THE ABC BOARD**

Vice-Mayor Davis said that the term of Barbara Field expired on November 13, 2007, and City Council extended her term until April 1, 2009.

At the March 10, 2009, meeting, it was the consensus of Council to interview Wilford Lack and Albert Anderson. Dr. Anderson called and asked not to be considered for a vacancy at this time.

Vice-Mayor Davis said that Council has received an e-mail today from ABC Board Chairman Charles Worley who requested that (1) due to her invaluable architectural services during their construction of 2 new ABC stores, that her term be extended through the completion of construction (approximately 3 months); or (2) her vacancy be filled with someone that has a professional planning/ design/construction type of experience as their long range plans call for more construction over the next year or so. If Council does not have an application on file to meet their needs, he requested the vacancy be re-advertised.

Councilman Mumpower, liaison to the ABC Board, spoke about the rarity of extending terms and would not support another extension. In addition, he felt it was unfair to extend the interview process after interviews have been conducted. Therefore, Councilman Mumpower moved to appoint Wilford Lack as a member of the Alcoholic Beverage Control Board, to serve the remainder of Ms. Field's original 3-year term, term to expire November 13, 2010, or until his successor has been appointed. This motion was seconded by Councilman Newman and carried unanimously.

It was noted that Mr. Lack's unexpired term on the Civic Center Commission will be advertised accordingly.

#### **RESOLUTION BOOK NO. 31 – PAGE 469**

#### **E. CONSIDERATION OF A RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD**

Vice-Mayor Davis said that the term of Sharon West, as a member of the Civil Service Board, expired on May 21, 2008.

At the March 10, 2009, meeting, it was the consensus of Council to interview Bridgette Odom, Davidson Jones and Beatrice Brown.

On March 24, 2009, Ms. Odom and Ms. Brown were interviewed. Mr. Jones did not respond to requests for an interview.

Due to a mid-process grievance hearing, City Attorney Oast recommended City Council delay action on making the appointment until after the outcome of the grievance, which should be within a week. He noted this is a delay that Council could not have anticipated.

Councilman Mumpower was impressed with both interviews and even though there is only one position open, he hoped the

other candidate would be willing to serve on a board of equal importance.

It was the consensus of Council to delay action on this item until April 14, 2009.

**F. RESOLUTION NO. 09-57 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE SCHOOL BOARD**

Vice-Mayor Davis said that the term of Allison Jordan, as a member on the Asheville School Board, expire on April 1, 2009.

At the March 10, 2009, meeting, it was the consensus of Council to interview Sarah Sparboe Thornburg, Peggy Dalman and Honor Moor.

Regarding Mayor Bellamy's absence, City Attorney Oast said that since Mayor Bellamy is absent, her vote will not count.

Councilman Mumpower felt the School Board should be elected, not appointed. Even though he felt all three were strong candidates; it was his opinion the School Board needs people that speak up and are strong change agents. Since he did not sense that from any of the candidates, he withheld his vote.

After other Council members spoke highly of the strong candidates, Sarah Sparboe Thornburg received 1 vote; Peggy Dalman received 3 votes; and Honor Moor received 1 vote. Therefore, Peggy Dalman was appointed as a member of the Asheville School Board to serve a four-year term, term to begin on April 1, 2009, and expire on April 1, 2013, or until her successor has been appointed.

**RESOLUTION BOOK NO. 31 – PAGE 471**

**VII. OTHER BUSINESS:**

**A. CLAIMS**

The following claims were received by the City of Asheville during the period of February 20 – March 12, 2009: Nathan Ownbey (Water), Charter Communication (Water), Lisa Metcalf (Parks & Recreation), Ann Debrule (Water), Geneva Fate (Water), Swannanoa Cleaners (Streets), Jean Sponseller (Water), Eric Froiland (Street) and Yvonne Stillwell (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

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

Mr. Gene Hampton, representing Asheville-Buncombe Citizens for Quality Government, spoke about the need for quality education.

**IX. ADJOURNMENT:**

Vice-Mayor Davis adjourned the meeting at 9:33 p.m.

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CITY CLERK

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MAYOR