

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; 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 Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

- Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Mayor Bellamy gave the invocation.

**PUBLIC HEALTH EMERGENCY – SWINE FLU**

Dr. Martha Salyers, Director of Region 6 Public Health Team, explained that the United States is now in a declared “Public Health Emergency”. Public health officials within the United States and throughout the world are investigating outbreaks of swine influenza (swine flu). Swine flu is a respiratory disease of pigs caused by a type A influenza virus that regularly causes outbreaks of influenza among pigs. Swine flu viruses do not normally infect humans; however, human infections with swine flu do occur. Public health officials have determined that this strain of swine flu virus spreads from human to human and can cause illness. The outbreak is ongoing and additional cases are expected.

The symptoms of swine flu in people are similar to the symptoms of seasonal flu in humans and may include: Fever (greater than 100°F or 37.8°C); Sore throat; Cough; Stuffy nose; Chills; Headache and body aches; and Fatigue.

Some people have reported diarrhea and vomiting associated with swine flu. Severe illness (pneumonia and respiratory failure) and deaths have been reported with swine flu infection in people. Like seasonal flu, swine flu may cause a worsening of underlying chronic medical conditions.

People entering the United States who are experiencing symptoms consistent with swine flu and have traveled to an affected area, or have been exposed to someone possibly infected with swine flu, during the last 7 days should report their illnesses to their health care provider immediately and inform them of their recent travel.

People traveling from the United States to affected areas should be aware of the risk of illness with swine flu and take precautions.

To prevent the spread of swine flu: (1) Avoid contact with ill persons; (2) When you cough or sneeze, cover your nose and mouth with a tissue or your sleeve (if you do not have a tissue) . Throw used tissues in a trash can; (3) After you cough or sneeze, wash your hands with soap and water; or use an alcohol-based hand gel; (4) If you think you are ill with flu, avoid close contact with others as much as possible. Stay at home or in your hotel room; (5) Seek medical care if you are severely ill (such as having trouble breathing). There are antiviral medications for prevention and treatment of swine flu that a doctor can prescribe; and (6) do not go to work, school, or travel while ill.

Mr. Eddy Shook, Health Services Coordinator for the Buncombe County Health Department, explained how they are in constant communication with their local care providers.

In response to Councilwoman Cape, Dr. Salyers said that if your child has flu-like symptoms, you should contact your health care provider.

Mr. Allen Johnson, Superintendent of the Asheville City Schools, explained how the Asheville City School system is coping with this public health emergency.

Mayor Bellamy thanked Dr. Salyers and Mr. Shook for this informative update. She said that the City has been posting press releases on our website.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING MAY 2009 AS "MOTORCYCLE AWARENESS MONTH"**

Councilwoman Cape read the proclamation proclaiming May, 2009, as "Motorcycle Awareness Month" in the City of Asheville. She presented the proclamation to Mr. Roger Williams, who briefed City Council on some activities taking place during the month.

**B. PROCLAMATION PROCLAIMING MAY 2009 AS "DRUG COURT MONTH"**

Councilman Mumpower read the proclamation proclaiming May, 2009, as "Drug Court Month" in the City of Asheville. He presented the proclamation to Ms. Norma Grivich, Coordinator for the Buncombe County Adult Drug Treatment Court, who briefed City Council on some activities taking place during the month.

**C. PROCLAMATION PROCLAIMING MAY 4-10, 2009, AS "PUBLIC SERVICE RECOGNITION WEEK"**

Mayor Bellamy read the proclamation proclaiming May 4-10, 2009, as "Public Service Recognition Week" in the City of Asheville. She presented the proclamation to Mr. Mike Marshall, President of the Asheville Professional Firefighter Association, who accepted the proclamation on behalf of the firefighters and law enforcement officers.

**D. PROCLAMATION PROCLAIMING MAY 6-12, 2009, AS "NURSES WEEK"**

Councilman Miller read the proclamation proclaiming May 6-12, 2009, as "Nurses Week" in the City of Asheville. He presented the proclamation to Ms. Lourdes Lorenz, RN, Director of Integrative Healthcare Department at Mission Hospital, and Ms. Kathy Guyette, Vice-President and Chief Nursing Hospital at Mission Hospital, who briefed City Council on some activities taking place during the week.

**E. PROCLAMATION PROCLAIMING MAY 12-16, 2009, AS "SENIOR GAMES WEEK"**

Councilman Newman read the proclamation proclaiming May 12-16, 2009, as "Senior Games Week" in the City of Asheville. He presented the proclamation to Recreation Superintendent Danny Hopkins, Mr. David Herbert and Mr. Charles Canter, who briefed City Council on some activities taking place during the week.

**II. CONSENT AGENDA:**

At the request of Councilman Mumpower, Consent Agenda Item "E" was removed from the Consent Agenda for discussion and/or an individual vote.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 14, 2009**

**B. RESOLUTION NO. 09-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS WITH DALTON LAWN AND LANDSCAPING, AND RIVERTOP CONTRACTING INC. TO PROVIDE CONTRACTED MOWING SERVICES FOR THE CITY'S PARK SYSTEM BEGINNING JULY 1, 2009**

Summary: The consideration of a resolution authorizing the City Manager to enter into contracts with Dalton Lawn and Landscaping and Rivertop Contracting, Inc. to provide city wide mowing services beginning July 1, 2009.

The purpose of the request for proposal for mowing services was to determine if grounds maintenance services for parks could be provided more cost effectively by the private sector under contract, and if so, to select a contractor to provide such services. The City of Asheville bid for mowing services was divided into five districts (East, West, North, Central and South) plus Riverside Cemetery for bidding purposes on a per cut basis with an estimated 14 cuts per year from April through October. A contractor could bid on one or more of the districts for providing mowing services but had to submit a bid for a complete district to be deemed responsive.

Dalton Lawn and Landscaping, located at 662 Bald Rock Rd., Hendersonville, NC is the lowest responsive and responsible bidder and is proposed to be selected to perform mowing services for the East, North and South Districts at a cost of \$60,655.00. Rivertop Contracting, Inc., located at PO Box 1294, Black Mountain, NC is the next low responsive and responsible bidder at a cost of \$33,012.00 and is proposed to be selected to perform mowing services for the West District. The Parks, Recreation and Cultural Arts Department found it more cost effective to continue to mow both the Central District and Riverside Cemetery.

Funding in the amount of \$97,679.00 is proposed for contracted mowing services in the City's Fiscal Year (FY) 2009-2010 operating budget for park maintenance, and is contingent upon City Council approving the funds associated with providing contracted mowing services as part of the City's FY 2009-2010 operating budget.

This action complies with the City Council Strategic Operating Plan in that it supports and enhances basic city services and is part of the park facilities maintenance program to conduct ongoing facility maintenance. It is also consistent with the Parks, Recreation and Cultural Arts Master Plan in that it provides ongoing maintenance and care for our park system.

Pros:

- Provide funds for ongoing, core park maintenance services.
- Fulfill commitment for maintenance of park system.

Con:

- none

- Regarding fiscal impact, \$97,679.00 is proposed for contracted mowing services in the City's FY 2009-2010 operating budget for park maintenance, and is contingent upon City Council approving the funds associated with providing contracted mowing services as part of the City's FY 2009-2010 operating budget.

- City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract to provide city wide mowing services with Dalton Lawn and Landscaping for a total of \$60,655; and with Rivertop Contracting, Inc. for a total of \$33,012.00 beginning July 1, 2009, contingent upon City Council approving the funds associated with providing contracted mowing services as part of the City's FY 2009/2010 operating budget.

**RESOLUTION BOOK NO. 32 – PAGE 26**

**C. RESOLUTION NO. 09-77 - RESOLUTION AUTHORIZING EXECUTION OF A UTILITY EASEMENT ACROSS CITY PROPERTY AT 35 BELL ROAD IN HAW CREEK FOR A NEW WATER PUMPING STATION**

Summary: The consideration of a resolution granting a utility easement over city property in Haw Creek.

The City of Asheville owns approximately two acres at 35 Bell Road in Haw Creek. As part of the Town Mountain Revenue Bond Project, a new water pumping station has to be installed on this property. The best method to provide electrical power to the new water pumping station is for Progress Energy to install a new utility pole and overhead line to the site.

The easement that is being requested would be 30 feet in width, and Progress Energy would be permitted to construct and maintain its line (including poles, cables, wires, guys, anchors, underground conduits, and other pertinent facilities) and to keep the area cleared of trees, undergrowth, or any other obstructions that may endanger or hinder their operation and maintenance.

Pros:

- Allows for installation of a new water pumping station in order to proceed with the Town Mountain Revenue Bond Project.
- The new water pumping station will provide better water service to area residents.
- The new utility pole will provide electricity required to operate the new pump station.

Cons:

- May require periodic trimming / removal of vegetation within the easement area.
- The city cannot use the area in a manner that interferes with the easement.
- The city will have to ensure that future uses of the property are compatible with the easement.

This project is part of City Council's strategic plan to complete the Water Revenue Bond Projects to address capital needs and infrastructure demands.

Progress Energy is not charging the City to install and maintain the utility pole and overhead line. There is a \$20.00 easement recording fee.

Water Resources staff recommends adoption of the resolution authorizing the Mayor to execute the easement, subject to approval of the City Attorney.

**RESOLUTION BOOK NO. 32 – PAGE 27**

**D. RESOLUTION NO. 09-78 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES FOR ANIMALS WITHIN TERRITORIAL LIMITS OF THE CITY OF ASHEVILLE**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the Asheville Humane Society for animal shelter services for animals within territorial limits of the City of Asheville.

For the past few years, Buncombe County has required the City to pay for animal shelter services through the Asheville Humane Society who has contracted with the County to run the animal shelter. The Asheville Humane Society has told City Staff that the cost for animal shelter to the City for Fiscal Year 2008-2009 will be \$127,050. This cost is included in the Asheville Police Department's budget. The City and the Humane Society need to enter into an agreement for the shelter services for the term of July 1, 2009, through June 30, 2010.

Pro:

- The City will not have to pay for the construction and operation of its own animal shelter to take care of its animal sheltering needs and the Humane Society will be responsible for the care of all animals brought to the shelter.

Con:

- The City has to pay out of its general fund for shelter services where Buncombe County provides the same services to all other non-incorporated county residents at no additional cost except through county taxes.

The Shelter contract will cost the City \$127,050 for Fiscal Year 2009-2010. This is the same amount as last year.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with the Asheville Humane Society for animal shelter services for the term of July 1, 2009, through June 30, 2010.

#### **RESOLUTION BOOK NO. 32 – PAGE 29**

#### **E. MOTION SUPPORTING THE ASHEVILLE CITY SCHOOLS FOUNDATION REQUEST OF A \$1,000 GRANT TO HELP SUPPORT THE LISTENING TO OUR TEENS SUMMIT ON JUNE 4-5, 2009**

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

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

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

Vice-Mayor Davis moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Cape and carried unanimously.

#### **ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

#### **E. MOTION SUPPORTING THE ASHEVILLE CITY SCHOOLS FOUNDATION REQUEST OF A \$1,000 GRANT TO HELP SUPPORT THE LISTENING TO OUR TEENS SUMMIT ON JUNE 4-5, 2009**

Summary: The consideration of a motion supporting the Asheville City Schools Foundation request of a \$1,000 grant to help support the Listening to Our Teens Summit, scheduled for June 4-5, 2009.

The Asheville City Schools Foundation is sponsoring the Listening to Our Teens Summit on June 4-5, 2009. This summit will be an opportunity for local service providers, business leaders, parents, students, school staff and other concerned community members to learn about what middle school students in Asheville have expressed as their needs and desires. If granted the \$1,000, the Foundation is working to produce a report that will detail the project process, results, and recommendations at a total cost of \$860. The remaining funds will be used to fund the creation of a digital version of the report.

This support will serve to continue to strengthen the partnership with the City of Asheville and Asheville City Schools and its Foundation, which aligns with the City's Strategic Plan to strengthen key governmental partnerships.

Pros:

- This summit will provide Asheville City Schools an opportunity to interest with young teens, ages 11-14 years old, and to involve the Asheville Police Department and other city and community agencies to better understand and serve this age group in the future.
- Funding has been identified through unspent money from the City Council's Fiscal Year 2008-09 Travel Budget.

Con:

- This request, due to timing, was not handled in the normal manner with other outside agency requests.

This expense may be covered from Mayor and City Council unexpended travel/training funds in the Fiscal Year 2008-09 budget.

This request was reviewed by the Public Safety Committee at its April meeting and the committee unanimously recommended that it be forwarded to the Asheville City Council for further consideration.

Councilman Mumpower said he didn't have an issue with this grant, but felt this request should have gone through the established Outside Agency Funding process.

After a brief discussion, it was the consensus of Council to ask the City Manager to draft an amendment to the Outside Agency Policy to provide for infrequent, exceptional and minor allocations to agencies independent of the regular funding cycle.

At the suggestion of Mayor Bellamy, City Manager Jackson said that there are some community oriented policing dollars that could be used for this type of action, along with the City providing some in-kind services, e.g., printing.

Councilwoman Cape moved for the adoption of allocating up to \$1,000 (from community oriented policing dollars and in-kind support) in order to support the Asheville City Schools Foundation Listening to Our Teens Summit, scheduled for June 4-5, 2009. This motion was seconded by Vice-Mayor Davis and carried on a 5-2 vote, with Councilman Russell and Councilman Mumpower voting "no."

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

#### **A. HIGHLIGHTS OF THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Mr. Bob Smith, Executive Director of the Asheville-Buncombe Community Relations Council (Council), introduced Chairman of the Asheville-Buncombe Community Relations Council Larry McCallum and Board member Sharon Lewis. They shared some statistics of the Asheville-Buncombe Community Relations Council and thanked City Council for their support. Some highlights include:

- (1) The Council is the agency many of the very poorest citizens in the community seek out working out problems in their community. The Council works to address Police Community Problems. We have a presence in all of the Public Housing Communities. We are working with young people to resist gangs. We are working with families to assist them in going to work.
- (2) The Council is involved with the Burton Street Community in the discussion about the I-26 Corridor.
- (3) The Council is very involved in the West Asheville Weed & Seed Area. Through this effort bad elements are weeded out of the community and good elements are started such as After School Clubs.
- (4) The Council through our Fair Housing efforts awarded a disabled homeowner over \$10,000 in a Fair Housing Claim. This allowed him to make a modification to his home, which allowed him to continue to live there. This was the largest Fair Housing Award in the western part of the state in the last year.
- (5) The Council serves as the Fair Housing Enforcement Agency for the city and county. HUD recertified the ABCRC last year. In the HUD Monitoring Report it was noted that with such a high caseload and such a small staff, we could not close cases at an efficient rate. It was recommended that our funding be increased in order to hire an additional investigator.
- (6) The Council is unable to serve the growing Latino Community due to our lack of bi-lingual staff.
- (7) The Council closed 11 Housing Cases last year. This year we have already investigated 26 cases. This represents an increase of more than 100%.
- (8) Last year the Council facilitated forums concerning how we accept differing points of view and immigration. The forums were held at the Unitarian Church and St. Eugene's Catholic Church. Both forums were very well attended and a wide range of views was expressed.

- (9) The Council Staff facilitated workshops on Housing Discrimination, Employment Discrimination, Disabilities, Cultural Awareness, Diversity and others. We were not able to accommodate all of the requests for workshops due to the small staff.
- (10) The Council hosted over 12 Mediation Sessions involving individuals, businesses, groups, organizations and Law Enforcement.

On behalf of City Council, Mayor Bellamy thanked Mr. Smith, Dr. McCallum, Ms. Lewis and the entire Community Relations Council Board and staff for their hard work and service to the community.

## **B. HEALTHY BUNCOMBE'S ACTIVE COMMUNITY COMMITTEE**

Ms. Claudia Nix, Chair of Healthy Buncombe's Active Community Committee, updated Council on the progress of the coalition. They are a diverse group charged to promote policy and environmental changes that to enable our citizens to be more physically active and eat healthy thereby improving their health, reducing chronic disease and health care costs.

For decades health organizations focused their efforts mainly on encouraging individuals to change their behaviors and adopt healthy lifestyles. Twenty years ago 25% of the population was getting the recommended amount of physically activity; today we are still only at 25% and related chronic diseases continued to rise. It is now clear that while personal responsibility is important; if we want people to adopt healthy lifestyles the means to do so must be accessible. This is especially true of the most disadvantaged in our community. Therefore, the shift to emphasize policy and environmental change approaches. People are more likely to use facilities instead of their cars for their short trips if they are nearby and convenient. By the same manner if healthy food choices are available and affordable, many people will choose them.

She then provided the Council with an update on our bicycle education program which was funded through NC's Eat Smart Move More Community Grants program. She provided Council with a brief background in that the bicycle education grant is the 5th grant they have received bringing \$90,000.00 into our community. Briefly, the others have included:

- A mini-grant program to help middle schools support healthy eating and physical activity.
- The 2<sup>nd</sup> is a grant working with African American churches offering nutrition programs to teach healthy eating & cooking techniques as well as the MoveAbout program to encourage physical activity 150 minutes a week for 13 weeks which averages 30 min. a day. The mutual support that individuals received from their church community was very helpful in achieving results.
- Development of the Shiloh Community Garden with support from the Bountiful Cities Project was designed to make the garden sustainable, connect the water supply, purchase tools, and build a secure facility for storage. Further more the "Strong Roots Program" supported healthy lifestyles with multi-generational programs, sharing stories and traditions and publishing a cookbook.
- Last year's Downtown on the Move program was another expansion of MoveAbout focused on worksites in the central business district. A map was developed of walking routes that highlighted local errand sites, contained mileage and signage, (the green Eat Smart Move More Route signs) you see. Workers were encouraged to stay downtown during their lunch hour rather than drive to fast food restaurants.
- This year's grant was to develop a children's bicycle training program to help create a generation of physically active and safe youth and young adults. There are 2 components of this program. One is development and support of a bicycle club at Erwin Middle School. Students learn skills, how to maintain and repair their bikes, increase their level of physical activity, which builds self-esteem and confidence. The second component of the grant involves developing a bicycle rodeo program. We are using a program developed by the National League of American Bicyclist with a grant from the National Bicycle Dealer's Association. The rodeo teaches safety skills and traffic laws on a simulated streetscape and takes into consideration the development level and needs of different age groups. An Erwin Middle School staff member received national certification in Bicycle Safety Instruction and another community member refreshed her certification, giving Asheville 4 certified bicycle education instructors. We have purchased equipment, conducted two rodeo volunteer training sessions and have 40 volunteers ready to begin training children in appropriate bicycling behaviors. Our first rodeo will take place this Saturday at the YMCA's Healthy Kids Day. We will put on a total of 5 bicycle rodeos this spring. Others will be part of the Biltmore Village Earth Day Celebration, at Evergreen Charter School, Vance and Black Mountain Elementary Schools.

Beyond grant-funded initiatives, Healthy Buncombe is also involved in a number of other programs, as noted below:

- (1) We trained 8 individuals to teach a bicycle and pedestrian safety module in area high school driver's education classes. So far we've worked with 228 teenagers.

(2) Two Healthy Buncombe members are certified trainers for the National Safe Routes to Schools Course that assists schools in planning safe routes programs and in applying for state and federal funds. These individuals with NC DOT brought the National Safe Routes to Schools community workshops to 4 elementary schools in Asheville and Buncombe County. Out of these workshops, Vance Elementary received infrastructure improvements through regular city maintenance. They also received a city schools foundation grant to develop a successful pedestrian education program for their primary grade students. Emma Elementary and Black Mountain each received SRTS grants of \$250,000 for infrastructure improvements around their schools and to develop encouragement and enforcement programs to make it safer for kids to walk to school.

(3) The Bike/Ped Task Force worked with the Asheville Police Dept. on an enforcement program to improve bicyclist behavior by ticketing those who blow thru red lights & stop signs, ride against traffic, ride at night without lights or those who pass autos on the right where there is no lane to do so. We hope to additional programs to ticket drivers who don't stop for pedestrians or yield to bicyclists when required. In this past year two pedestrians were hit by motorist while crossing Patton Avenue downtown.

(4) With multiple community partners we've provided free valet bike parking at the After 5 Concert Series and at the Lexington Arts Festival we parked a total of 150 bikes. Our plan is to continue this service and plan to expand our efforts to other city festivals.

(5) We've conducted two adult bicycle education clinics and a bicycle commuting workshop.

(6) Healthy Buncombe is a long-time partner in the annual Strive Not to Drive events. This program encourages people to try alternative travel during the week. The Mayor's Bike Ride is the kick-off event with a press conference. You have all been invited to ride with our illustrious Mayor Terry Bellamy to experience our bicycle facilities. The Blue Ridge Bike Club is assisting Healthy Buncombe and the city in putting on this event.

(7) Two years ago Asheville was recognized as a Fit Community with leadership from Healthy Buncombe in compiling the application. The application for re-designation was just finished and the City should hear shortly whether we receive that designation again.

Their plan is to grow and broaden our efforts this year, as well as add two additional big goals.

They would like Asheville to commit itself to a Complete Streets Initiative. This means when new roads are developed or older roads improvements all street users will be considered in the design and safety of the road not just the automobiles. This goal will help us achieve our second goal.

We want Asheville designated a Bicycle Friendly Community. The City must apply for this designation which is administrated by the League of American Bicyclist. It is given to communities who make conscientious efforts to encourage safe bicycling. Two years ago we applied for this designation to learn where we stood. The recommendations have been given to you along with an itemization of our accomplishments since then.

Earlier this month the Robert Wood Johnson Foundation reported that communities need to put more efforts toward disease prevention as a way to reduce health care costs. Central in their recommendations was the need for supportive policy and environments that make healthy lifestyles accessible to all citizens, such as spending funds on walking and biking facilities so their citizens can put physically activity into their daily lives.

They have made a lot of progress in the past two years. She hoped they can continue to expand on our progress.

On behalf of City Council, Mayor Bellamy thanked Ms. Nix for her report on their efforts and would invite her back next year to update Council on their progress.

### **C. ECONOMIC STIMULUS PACKAGE UPDATE**

Ms. Brenda Mills, American Recovery & Reinvestment Act Project Manager, updated Council on the following application for the economic stimulus package.

Staff is seeking City Council approval of (1) a prioritized list of transportation projects for submission to the French Broad River Metropolitan Planning Organization in consideration of American Recovery & Reinvestment Act funding allocated for the Asheville urbanized area and (2) the setting of a public hearing date for May 12, 2009, for administering ARRA Homeless Prevention Funds.

### **Urbanized Area Transportation Funding**

As part of the ARRA, the State of North Carolina will receive approximately \$735 million for highways and bridges. This money is distributed by formula to each of the fourteen highway divisions in the state. Buncombe County is in NCDOT Division 13, which includes the counties of Buncombe, Madison, Yancey, Burke, McDowell, Mitchell, and Rutherford. The seven county Division will receive about \$50-60 million of the state's share. The bulk of this money has been identified for highway improvements. Some of the state's highway funding is allocated by formula toward projects in urbanized areas of over 200,000 in population. The Asheville urbanized area will be allocated approximately \$6 Million. Projects funded through this \$6 million will be selected by the Transportation Advisory Committee (TAC) of the French Broad River Metropolitan Planning Organization (FBRMPO). In order to receive MPO consideration, the City of Asheville must submit a list of potential transportation projects by April 30, 2009.

The project list includes a range of eligible transportation projects including street resurfacing, multi-modal and pedestrian improvements, and transit investments. Staff developed and prioritized the list based on existing transportation master plans, the city's capital improvement plan, and the street resurfacing schedule along with consideration for projects that met ARRA criteria, including required timeframes for project implementation.

Submission of these projects meets City Council's strategic goal to proactively pursue funding through the federal economic recovery program. It also aligns with Council's goals supporting infrastructure investment, job creation, and development of a multi-modal transportation network.

There is no financial implication for the City of Asheville to submit these projects to the FBRMPO. If awarded, the ARRA funds allocated for urbanized areas require no local match.

Pro:

- Approval of the project list will ensure its consideration for ARRA transportation funding, which requires no local match if awarded.

Con:

- If the project list is not approved, the ARRA funding potential for these projects will not move forward. In such a case, these projects will be delayed until the necessary funds can be allocated.
- Approval does not guarantee funding allocations for any or all of these projects.

### **Homeless Prevention Fund**

As previously reported to the City Council Finance Committee, HUD has allocated \$509,460 from the Homeless Prevention and Rapid Re-housing Program (HPRP) to Asheville. In order to be eligible to receive these funds, Asheville is required to complete a substantial amendment to the Consolidated Plan 2008 Action Plan. In addition, staff is analyzing the HPRP requirements to determine how the program will most benefit the community in the context of the existing Asheville-Buncombe 10 Year Plan to End Chronic Homelessness. Staff will use this analysis to develop a Homeless Prevention and Re-housing Plan, as required by HUD, to guide the administration of a community sub-grant award process.

To comply with HUD requirements, the adoption of the substantial amendment to the Consolidated Plan 2008 Action Plan must be preceded by a public comment period and a formal public hearing. Staff is asking City Council to set the public hearing date for the substantial amendment to the Consolidated Plan 2008 Action Plan for May 12, 2009.

She provided Council with a detailed schedule for administration of the Homeless Prevention Fund allocation. This schedule has been approved by the City Council Finance Committee, and the Housing & Community Development Committee has reviewed staff's work on the draft substantial amendment.

Proceeding with the necessary steps to move forward with administration of the HPRP funds supports City Council's strategic goal to end homelessness in Asheville.

Moving forward with the application process for the HPRP entitlement will allow the City of Asheville to receive \$509,460, which can be sub-granted to agencies who provide homeless prevention and support services in the community. There is no local match required for this funding.

Pro:

- Setting the public hearing date for the substantial amendment to the Consolidated Plan 2008 Action Plan will allow the City of Asheville to proceed with the necessary steps to receive and administer Homeless Prevention Funds.

Con:

- If the public hearing is not set, the City of Asheville will miss HUD's deadline for receiving the HPRP allocation.



Staff recommends that City Council:

- Approve submission of the STP-DA Transportation project list to the French Broad River MPO, and;
- Set a public hearing on May 12, 2009, to solicit comments on a Substantial Amendment to the City's 2008-09 Consolidated Annual Action Plan, detailing the City's plan to establish funding guidelines and an allocation process for the Homeless Prevention and Rapid Rehousing Program grant of \$509,460.

Councilman Newman felt this is a good list to put forward for these resources.

Councilman Mumpower felt all this money is borrowed and we should not lay this load on our children to repay.

Councilwoman Cape said that the money we will spend here, we will save it in the long run in terms of community health, etc. She believed we are making an investment in our community.

In response to Mayor Bellamy, Ms. Ball said that the City is in the process of evaluating the use of CNG buses since we have a CNG station. She will bring forward a recommendation to Council in the near future.

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

Councilman Newman moved to approve submission of the STP-DA Transportation project list to the French Broad River MPO. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Councilman Newman moved to set a public hearing on May 12, 2009, to solicit comments on a Substantial Amendment to the City's 2008-09 Consolidated Annual Action Plan, detailing the City's plan to establish funding guidelines and an allocation process for the Homeless Prevention and Rapid Rehousing Program grant of \$509,460. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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

##### **A. PUBLIC HEARING TO SOLICIT COMMENTS ON THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN WHICH ALLOCATES COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM FUNDS TO SPECIFIC PROJECTS FOR FISCAL YEAR 2009**

Mayor Bellamy opened the public hearing at 6:22 p.m.

Ms. Shannon Tuch, Assistant Director of Planning & Development, introduced the City's new Community Development Director Jeff Staudinger.

Mr. Staudinger said that this public hearing to obtain citizen input on the Consolidated Action Plan for Fiscal Year 2009-10, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds. This public hearing was advertised on April 17 and 24, 2009.

The City expects to have available \$1,494,368 in CDBG funds and \$1,407,367 in HOME funds in the fiscal year beginning July 1, 2009. This amount is estimated because HUD has not yet announced funding levels for the 2009 entitlement grants. This announcement may be made before the date of the public hearing. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 38 programs are recommended for funding. Allocations are consistent with the Strategic Housing & Community Plan for 2005-2010.

If approved, the HOME funds and some CDBG funds will assist 316 housing units Consortium-wide. CDBG funds will also benefit more than 5,600 low-income City residents through homeless services, housing counseling, small business assistance, and other needed services. Our partner agencies will contribute over \$25,000,000 of other funding to these programs, leveraging \$9.78 for every \$1 of HOME and CDBG funds.

He explained that some of the projected outcomes include 316 affordable housing units, 60 small businesses assisted, services for 5,600 low and moderate income households, and transit and sidewalk improvements in the City.

He reviewed with Council the summary of the annual action plan for 2009-10 as follows:

**CDBG**

<b>Entitlement Grant</b>		1,226,681
<b>Funds for re-allocation from completed projects:</b>		-
<b>Unbudgeted 2007-08 program income</b>		62,166
<b>Unbudgeted 2008-09 program income (estimate)</b>		139,058
<b>Estimated Program Income for 2009-10:</b>		66,463
Land sales	-	
Rents	15,463	
Loan Repayments	51,000	
<b>Total CDBG Funds Available For Allocation</b>		<b>1,494,368</b>

**Proposed Use of Funds:**

Asheville Area Habitat for Humanity- Housing Services	70,000
Asheville Buncombe Community Relations Council- Fair Housing	45,000
City of Asheville Transit Improvements	50,000
City of Asheville N. Louisiana Street Sidewalks	117,000
City of Asheville- Homeless Initiative Coordinator	18,000
CCCS- OnTrack- Financial/Housing Couns. & Ed.	37,430
CCCS- Service- OnTrack- Homebase Tenant Housing Counseling	40,000
HelpMate- Domestic Violence Services	8,000
Homeward Bound- Homeless Programs	94,400
Homeward Bound- Supportive Housing Services	30,000
Housing Authority of the City of Asheville Asheville GO- Employ. & Training	95,000
Mountain Housing Opportunities- Emergency Repair Tier I	150,000
Mountain Housing Opportunities- Emergency Repair Tier II	25,000
Mountain Housing Opportunities- Housing Services	150,000
Mountain BizWorks- Micro Business Development	150,000
Mountain BizCapital- Small Business Loan Fund	26,000
Pisgah legal Services- Homelessness Prevention	30,000
Pisgah Legal Services- Resource Development	18,000
Western North Carolina Green Building Council- Weed & Seed Weatherization Svs	25,000
City of Asheville- Section 108 Debt Service	2,849
City of Asheville- Program Administration	235,268
City of Asheville- Unallocated Funds	77,421

**TOTAL \$1,427,076**

**HOME PROGRAM**

<b>HOME Entitlement Grant</b>		1,315,867
American Dream Downpayment Initiative		11,500
HOME Contingency balance		-
Funds for re-allocation from completed project		80,000
Prospect Park	80,000	-
Program Income (Asheville)		-
<b>Total HOME Funds Available</b>		<b>1,407,367</b>

**Proposed Use of Funds:**

<b>Asheville</b>	
Homeward Bound Tenant Based Rental Assistance	40,000
Asheville Area Habitat for Humanity- Brotherton Development	79,000
Asheville Housing Authority - Tenant Based Rental Assistance	64,782
On Track- HomeBase Tenant Based Rental Assistance	20,000
Mountain Housing Opportunities – Westmore Apartments	225,000
<b>Buncombe County</b>	
Mountain Housing Opportunities -Down Payment Assistance (DPA)	198,085
Mountain Housing Opportunities -Rural Home Rehab Program	97,183
Mountain Housing Opportunities - Self Help in Black Mtn #2	19,437
Mountain Housing Opportunities - Rehab of 212 Central Ave	25,000

Mountain Housing Opportunities - Affordable Rental Housing Predevelopment Loan	25,000
<b>Henderson County</b>	
Hend Co. Habitat for Humanity - Shuey Knolls Development Ph IV	125,000
Housing Assistance Corporation – Mapleton Development	100,000
<b>Madison County</b>	
Madison County - Homeowner Rehab	30,000
Community Housing Coalition of Madison County – Beech Glen Single-Family House	50,000
<b>Transylvania County</b>	
Western Carolina Community Action - Estate Apartments	100,000
<b>American Dream Downpayment Initiative (ADDI)</b>	
Mountain Housing Opportunities	11,500
<b>Operating Costs</b>	
City of Asheville Program Administration	131,587
CHDO operating expenses	65,793
<b>Total</b>	<b>1,407,367</b>

A summary of the draft Action Plan and notice of this public hearing was published on March 29, 2009. A 30-day comment period is required. At the end of this period, staff will ask Council to take action to approve the plan on May 12. The plan is due to be submitted to HUD by May 16.

The draft Action Plan directly relates to the Council's Strategic Goal of "Affordable." This plan directly supports the City's affordable housing plan, supports the city-owned land redevelopment process, and will increase the supply of workforce housing. It supports initiatives to end homelessness in Asheville.

Pro:

- The public hearing process enables the City to continue its application process for federal entitlement funding.

Con:

- There are no cons to this public hearing process.

Through timely following of the public process, Asheville continues to be eligible for these CDBG and HOME entitlement funds, projected to be over \$3.9 million for 2009-2010.

In response to Ms. George, Mr. Staudinger defined low and moderate income.

Mayor Bellamy closed the public hearing at 6:28 p.m.

Mayor Bellamy said that formal action to approve the plan will be held on May 12, 2009, meeting.

**B. PUBLIC HEARING RELATIVE TO INITIALLY ZONE PROPERTIES RECENTLY ANNEXED AND LOCATED ALONG AIRPORT ROAD TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT WITH MANUFACTURED HOUSING COMMUNITY OVERLAY, HIGHWAY BUSINESS DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT**

**ORDINANCE NO. 3729 - ORDINANCE TO INITIALLY ZONE PROPERTIES RECENTLY ANNEXED AND LOCATED ALONG AIRPORT ROAD TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT WITH MANUFACTURED HOUSING COMMUNITY OVERLAY, HIGHWAY BUSINESS DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT**

Mayor Bellamy opened the public hearing at 6:29 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to initially zone properties recently annexed and located along Airport Road to RS-8 Residential Single-Family High Density District, RM-16 Residential Multi-Family High Density District with Manufactured Housing Community Overlay, Highway Business District and Commercial Industrial District. This public hearing was advertised on April 17 and 24, 2009.

The property presented to you for initial zoning is property annexed by the City of Asheville effective March 31, 2009. The properties (a total of 110 parcels) are located in the Airport, Glenn Bridge and Bradley Branch Road area. The land uses on these

properties are varied. There is a mix of commercial, institutional, industrial, office, single-family residential, manufactured housing, and multi-family residential uses. Surrounding land uses are similarly varied. The zoning in the area (both City of Asheville and Buncombe County – Limestone Township Zoning) is a mix of commercial, residential, and industrial (EMP for Buncombe County).

At a meeting on April 1, 2009, the Asheville Planning and Zoning Commission recommended an initial zoning plan to the Asheville City Council for this area of RS-8 (Residential Single-Family High Density District), RM-16 with MHCO (Residential Multi-Family High Density District with Manufactured Housing Overlay), HB (Highway Business District), and CI (Commercial Industrial District) as depicted on the maps provided to Council. Staff has noted only one nonconforming use that would be created with the proposed zoning but recognizes that some development standards will not be met by the existing development.

Previously, staff had recommended to the Commission that a portion of the properties along Airport Road (east) be zoned Community Business II as they were smaller parcels and some were zoned Community Service or Residential by the County. After hearing from a number of property owners and looking at the nature of the development that exists on Airport Road, the Commission voted to propose zoning that area Highway Business. The properties that have been brought into the City along Airport Road to date have been zoned Highway Business. After hearing the comments, staff is supportive of the recommendation of the Commission.

At the Commission meeting eight individuals spoke. Six were requesting that the proposed CBII zoning area along Airport Road be zoned HB. One property owner was seeking information. Another property owner felt that the proposed RS-8 zoning area along Bradley Branch Road should be zoned CI. Staff has since received communication from another property owner on Bradley Branch Road who would like commercial zoning.

Pros:

- Supports the *Asheville City Plan 2025* goals for regional commercial corridor development.
- Is compatible with the zoning patterns (both City of Asheville and Buncombe County) in the area.
- Staff has noted only one nonconforming use that would be created by the proposed zoning.

Con:

- Some existing development will not meet the City standards for the proposed zoning districts.

The Planning and Zoning Commission on April 1, 2009, unanimously (6-0) recommended approval of initial zoning as follows:

**RS-8 (Residential Single Family High Density District)** – PINs 9643981845 ,9643983896, 9643983997, 9643986989, 9643988901, 9643994100, 9643994221, 9643994309, 9643994381, 9643996245, 9643996422, 9643999194, 9643999226, 9653081568, 9653081658, 9653081747, 9653081838, 9653090312, 9653090417, 9653090508, 9653091010, 9653091180, 9653091294, 9653091399, 9653092504, 9653092608.

**RM-16 (Residential Multi-Family High Density District with Manufactured Housing Community Overlay)** – PINs 9654007733 (partial), 9654115212 (partial).

**HB (Highway Business District)** – PINs 9643879762, 9643970479, 9643973509, 9643974676, 9643982107, 9653292952, 9654007733 (partial), 9654115212 (partial), 9654203012, 9654204021, 9654204554, 9654206145, 9654208539, 9654208710, 9654209767, 9654300634, 9654301815, 9654302943, 9654303227, 9654304704, 9654307434, 9654307745, 9654307961, 9654308495, 9654309310, 9654314011, 9654317286, 9654318034, 9654402538, 9654403403, 9654406526, 9654406790, 9654406803.

**CI (Commercial Industrial District)** – PINs 9643979895, 9643989726, 9643994969, 9643996754, 9643996963, 9643997516, 9643997880, 9643998420, 9643998661, 9644806904, 9644807734, 9644807806, 9644808772, 9644816118, 9644818218, 9644902290, 9644904138, 9644906173, 9644908051, 9644908165, 9644910120, 9644910522, 9644911623, 9644912501, 9644914587, 9644917206, 9644917778, 9644919736, 9653072967, 9653080222, 9653081289, 9653082426, 9653083111, 9653084150, 9653084284, 9653084401, 965308537, 9653086851, 9653087239, 9653087443, 9653090998, 9653092802, 9654010212, 9654010585, 9654011826, 9654013591, 9654017688, 9654112511, 9654112616, 9654112907, 9654113720, 9654115212 (partial).

Staff is supportive of this recommendation.

Mr. James Diaz, co-owner of 74 Bradley Branch Road and representative of 16 other property owners in the immediate area of Bradley Branch Road, expressed his opposition to the proposed initial zoning of the RS-8, requesting that it be zoned CI. Although his property is being zoned appropriately (CI), his neighbors immediately to the south request the RS-8 properties be

zoned CI as well. He felt that all of this property should be classified in a united and consistent pattern based on the general uses of the surrounding properties. As he understood the need to protect and preserve affordable housing, on this particular road the actual viability of desirable housing is unattainable. He presented Council with the following petition, signed by 16 people: "We, the owners of property along Bradley Branch Road, concur with these statements and believe that allowing our property to be zoned RS-8 would be disadvantageous to our property. By signing this petition we are in solidarity that our properties should be appropriately zoned Commercial Industrial as it will benefit us and the community at large."

Mr. Robert Coxe, area property owner whose property is being zoned Commercial Industrial (which he supported), felt the area residents whose properties are proposed to be zoned RS-8 did not receive a color copy of the map and possibly misunderstood the designation, since most of the properties in that area are business in nature. He then presented a petition to Council where Hilda Gillard Foster, owner of property along Bradley Branch Road, asked that her property be zoned Commercial Industrial.

Mr. Curtis Burge, property owner on Bradley Branch Road, said that although his property is zoning zoned appropriately (CI), he supported all the RS-8 being zoned CI.

Mr. George Morazoni supported all the RS-8 property be zoned Commercial Industrial

At 6:49 p.m., Mayor Bellamy closed the public hearing.

In response to Councilman Mumpower, Mr. Esselstyn said that prior to this meeting, the majority of the property owners in the RS-8 area (especially on the east side) were in support of the the RS-8 zoning. He was not aware of anyone on the west side (except for one property owner) who had expressed a preference for Commercial Industrial.

In response to Councilman Mumpower, City Attorney Oast said that at this meeting Council can zone all of the properties except the RS-8 properties. There is, however, a time constraint on zoning the RS-8 properties since there is a 60-day timeframe within which to take action. To zone the RS-8 properties to a higher designation, such as Commercial Industrial, will require a new notice and public hearing.

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

Councilman Mumpower moved to approve the initial zoning of the properties recently annexed and located along Airport Road to RM-16 Residential Multi-Family High Density District with Manufactured Housing Community Overlay, Highway Business District and Commercial Industrial District, excluding the RS-8 properties, and to instruct City staff to bring back a recommendation to Council for those RS-8 properties on May 26, 2009. This motion was seconded by Vice-Mayor Davis and carried unanimously.

#### **ORDINANCE BOOK NO. 25 – PAGE 253**

#### **C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CHANGES TO THE FLOODPLAIN ORDINANCE**

#### **ORDINANCE NO. 3730 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CHANGES TO THE FLOODPLAIN ORDINANCE**

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

Director of Transportation and Engineering Cathy Ball said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) regarding changes to the floodplain ordinance. This public hearing was advertised on April 17 and 24, 2009.

She explained that this amendment will clarify the current ordinance as it relates (1) to change use and discontinued use so that it is aligned with the zoning ordinance; and (2) to allow the replacement manufactured homes in the flood fringe so long as the structure is elevated and secured.

Given the recent economic conditions, we have businesses that are struggling to survive. In trying to survive, some properties have realigned their business models including changes the type of business they operate. Our current flood protection ordinance, states that any change of use of a conforming building requires that the structure conform with the flood protection ordinance requiring flood proofing or elevating the finished floor elevation of the structure.

Staff is requesting a clarification that would state that so long as the change in use is allowed by the zoning district, the structure would not have to become conforming.

The second change is to align the definition of discontinued use to the zoning ordinance. Staff request that the current timeline for discontinued use be extended from 6 months to 12 months. Staff also recommends that the definition of discontinued use be clarified to exclude a discontinued use if the property is actively marketing the property and/or the utilities are continually actively operated.

The final change is to allow the replacement manufactured homes in the flood fringe so long as the structure is elevated and secured.

This request meets council's strategic goal of sustainability by reform and streamline the development review process.

The requested changes were presented to the Planning and Economic Development Committee in their March 2009, meeting. Planning and Zoning Commission approved this request unanimously at their April 1, 2009, meeting.

Pros:

- Allow more compatibility with the flood protection ordinance and the zoning ordinance.
- Allow property owners more flexibility to use their property in a viably economic manner, particularly during economically challenging times.

Cons:

- Some properties may receive money from flood damages in a future flood event.

Staff recommends that City Council approve changes to the flood protection ordinance.

Mr. Glenn Garson, area property owner, spoke in support of the changes.

Mayor Bellamy closed the public hearing at 7:01 p.m.

Ms. Ball responded to Councilman Mumpower when he asked how the amendments would decrease the vulnerabilities for businesses.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3730. This motion was seconded by Councilman Miller and carried unanimously.

**ORDINANCE BOOK NO. 25 – PAGE 256**

At 7:04 p.m., Mayor Bellamy announced a short break.

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. ORDINANCE NO. 3731 - ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE**

Police Chief William Hogan provided Council with an overview of the animal services operation, along with following information regarding the budget implications:

Ordinance amendments would create the need to fully staff Animal Services as originally formed. This would be a need for (4) full time employees. Currently, Animal Services has had to reduce services to two (2) full time employees as well as Monday through Friday only, no weekends, and no on call to reduce overtime. After one year of assessment, an evaluation would be needed to determine if an increase of one (1) full time employee (FTE) is needed to meet service needs.

Salary and Benefits: Entry Level: \$25,396.98 annually + 26% for benefits = **\$32,000.19**  
1 Eliminated Position reinstituted  
1 Vacant Position already budgeted

Vehicles: Fully equipped Animal Services Truck: \$38,000.00  
1 current Vehicle has 174,000 miles and 1 has 96,900 miles.  
Would need to replace 1 vehicle as part of current year Capital Purchases.

No additional expenses expected.

Laptop Computer: 1 Semi-ruggedized mobile computer @ \$2,500.00 each **\$2,500.00**

Uniforms: For 2 positions @ \$700.00 each: \$1,400.00 absorbed in current and 2010 budget

Training, Travel and Certification: For 2 Positions @ \$1,125.00 per week per Animal Services Officer. 2 weeks needed per Animal Services Officer **\$4,500.00**

**Total Fiscal Impact: \$39,000.19**

Assistant City Attorney Curt Euler briefed Council on the process and ordinance to amend the Animal Control Ordinance.

In July 2008, based on issues raised by the community regarding amending the existing Animal Control Ordinance, the Asheville Police Department in conjunction with the City Attorney's Office held a public meeting to seek public input regarding suggested changes to the current Animal Control Ordinance. The four prevalent issues brought to the meeting included: (1) reducing distance requirements for the keeping of fowl, (2) reduce the distance requirements for the keeping of bees, (3) allowing goats on a temporary basis for plant removal, and (4) to enhance the restrictions concerning the tethering of dogs on private property. In addition, staff also took this opportunity to address other important animal control issues such as dealing with injuries to people resulting from dog attacks and bear incidents within the City limits.

This background information ties into Council's Strategic Operating Plan in that an amended ordinance "could" provide a "safer" City for our citizens. Historically and currently, we encourage our Animal Services Officers to be proactive and the goal of our Animal Services Ordinance is compliance of the ordinance to ensure the safety of our citizens and their pets.

Tethering is the act of securing an animal to a fixed location so that it can only range within a set radius (i.e. tying a dog to a tree in one's backyard). Tethering has nothing to do with walking a dog on a leash and has no effect on one's ability to take his or her dog out for a walk. A segment of the City's population is requesting a complete ban on tethering dogs in the City. After researching this issue, it is staff's position that such an ordinance could increase the number of at large dogs and have a disparate impact on persons who cannot afford proper fencing. It is staff's position that it already has sufficient laws in place to deal with owners who mistreat their animals. He said that most of the jurisdictions in North Carolina that have adopted ordinances with a complete ban on tethering have grace periods so we haven't been able to determine how that has affected their operations. Staff also has amended the ordinance to allow for the installation of a T-Runner system to restrain dogs as an alternative to tethering. Staff has heard compelling arguments on both positions. Ultimately, the decision to allow or ban tethering on private property is a policy decision the governing body should make.

Another part of Council's Strategic Operating Plan includes "affordable." Reducing restrictions for the keeping of chickens and bees would allow residents to produce eggs and honey at home thereby reducing food bills. City staff has worked with City residents to relax the restrictions on having fowl within the City limits. Staff recommends that it continue permitting chicken coops and runs and such a practice could produce limited revenue. Staff also recommends continuing a licensing system to prevent persons from investing time and money in constructing coops that are not in compliance with the City ordinance. City staff supports the proposed changes to reducing the requirement for having fowl in the City with the proper staffing to ensure permitting and inspections are up to date. The staff also recommends the complete prohibition on having roosters on one's property.

He then reviewed a brief synopsis of suggested changes which includes, but is not limited to, the following:

Section 3-4: Add definitions of Attractant, Refuse, and T-Runner

Section 3-5: Allows the City to rescind a civil penalty if a dog owner registers his or her animal within 15 days after the issuance of a citation.

Section 3-9: Adds, "No person shall knowingly or willingly leave or store any refuse, food product, pet food or grain in any manner which would constitute the attractant to any wild animal that causes a threat to the public health, safety and welfare of the community."

Section 3-12: (f) Live animals known to transmit the rabies virus shall not be trapped, handled, kept, transported or destroyed except by Animal Control Officers or other authorized persons.  
(i) Allows the use of T-runners in lieu of a complete ban on tethering. NOTE: Council will be asked to completely ban and eliminate tethering by at least one group.  
(k) Restricts persons who conduct adoptions in public places to non-profit corporations whose primary place

of business is within Buncombe County

- Section 3-16: Reduces the barrier for Beehives from neighboring household from 150 feet to 100 feet and requires the owner to get a permit.
- Section 3-28: (f) Allows the animal control officer to review and modify protective orders if the animal has been without incident for 24 months.  
(g) In cases where animals cause serious injury to persons, allows the City to seize the animal, terminate ownership rights and euthanize the animal. This decision shall be served on the owner and the owner has an opportunity to appeal prior to any action being taken place.
- Section 3-29: Requires that prior to being released from the shelter the animal is micro-chipped and the animal displays all the proper vaccination and City tags.
- Section 3-36: Allows a person to have livestock on a temporary basis on his or her property for plant removal upon the issuance of a temporary permit by the City.
- Section 3-38: Authorizes an annual fee and inspection for livestock. Mandates area be kept clean.
- Section 3-50: Prohibits roosters within the city limits. Reduces the barrier for Chicken Coops/Runs from neighboring household from 100 feet to 10 feet from all property lines or 50 feet from the nearest residence (which ever is smaller). This is the same standard the City has used for dog kennels for since 2005 with no problems. NOTE: Council may be asked to reduce restrictions to 25 feet by at least one group.
- Section 3-51 Authorizes the City to charge an annual license fee for fowl. Allows the City the option to conduct inspections on an as needed basis but does not mandate them.
- Section 3-52 Requires that the fowl coop and run be fully enclosed and that the fowl are kept in sanitary conditions.

Currently, the City enforces the animal control ordinance based on complaints made to the Department. Based on the existing staffing level, the City expects to continue to enforce the animal control ordinance on a complaint driven basis. In addition, as part of recent budget cuts, the Asheville Police Department had to take a hard look at staffing levels. We had/have two (2) Animal Services positions vacant and frozen. Reduction in staff obviously reduces services that can be rendered. An amended ordinance would increase calls for service and increase the number of permits to be issued from the current documented level of 11/year to an estimated 60-100/year (This number is derived from discussing the matter with chicken advocates and looking at other jurisdictions who reduced the restrictions on chickens). Thus, adopting additional enforcement provisions is cause for reconsidering animal control staffing requirements.

Pros:

- Public and citizen input were utilized in ordinance amendments.
- Suggested changes meet Council's Strategic Operating Plan in the areas of a safer city and a more affordable city.
- Promotes elimination of food sources for bears.

Cons:

- Amended ordinance would increase calls for service and need for additional staffing.
- Banning of tethering could adversely effect low income citizens and place financial burden on citizens to erect fences to confine dogs.
- Requiring fences to be erected for confinement as opposed to tethering may come into conflict with existing deed restrictions in some neighborhoods.

City staff recommends City Council adopt the revised Animal Control Ordinance as amended with the necessary staffing levels.

In response to Vice-Mayor Davis, Mr. Euler said that if a person wants more than six animals on their property, they need to get a permit.

When Councilwoman Cape asked about other cities having the flexibility of allowing tethering for 1-3 hours, Mr. Euler said it would be difficult for our officers to determine at what time the dog was tethered. He explained that our ordinance allows a person to tether the dog as long as the tether is over 50 feet and as long as the dog has access to adequate shelter, water and food. Councilwoman Cape felt the 3 hour time limit could be a complaint-driven process which could be documented by neighbors. Mr.



Euler said that could be included in the ordinance if that is the wish of Council.

Councilwoman Cape wondered if we could provide a one-page informational sheet on how to build a chicken coop. She suggested that we have a process similar to the dog license permit renewal for renewal of chicken permits. She suggested a complaint-driven process, not only on the tethering portion of the ordinance, but the entire animal control ordinance.

Regarding the public nuisance section of the ordinance where “no person shall knowingly or willingly leave or store any refuse, food product, ... which would constitute an attractant to any wild animal ...” Councilwoman Cape suggested language be inserted to reflect that this is a temporary ban, not long-term as the proposed ordinance currently implies.

In response to Councilwoman Cape about it being unlawful to trap a wild animal, Police Chief Hogan said that the Police Department refers people to pest control companies that provide that service for a fee. He further explained that the reason why language is in the ordinance making it unlawful to trap a wild animals in the City limits is to comply with State law. State law prohibits the trapping and transporting of wild animals.

Councilwoman Cape was pleased to see the requirement for people to clean up after their animals.

Upon inquiry of Councilwoman Cape, Mr. Euler explained that staff tried to incorporate an either/or situation if a person does not have a 10-foot buffer lot line for a cage or pen. He explained that the cage or pen needs to be 10-feet from the outer limits of the lot; however, this setback requirement shall not be applicable where the placing of the cage or pen within the 10-foot area does not result in locating the cage or pen within 50 feet of the nearest household.

Councilman Mumpower moved to approve the animal control ordinance as recommended by staff. This motion was seconded by Councilwoman Cape.

Councilman Mumpower felt staff tried to find a point of balance with this ordinance and tried to afford people the liberty to have pets in Asheville and sources of food in a measured way that will limit intrusions on their neighbors but provide opportunity.

Councilman Mumpower understood that although this ordinance is not targeted at people trying to feed birds, the language attempted to limit bear incidents could be viewed as a heavy hand by the City. He said that drug dealers in public housing represent a much more dramatic threat and enforcement of that would be a better place to invest our energies. In response, Mr. Euler said that they did research other language and that staff was trying to target specific neighborhoods because if multiple bears continue to stay in an area, the issue of food could be a concern.

Regarding the concern of bear incidents, City Attorney Oast suggested amending Section 3-9 (a) (6) (a) to reflect that “knowingly or willingly” be a condition that exists only after the person has been told not to leave or store any refuse, etc. and they not be in violation of the ordinance until after a period of time after they have been told not to leave or store any refuse, etc. That way, you would only be in violation of the ordinance if there has been a report of a bear, or other wild animal, and you have been told to take your dog food in, secure your garbage, etc. and you still don’t comply.

Councilwoman Cape asked that the suggested language begin with a phrase similar to “Having identified a situation by the Animal Control Officer ...” or “In emergency situations ...” or “If you are approached by an Animal Control Officer who has asked you to cooperate ...” City Attorney Oast said that he would craft on some language that Council could incorporate into the ordinance.

Councilman Mumpower and Councilwoman Cape accepted City Attorney’s Oast suggestion of the amendment to Section 3-9 (a) (6) (a) as a friendly amendment to the main motion.

At 7:58 p.m., Mayor Bellamy explained the public hearing rules as follows, noting this is on the printed agendas: (1) applicants have up to ten minutes to complete a presentation; (2) electronic presentations are limited to agenda items with presentation materials provided prior to the meeting by city staff, applicants, or organized opposition; (3) individuals have up to three minutes to speak to city council; (4) a person representing a group of three or more persons (not including the speaker) present in the council chamber has up to 10 minutes to address City Council; (5) public comment period for any item may not exceed one hour; and (6) additional information may be provided in hard copy and/or written form.

Ms. Peggy Irwin, representing ChainFree Asheville, provided Council with the following PowerPoint in which she said during the past six months they have freed 12 dogs from chains; developed a base of 300 people who supports them with time, labor and funds; and helped 50+ families who have received doghouses, vet services and backyard fog information.

The problem is that the current animal control ordinance allows the continuous chaining of dogs. She outlined the issues which include public safety, public nuisance, irresponsible pet ownership, cruelty and dog fighting.

Experts say do not chain. The U.S. Dept. of Agriculture (USDA) ... concluded that continuous confinement of dogs by a tether is inhumane. In 1997, the USDA ruled that people and organizations regulated by the Animal Welfare Act cannot keep dogs continuously chained. The American Veterinary Medical Association has also stated "Never tether or chain your dog because this can contribute to aggressive behavior. The Center for Disease Control concluded in a study that the dogs most likely to attack are male, unneutered, and chained. The Humane Society of the United States said "A chained animal is caught in a vicious cycle; frustrated by long periods of boredom and social isolation. He becomes a neurotic shell of his former self – further deterring human interaction and kindness. In the end, the helpless dog can only suffer the frustration of watching the world go by in isolation – a cruel fate for what is by nature a highly social animal. Any city, county or state that bans this practice is a safe, more humane community.

Myths and fears include (1) more dogs will roam the streets or be taken to shelters – A study of 12 communities show this is not true; (2) amendment will negatively affect low income people – (a) A 6 month educational period will be in place; and (b) a fence costs \$300 – a lease is \$3; (3) cable runners are okay – dogs still vulnerable, become entangled and aggressive; and (4) puts more workload on animal control officers – (a) other communities experience small increase then leveling off; and (b) ChainFree Asheville's partnership with City will help officers.

The solution is (1) prohibit tethering of dogs unless the owner is present – "attended tethering"; (2) require pen sizes of at least 200 feet for dogs larger than 20 pounds; and (3) implement a citizen observer program (a) has worked in other cities; (b) volunteers assist animal services officers; (c) "eyes and ears" – proactive; and (d) free.

Six reasons to enact their proposed amendments include (1) keep the public safe; (2) help decrease a public nuisance; (3) limit inhumane treatment; (4) help with dog fighting identification; (5) enhance image of Asheville; and (6) create an "Eyes and Ears" Program for the City.

ChainFree Asheville wants to work with the City to (1) help educate residents about the ordinance; (2) work with dog owners to find solutions; (3) teach people how to build fences; and (4) continue building fences and helping dogs in whatever way they can.

Ms. Jennie Mercer, representing the Steering Committee for Asheville City Chickens explained how they have gathered data from extension agents, public health officials and other municipalities that have successfully permitted chickens. They feel the ordinance is a reasonable compromise and a step in the right direction. She spoke about the benefits of family chickens as they provide nutritious, clean, inexpensive food and they are energy efficient. She then addressed some of the misconceptions of having chickens in the City, most of which have to do with larger agricultural settings. Roosters are noisy so staff clearly prohibited roosters in the City. Hens are quiet. Commercial poultry operations have a bad odor; however, a small number of hens generate less manure than a medium sized dog and the ordinance requires the coop be clean and sanitary. She then outlined the extensive research on the fear of avian flu. Like all animals, they carry some diseases, but the rate of transmission to humans is so low as to be insignificant, particularly in a well-maintained coop. In the unlikely event of an outbreak, it is of paramount importance that flocks be permitted so that the Health Department can address this situation.

Mr. Scott Barnwell, also representing the Steering Committee for Asheville City Chickens, discussed the enforcement of the ordinance, along with the potential associated costs. A well crafted ordinance can actually lower enforcement costs. Roosters are the number one complaint in all areas that allow fowl and that is the reason they support no roosters in the City. He gave a few examples of the code enforcement violations from other cities associated with urban chickens, which was minimal. Asheville City Chickens has worked with City staff over the year on the very sincere public input process. If the ordinance is passed they hope to work with coop owners to help make sure they are in compliance with the ordinance, with continued emphasis on positive neighborhood and community relations. Some of the reasons to support hens include allowing people to produce a very healthy local food, protecting private property rights, educating our children about where food comes from, and also to support Council's Strategic Operating Plan to make Asheville a more affordable city. He urged City Council to support this proposed ordinance. He hoped Asheville City Chickens will be a resource to help provide some of the additional education outreach that is so critical to an ordinance being successfully enforced.

Mr. Fred English, east Asheville resident, supported tethering dogs and provided Council with a list of over 140 poultry diseases as he spoke against allowing chickens.

The following individuals spoke in support of banning and eliminating the tethering of dogs:

Young lady named Jennifer

Ms. Leslie Armstrong (provided Council with a list of North Carolina municipalities that have passed restricted or complete banned tethering ordinances)

Ms. Holly Newton, Asheville resident

Founder and CEO of Dogs Deserve Better and Mothers Against Dog Chaining Initiative

Mr. Mike McCreary  
Mr. Bob Sinclair  
Ms. Paige Henretta  
Ms. Warren, Vice-President of Brother Wolf Animal Rescue  
Mr. Patrick Erwin (read statement from Ms. Janice Smith)  
Mr. Jim Palmer

The following individuals spoke in support of reducing restrictions for the keeping of chickens:

Mr. Brad Brock, north Asheville resident  
Ms. Ashley English, author of a book on raising chickens  
Ms. Diana Canter, Communications Director for the Buncombe County Republican Party (read letter of support from Chairman)

Mr. Jaquette, Owner of Wild Birds Unlimited, felt the reference to bird feeding in the City is too broad and too vague. Bird feeding is the second biggest hobby in the United States behind gardening. Asheville also is a bird sanctuary. He understands that the ordinance does not say people can't feed birds and that it's a temporary ban when there are identified bear problems, but the ordinance as written will be misinterpreted. He offered his assistance in a public education program. He understood the need behind the ordinance is to promote responsible bird feeding and through public education we can make responsible bird feeding a part of Asheville.

Ms. Cheryl Zoller felt the reference to bird feeding is too vague in the ordinance and urged Council to not ban bird feeders, but to educate the public on being responsible bird feeding.

When Mayor Bellamy asked if the section regarding bear incidents could be separated from the vote for further discussion, City Attorney Oast said Council could; however, he offered the following amendments: (1) under Section 3-7 (Powers and limitations of the Animal Control Officers), that the Animal Control Officer be empowered to issue warnings regarding the presence of bears or other wild animals in a direct area to residences to remove attractants including, but not limited to, pet food, garbage, refuse and other foods and limiting the duration of that order for no more than 60 days; and (2) delete the proposed public nuisance Section 3-9 (a) (6) (a) and in its place insert "After receiving a warning or directive to remove attractants from a City of Asheville Animal Control Officer, leaving or storing attractants or foods in a manner contrary to such warning or directive."

Councilman Mumpower and Councilwoman Cape accepted City Attorney's Oast suggestion of the amendments to Section 3-7 and Section 3-9 (a) (6) (a) as a friendly amendment to the main motion.

Mayor Bellamy asked that if this proposed ordinance is approved that time be spent on discussing the issue of bird feeders for possible amendment. She suggested Council be provided with a 6-month review of this ordinance for possible revisions.

Councilman Newman suggested language be inserted that we recognize that we live in an area where there are bear incidents and this is in no way meant to generally prohibit or discourage bird feeders. City Attorney Oast felt the amendment accepted by Councilman Mumpower and Councilwoman Cape addresses the concerns people had about not knowing that "knowingly and willing" was and about it being a time limited prohibition.

In response to Councilman Mumpower, Police Chief Hogan said that he would be happy to meet with some of the leadership of ChainFree Asheville and create a special volunteer program. They could be in charge of recruiting and suggest ideas on how we can work together on things that they could do to help us and to protect dogs that are chained. He appreciated what they are doing in terms of building fences for people. If there is a complete ban of tethering, there will be a problem with deed restrictions in neighborhoods that prohibit fencing, but they will work with ChainFree Asheville to find some solutions.

Vice-Mayor Davis was concerned about the enforcement problems associated with these amendments, especially during this difficult budget time. He explained why he supported banning tethering, and why he could not support reducing the restrictions on fowl. He offered a friendly amendment that this be reviewed in 6 months to see how it is working from a cost standpoint, from an enforcement standpoint.

Councilman Mumpower accepted Vice-Mayor Davis' friendly amendment that this ordinance be reviewed in 6 months to see how it is working from a cost and enforcement standpoint.

When Councilwoman Cape withdrew her second to the main motion, Councilman Newman seconded the main motion with the two friendly amendments.

Councilman Miller supported the amendments proposed by staff, except he explained why he supported a complete ban on

tethering dogs. Tethered dogs knock over their water, they bark constantly, and when they are left off their chains they do not know how to interact with people. There are responsibilities that come with dog ownership regardless of your income range. If there was no complete ban on tethering, he would support a 1-3 hour time limit on tethering, but the problem is enforcement.

When Mayor Bellamy questioned what the funding source was for the additional \$39,000 for two more Animal Control Officers, Police Chief Hogan said that finding the funding source is the challenge.

Councilman Mumpower said it was his assumption that the people who are benefitting from changes in the ordinance would be assuming responsibility for enforcing the provisions. Police Chief Hogan said that it would help, but we can't be assured, not knowing how many people will want chickens, if that would generate sufficient funds to pay for an Animal Services Officer. In all fairness, it is an unknown of the demand that this will put on the Animal Control Officers. That is why he suggested replacing the one position that is frozen now and the one position they intended on deleting from the budget next year. He felt it would be appropriate to restore the Animal Control Services to four people and then see if it fits the need. If not, he will bring back statistics for call load. He did note that because of the two vacancies, that has eliminated the educational component for people to do the right things with their pets. We are answering calls for service and not being proactive with education.

Mayor Bellamy asked City Manager Jackson to provide Council with a copy of the fees and charges associated with this ordinance, e.g., the cost for a chicken permit, is the chicken permit an annual fee, etc.

Councilwoman Cape moved to offer an amendment to the main motion (1) to delete Section 3-12 (i) and insert the following language that there will be no tethering except with an attended leash: "Tethering is prohibited. Tethering is defined as tying or fastening a dog outdoors on a rope. This shall not include tying out or fastening a dog outdoors on an attended leash. Attended leash means that the tethered dog is in visual range of the responsible party."; and (2) amend Section 3-9 (a) (3) to allow the cage or pen be within 35 feet (not 50 feet) of the nearest household occupied by persons other than the owner or keeper of the cage or pen; and (3) no annual inspection for chickens unless it was complaint driven, but an annual fee for licensing chickens; and (4) amend Section 3-4 to delete the definition of T-Runner.

Councilman Mumpower did not accept Councilwoman Cape's friendly amendment.

Councilman Newman suggested Councilwoman Cape offer a friendly amendment just focusing on the tethering issue.

Councilwoman Cape wondered if the City of Asheville could be held liable for training animals to be vicious and dangerous.

Councilwoman Cape moved to amend the main motion to only allow attended tethering. This motion was seconded by Councilman Miller.

Councilman Newman supported a goal that in Asheville's future we don't have chained dogs. If there is a majority of Council that supports this goal of moving in this direction in the future, Council should direct the City Manager to work towards that goal. However, if Councilwoman Cape's motion passes, he wants to make sure the resources are available to assist people who don't have the finances to build fences and that the City not enforce the ordinance against them unless the resources are there to support them. ChainFree Asheville has said they are committed to making sure that those funds will be available which will be raised by the citizens in the community who care a lot about these issues. He would support continuing the dialogue, making sure that there is some type of ongoing program in place to make sure we can support people in achieving that goal.

Councilwoman Cape wondered if we could craft the ordinance to read that individuals who are identified as having animals on tethers and who refuse the help of a community group to build fences would face the citation. If, however, the community group cannot build the fence, then the citation is not given. City Attorney Oast responded that he would need to do additional research on this question.

City Attorney Oast said that tethering seems to be the issue, so he suggested Council move forward on the other parts of the ordinance and let staff come back to Council with a recommendation on how to address issues Council has raised.

Councilman Russell supported the main amended motion and that staff be directed to review the information available from other North Carolina municipalities that have passed tethering ordinances.

When Mayor Bellamy called for a vote on Councilwoman Cape's motion to amend the main motion to only allow attended tethering, said motion failed on a 2-5 vote, with Councilwoman Cape and Councilman Miller voting "yes" and Mayor Bellamy, Vice-Mayor Davis, Councilman Mumpower, Councilman Miller and Councilman Russell voting "no."

City Attorney Oast restated the main motion which Councilman Mumpower made and Councilman Newman seconded to

approve the animal control ordinance as presented by staff, with the following amendments: (1) under Section 3-7 (Powers and limitations of the Animal Control Officers), that the Animal Control Officer be empowered to issue warnings regarding the presence of bears or other wild animals in a direct area to residences to remove attractants including, but not limited to, pet food, garbage, refuse and other foods and limiting the duration of that order for no more than 60 days; (2) delete the proposed public nuisance Section 3-9 (a) (6) (a) and in its place insert "After receiving a warning or directive to remove attractants from a City of Asheville Animal Control Officer, leaving or storing attractants or foods in a manner contrary to such warning or directive." ; and (3) the ordinance be reviewed in 6 months to see how it is working from a cost and enforcement standpoint.

Councilman Newman moved to amend the main amended motion (1) to defer the provisions on tethering in the current ordinance until City staff reports back to Council within 30-60 days; (2) instruct staff to bring back to Council some recommendations on achieving a future goal where 24/7 tethering will not be permitted in Asheville; and (3) instruct staff to bring back some recommendations on making sure that people who do not have the resources to build a fence are not penalized as a result of this ordinance. This motion was seconded by Councilman Miller.

In response to Councilman Mumpower, Mr. Euler said that City staff has benchmarked the issue of tethering. Two ordinances (Raleigh and Durham) that have some sort of tethering ban are in grace periods so they were not able to determine how that has affected their operations.

Animal Control Officer Brenda Sears explained how she has dealt with a lot of these issues brought up. Many of the issues are animal cruelty and not necessarily a tethering issue. Just because you take tethering out of the equation doesn't mean you are eliminating the animal cruelty component.

When Mayor Bellamy called for a vote on Councilman Newman's amendment to the main motion, said motion carried on a 5-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

Councilman Mumpower then withdrew his motion on the main motion.

Councilwoman Cape moved to approve the animal control ordinance as presented by staff, with the following amendments: (1) under Section 3-7 (Powers and limitations of the Animal Control Officers), that the Animal Control Officer be empowered to issue warnings regarding the presence of bears or other wild animals in a direct area to residences to remove attractants including, but not limited to, pet food, garbage, refuse and other foods and limiting the duration of that order for no more than 60 days; (2) delete the proposed public nuisance Section 3-9 (a) (6) (a) and in its place insert "After receiving a warning or directive to remove attractants from a City of Asheville Animal Control Officer, leaving or storing attractants or foods in a manner contrary to such warning or directive."; (3) the ordinance be reviewed in 6 months to see how it is working from a cost and enforcement standpoint; (4) to defer the provisions on tethering in the current ordinance until City staff reports back to Council within 30-60 days; (5) instruct staff to bring back to Council some recommendations on achieving a future goal where 24/7 tethering will not be permitted in Asheville; and (6) instruct staff to bring back some recommendations on making sure that people who do not have the resources to build a fence are not penalized as a result of this ordinance. This motion was seconded by Councilman Miller and carried on a 5-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 25 – PAGE 258**

#### **B. RESOLUTION NO. 09-79 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SUTTON-KENNERLY AND ASSOCIATES TO CONDUCT AN EXTERIOR INSPECTION FOR WATER INFILTRATION IN THE CITY BUILDING AND TO PROVIDE CONSTRUCTION DRAWINGS FOR ANY NEEDED REPAIRS**

Superintendent of Parks & Public Facilities Kathy Connor said that this is the consideration of a resolution authorizing the City Manager to enter into a contract with Sutton-Kennerly & Associates to conduct an exterior inspection for water infiltration in the City Building.

City of Asheville City Building is a recognized local historic landmark and is a contributing building in the Downtown Asheville National Register Historic District. The structure was designed by Douglas Ellington and built in 1926-1928. Visual observations on the seventh and eighth floors indicate there is some amount of water intruding into the building at various locations. Considering the age and the historical significance of this building to the community, a qualified professional firm needs to be retained to thoroughly review the condition of the exterior of the building as well those portions of the structural support system, and to be to provide construction drawings for any repair work necessary.

The City conducted a request for qualifications for this project and Sutton-Kennerly & Associates was selected as the most qualified firm to conduct this exterior inspection because of their extensive work with similar historically significant structures. Sutton-Kennerly's offices are located at 530 Hendersonville Road in Asheville NC. The negotiated cost for the City Building Exterior

Inspection project is for an amount not to exceed \$77,940.00. The cost for the construction drawings will be negotiated once the cost of repairs is known.

This action complies with the City Council Strategic Operating Plan in that it supports and enhances basic city services and is part of the public facilities maintenance program to make facility improvements. It is also consistent with the Asheville City Development Plan 2025 which indicates the preservation of Downtown Asheville's historic buildings as a goal.

Pros:

- Provide funds to investigate exterior building conditions of the City Building and estimate the cost for repairs.
- Fulfill commitment to repair and maintain aging infrastructure.
- Preservation of an historic landmark.

Con:

- Potential fiscal impacts beyond this initial study should the facility require repair.

- Funding in the amount of \$85,000.00 for conducting an exterior inspection for water infiltration in the City Building was approved by City Council in the FY 2007-2008 capital improvement budget. There is currently no additional funds budgeted to cover the cost of the potential repair work.

- City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract with Sutton-Kennerly & Associates to conduct an exterior inspection for water infiltration in the City Building for an amount not to exceed \$77,940.00, and to provide construction drawings for any needed repairs. The cost for the construction drawings will be negotiated once the cost of repairs is known.

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

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

Councilman Miller moved for the adoption of Resolution No. 09-79. This motion was seconded by Vice-Mayor Davis and carried unanimously.

#### **RESOLUTION BOOK NO. 32 – PAGE 30**

#### **C. RESOLUTION NO. 09-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BROWN AND CALDWELL ENVIRONMENTAL ENGINEERS FOR COMPLETION OF THE SWANNANOA FLOOD RISK MANAGEMENT PROJECT**

Director of Transportation & Engineering Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to execute a contract with Brown and Caldwell Environmental Engineers for the completion of the Swannanoa Flood Risk Management Project not to exceed \$1,437,000.

One hundred percent of the funding for this project is through the Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. Staff is asking for consideration for the contract to be phased in order to allow the project to be used as a match for a cooperative agreement with the Corp of Engineers.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The Biltmore Village area of the City of Asheville (within the Swannanoa River watershed) was named as a recipient of this funding. From December 2005 through August 2006 a planning study was conducted to identify and prioritize flood damage reduction projects for implementation in the community. This planning study was conducted by the North Carolina Department of Environment and Natural Resources Division of Water Resources (DWR) and stakeholders from the Biltmore Village, City of Asheville and the Swannanoa watershed, with the assistance of a project consultant. In September 2006, expenditure of funding for implementation of this Plan was reviewed without objections by the NC Government Operations Committee.

Flood damage reduction stakeholders, DWR, and the project consultant agreed through the aforementioned planning study that the development of a watershed-wide program for comprehensive flood damage reduction was a top priority action for Biltmore Village and the Swannanoa River Watershed. To achieve this goal, the City of Asheville issued a request for proposals (RFP) from qualified engineering firms experienced in the design and management of such projects. The RFP directed that the Engineer

provide technical assistance to the City of Asheville, North Carolina, to develop a Feasibility Study for flood damage reduction on the Swannanoa River watershed. The Feasibility Study will be a complete decision document, which presents the results of the feasibility phase and provides the basis for recommending the construction of a project and preparation of Plans and Specifications. The feasibility study will present recommendations for the City of Asheville. The Engineer will complete the project through detailed coordination at the direction of the City of Asheville and in compliance with applicable laws, regulations, policies, and the project management plan.

The project will be conducted in three phases:

- Phase 1 – Watershed Modeling, Economic Analysis, and Project Development
- Phase 2 – Investigation / Implementation
- Phase 3 – Future conditions mapping

A proposal selection committee, comprised of representatives from the City of Asheville, the Town of Black Mountain, and Buncombe County, selected a team proposed by Brown and Caldwell as the most qualified of the submitting firms. In the Brown and Caldwell proposal and in subsequent interviews with the selection committee, Brown and Caldwell proposed an approach designed to accomplish an aggressive schedule, focus on the most promising flood risk reduction opportunities, and anticipate the available implementation funding sources.

In consultation with the City of Asheville staff, the selection committee, the North Carolina Division of Water Resources, the U.S. Army Corps of Engineers (USACE), and other agencies, a Scope of Work was developed to guide the successful completion of this important project. The services and deliverables are provided in three phases as specified in the City's RFP. In order to achieve the most cost-effective and timely project execution, the phases will be executed concurrently.

This action complies with the City's plans and commitments to administer \$2.5M of Senate Bill 7 funding consistent with a contract executed with the North Carolina Division of Water Resources on (date of execution). This request meets Council's strategic goal of partnering with local experts, particularly the University of North Carolina at Asheville.

The contract with Brown and Caldwell includes a thirty-four percent local participation and five percent minority business participation.

The Flood Damage Reduction Task Force has endorsed this request.

Pros:

- Approval of this action will allow the City to move forward with development of a plan to reduce and better manage the flood risks in the Swannanoa floodplain.
- The project's scope of work identifies improvements in flood warning capabilities that will be implemented for this year's tropical storm season.
- The cooperation of the U.S. Army Corps of Engineers and execution of a Federal Cost Sharing Agreement will position our community to receive Federal investment in flood control projects.
- Over one-third of the work will be completed by local firms and by NEMAC/UNC-Asheville. Approximately 6% of the work will be performed by local minority and women-owned businesses. Brown and Caldwell will direct supply purchases and support services to qualified local minority business where practical. This represents an opportunity for those firms to increase their professional experience and train their staffs in new skills.
- Project allows support for RENCI engagement site in downtown.

Cons:

- The City's responsibilities during the project will require an approximately 20% full-time equivalent (FTE) staff assignment from the Engineering Department over the coming year.
- It is expected that most of the flood risk reduction projects will be implemented in the Swannanoa watershed outside the City limits and ETJ.
- Funds from this project fund one year of a multi-year lease, Funding for the remaining years will need to be identified in future years. The lease with the Grove Arcade Public Market Foundation can be terminated if funding is not available in future years.

The funds to be expended have been provided by the State in compliance with the Hurricane Recovery Act of 2005. City staff will provide project management oversight and will participate in a series of project meetings and workshops, public meetings, and meetings with regulatory agencies. Approximately 20% FTE staff assignment will be required. The in-kind cost associated with 20% FTE is approximately \$20,000.

Council previously approved a budget amendment for the Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds.

Staff requests adoption of a resolution authorizing the City Manager to execute a contract with Brown and Caldwell Environmental Engineers for the completion of the Swannanoa Flood Risk Management Project not to exceed \$1,437,000. Staff is asking for consideration for the contract to be phased in order to allow the project to be used as a match for a cooperative agreement with the Corp of Engineers.

In summary, Ms. Ball reviewed the following PowerPoint presentation. She gave a brief history of the project in that in September 2004 with Hurricane Frances and Ivan (1) 115 structures, 110 commercial, 5 residential; (2) \$83 Million lost in tourism money; (3) Extensive property damage in Biltmore Village; (4) Two emergency life rescues on Swannanoa River; (5) City's water supply interrupted for three days; (6) Damage to 39 historic structures; (7) Hurricane Recovery Act 2005 (SB 7) - Supported by local delegation; (8) State appropriated \$30 M to WNC; (9) City entered into agreement for \$4.6 M with DWR on 04/04/2007; and (10) City agreed to serve as lead agency in partnership with Buncombe County and Town of Black Mountain.

The Swannanoa Watershed - \$4.6 Million – revealed (1) \$2.5 M Flood Risk Management Project; (2) \$2.0 M Land Acquisition; (a) Purchased over \$1 M property on Swannanoa River Road; and (b) Demolition to begin in next six weeks; (3) \$75 K Biltmore Village Flood Action Plan; (a) Work completed by Corp of Engineers; and (b) Funding 50% matched by Corp of Engineers; and (4) \$50 K Debris Removal (a) Work completed by Buncombe County.

Addition work completed (1) Developed flood operations plan for Burnette Dam; (2) Updated emergency action plans for Burnette and Bee Tree Dams; (3) Implemented flood warning system; and (4) Formation of Regional Flood Damage Reduction Task Force.

She then explained that a Flood Risk Management Plan is a project that evaluates various ways of reducing flood damage by: (1) Engineering analysis; (2) Inventory and survey structures; (3) Identify and analyze flood mitigation opportunities; (4) Developing cost/benefit analysis; (5) Create eligible projects (State and Federal Funding); and (6) Produce future floodplain mapping.

We are doing the project now (1) To prepare for next flooding event; (2) To avoid losing existing funding; (3) To prepare for implementation funding; (a) Additional \$1 M from Senate Bill 7 appropriation; (b) Additional \$3 M from State; (c) Additional \$7.5 M from Corps of Engineers; and (d) Additional Economic Stimulus Funding; and (4) To stimulate local economy – 34% project for local jobs (\$500 k).

The total project cost will not exceed \$1,437,000. These costs include:

• Project Management and Quality Control	7.5%
• Agency Coordination and Public Involvement	8.6%
• Data Collection and Model Verification	7.1%
• Flood Damage Assessments	31.6%
• Engineering Evaluation of Projects	18.5%
• Plan Formulation and Benefit/Cost Analyses	23.2%
• Future Floodplain Mapping	3.5%

The money is paying for (1) Analysis of 85,000 acre watershed; (2) Flood Damage Assessment of over 1500 structures; (a) Up to 850 to be inventoried and surveyed; (b) Content value estimates and appraisals; and (c) Flood Proofing Analyses; (3) Over two dozen project opportunities already identified; and (4) Benefit/Costs Analyses of alternative plans.

Regarding who will pay for the project (1) 100% of funding from the North Carolina Hurricane Recovery Act of 2005 – SB 7 (Supported by local delegation and DENR); (2) No cash local match required; and (3) Estimated City staff time (20% of FTE or \$20 K).

The deliverables of the project include (1) Significant public engagement during the project; (2) Extend floodplain models; (3) Upgrade of flood warning system; (4) GIS based inventory of structures, including formal or informal appraisals of property; (5) Extension of Biltmore Village Flood Action Plan; (6) Analyzing up to 24 project opportunities; and (7) Preliminary engineering and environmental assessments for approximately six projects.

Community partners include (1) UNCA (RENCI) – 10% percent of project – Includes some funds for downtown engagement site; (2) Local delegation; (3) Flood Damage Reduction Task Force; (4) Buncombe County and Town of Black Mountain; (5) United States Army Corp of Engineers; and (6) North Carolina Department of Environment and Natural Resources, Division of Water Resources.



The project involves local partners and has a commitment to use local and minority resources for additional services and supplies.

Next steps include (1) begin project; (2) formal partnering with the Corp of Engineers (agreement to Council in May 2009); (3) community engagement; (4) upgrade Automated Flood Warning System; (5) identify immediate projects; and (6) finalize preliminary engineering reports.

This action complies with Council's strategic goals as follows: (1) Safe – Reduce threat to life and property due to flooding; (2) Affordable – Protect affordable housing and businesses in floodplain; (3) Sustainable - Allow for recreational, educational and artistic uses to be incorporated into projects; (4) Green – Many projects will improve water quality; and (5) Fiscally responsible – Projects will be evaluated on a cost/benefit analysis.

Ms. Mary Leonard White, Chair of the Flood Damage Reduction Task Force, spoke in favor of the resolution as this project will approaches all levels of threatening floods.

Ms. Ball responded to several questions raised by Councilman Newman, some being, but are not limited to: do these funds have to be used for planning purposes or could they be spent on other things that would make a positive difference in the watershed; is there anyway we can spend less on the analysis work that might have margin returns and more on implementation; is it staff's opinion that if we proceed in this process the outcome will be real projects that are feasible and cost effective that will reduce the future impact of flooding in our community; and will the process also look at other solutions, other than engineering fixes to the problems.

Ms. Ball outlined some of the potential projects: Lake Craig rehab; Sweeten Creek Detention and Channel improvements; conveyance improvements near new bridge in Biltmore Village (and elsewhere); Warren Wilson College and Quarry Projects; Left Fork Road – (water supply protection); automated flood warning system upgrades; emergency action plans for 14 regulated dams; and localized flood proofing.

Councilman Mumpower felt this is a significant waste of tax money for a study. Every study on flood control cites the prevention is keeping rivers clean. After four years and \$50,000, we have only cleaned up a marginal part of the river.

Councilman Miller spoke in support noting that over 800 structures in the Swannanoa floodplain between Montreat and Biltmore Village will be inventoried for the project's economic analysis. The flood risks and potential damages to each of these structures will be quantified. Structures that are within the designated floodway will be identified. The inventory of structures will be analyzed to determine which ones may be flood proofed or otherwise protected by non-structural measures. With the loss of millions of dollars from flooding, he felt this is a good first start.

Councilwoman Cape supported this initiative in that we have the ability to take this money and do what is necessary for the region watershed.

Mayor Bellamy said that back in 2004 Mr. Chuck Tessier said that the City and County needed to "immediately appoint a flood commission from both private and public sectors. The commission should first identify what resources can immediately be made available to help those in need and secondly identify how the resources can best be used to rebuilt in a way that helps fix the problem and not make it worse. The flood commission needs to create a plan of action that will significantly change these areas of devastation, integrating the long-term objectives of flood control, transportation, economic development, recreation and environmental preservation." She acknowledged that since 2005 Council has appointed the Flood Damage Reduction Task Force. Not only has the commission been established, we have put in rain gauges to help monitor water; we have applied for Environmental Protection Agency grants to help clean up a brownfields area along the Swannanoa River; and we have worked with the N.C. Dept. of Transportation for engineering funds to look at the roadway system. This is another layer of how we are addressing the problems that we have in this watershed. Even though these processes have not been fast, they have been steady.

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

Councilwoman Cape moved for the adoption of Resolution No. 09-80. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no".

## **RESOLUTION BOOK NO. 32 – PAGE 31**

### **D. RESOLUTION NO. 09-81 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS FOR THE ELEVEN WATER REVENUE BOND PROJECTS**

**ORDINANCE NO. 3732 - BUDGET AMENDMENT FOR WATER SYSTEM IMPROVEMENTS AND WATER REVENUE BOND PROJECTS**

Interim Water Resources Director Robert Griffin said that this is the consideration of a resolution by City Council authorizing the City Manager to sign change orders increasing the project budgets and contract amounts totaling \$38,331,310.67 for the eleven Water System Improvement Projects to \$39,235,036.67, or an increase of \$903,726.00.

On August 26, 2008, the City Council approved increasing the revenue bond construction project budgets and contract amounts to \$38,331,310.67.

Numerous issues have arisen since then that could not be accounted for. These issues include but are not limited to rerouting lines due to encountering unknown underground utilities; additional easement, right-of-way and property acquisitions; encountering subsurface rock which required removal; changes in N.C. Dept. of Transportation (NCDOT) roadway repair requirements; and unsuitable subsurface conditions that required placement of crushed stone backfill. These issues have resulted in unplanned work requirements and time delays, which lead to a necessary increase in the contract amount from \$38,331,310.67 to \$39,235,036.67.

Funding is currently available in other capital projects to cover this adjustment. A capital project includes from 10% to 15% contingency, based on the project and complexity. Contingencies for unforeseen expenses that were not needed and lower than anticipated costs allow these funds to be reallocated from completed projects, so no other projects will require a delay. The redistribution of funds from other capital projects is temporary until some of the bond projects can be closed out and unspent contingencies and lower costs can be released. The sum of these budget amendments reflects an approximate 2.36% adjustment.

This project is part of the City Council strategic plan to improve City infrastructure.

Pro:

- Approval of the increase in contract amount will allow completion of the eleven water system improvement projects in a timely manner.
- These projects meet the City's goal to systematically repair / replace the aging water system infrastructure, improve the reliability of water service to affected customers, and improve available fire protection.
- The escalation of maintenance and repair costs for the aging water infrastructure will be reduced creating a more efficient system, which will reduce energy costs and the City's overall carbon footprint.

Con:

- Failure to approve the increase in contract amount will result in major changes in the scope of these projects, which would require some of the projects to be only partially completed resulting in failure to achieve the intended goals of the projects.

The budget for the eleven Water System Improvement Projects is currently at a total cost of \$38,331,310.67. The \$903,726.00 total in change orders will increase the total project budget to \$39,235,036.67. These funds must be temporarily reallocated from other capital projects until savings are realized on the bond projects and can be credited back to those other projects.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign change orders for \$903,726.00 additional increasing the total contract amount of \$38,331,310.67 for the eleven Water System Improvement Projects to \$39,235,036.67 and further allow staff to move the additional funds as needed between the 11 projects as cost estimates come in higher or lower than expected.

Councilman Mumpower said that he would continue to vote against projects as long as the current realities continue to unfold in that most of the sites where the City is repairing its water system very few, if any, people speak English. That does not mean that they are all here illegally, but statistically it means a significant number of them probably are. He felt it was irresponsible of the City to be supporting initiatives of any sort that don't hire legal citizens.

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

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

Councilman Miller moved for the adoption of Resolution No. 09-81. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Councilman Russell moved for the adoption of Ordinance No. 3732. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

## **ORDINANCE BOOK NO. 25 – PAGE 282**

Mayor Bellamy asked Council be provided the City's street repaving schedule. In addition, she asked that information be made available on the City's website and in its newsletter.

Vice-Mayor Davis said that he has talked with several merchants in the downtown area who were pleased with the communication efforts regarding waterline repairs in that area.

City Manager Jackson noted that this will be the last week Interim Water Resources Director Robert Griffin will be in the interim position as a new director arrives next week. He thanked Mr. Griffin for his outstanding job in this role.

### **E. ENDORSEMENT FOR THE CITY OF ASHEVILLE'S PARTICIPATION IN THE APPLIED SOLUTIONS COALITION AND ENDORSEMENT OF THE READING, RIDING AND RETROFIT PROJECT CONCEPT**

Councilwoman Cape, speaking on behalf of the Asheville-Buncombe Sustainable Community Council (ABSCC), said that the Asheville HUB, our regional economic development alliance, created the Asheville Buncombe Sustainable Community Council (ABSCC) this year in response to an Economic Development Overview Study, which concluded that sustainable community development is essential to the healthy economic development of the region. ABSCC membership consists of private entities (Biltmore Estate, local energy businesses), public organizations (Buncombe County, City of Asheville, Land-of-Sky Regional Council, Advantage West), non-profit groups (Kleiwerts), and institutional partners (Asheville-Buncombe Technical College, Warren Wilson College, University of North Carolina Asheville).

ABSCC has endorsed four main initiatives:

- Development of a community-wide Sustainability Plan;
- Regional participation in the Applied Solutions Coalition and support of the [Reading Riding and Retrofit](#) project, and;
- Development of a Community Sustainability Web portal.

The purpose of this presentation is to seek City Council endorsement of the City of Asheville's participation in the Applied Solutions Coalition and the Reading Riding and Retrofit project. Essentially it's a community vision for greening the school systems.

The Applied Solutions Coalition is a coalition of cities, each co-located near National Laboratories and with strong track records for responding with energy and conservation solutions, is being formed around a mutual goal of creating locally based, integrated projects that address resource conservation, energy and carbon reductions and local economic development.

The Coalition will jointly:

- Petition the federal government and DOE to create and support a competitive grant process (similar to the NC Clean Water Management Trust Fund) for the realization of these locally based, objective focused projects;
- Seek to influence legislation with an aim to support local responses to community challenges;
- Demonstrate community level readiness to implement integrated projects for rapid impact to crucial issues;
- Collaborate with one another by sharing ideas and support for the development of strong local projects;
- Collaborate with other local governments and organizations, businesses and the National Labs for project development and DOE objectives, and;
- Create templates for duplication by other communities for future grant cycles.

It was for this Coalition that the ABSCC created our local project [Reading Riding and Retrofit](#). At the initial gathering of the Coalition, which occurred in Sonoma County in February 2009, this project received great support and was confirmed as a model project. Asheville-Buncombe representatives Mack Pearsall, David Spector and Robin Cape, with initial support from the school district superintendents, participated in the conference and are seated on the steering committee and the DOE outreach committee for the Coalition. Currently, the Coalition is moving forward on its national agenda, while locally we are building support and the team to enact the ideas within the program. RRR has been adopted by the Asheville-Buncombe Sustainable Community Council, (ABSCC) as the premier project toward building community sustainability. Commissioner K. Ray Bailey has joined the local steering committee to move this project forward.

Participation in this coalition aligns with the strategic goals of ABSCC, SACEE, CEAC (Progress Energy's Community

Energy Advisory Council) and Asheville City Council's own commitment to reduce the organization's energy consumption by 2 percent annually. In addition, Asheville's participation fosters intergovernmental relations and supports Council's overall goals in the areas of sustainability, workforce and community development and education.

There is no financial implication for Asheville to participate in the Coalition.

Pros:

- Meets federal criteria for taking advantage of grant opportunities.
- Synergizes the efforts of local schools systems to achieve individual goals.
- Enhances youth education and adaptation.

Con:

- None noted.

She has met with Ray Bailey and the school superintendents who thanked her for her leadership in facilitating potential grant funding for sustainable green construction on school campuses primarily in the form of retrofits and renovations to increase energy efficiency. Mr. Tony Baldwin said that Buncombe County Schools will be an active participant in joining Asheville City Schools and A-B Technical Community College in these efforts.

Mr. Richard Mauney, Acting President of Asheville-Buncombe Technical College, was excited to have the opportunity to play a role in this initiative and looked forward to working with her to further develop this initiative.

She asked for Council's endorsement of the City of Asheville's participation in the Applied Solutions Coalition and the concept of the [Reading Riding and Retrofit](#) project.

In response to Councilman Russell, Councilwoman Cape said that we here to aid the efforts of the school systems. She is not planning on asking the City for funds as there is \$400 Million in DOE competitive grants and we are well on the way of being competitive for those funds. They are asking the City for their support to can help supplement their ability to fix their buildings.

When Mayor Bellamy asked for public comment, she received none.

Councilman Miller moved to endorse (1) the City of Asheville's participation in the Applied Solutions Coalition; and (2) the Reading, Riding and Retrofit Project concept. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

#### **F. RESOLUTION NO. 09-82 - RESOLUTION APPOINTING A MEMBER TO THE DOWNTOWN COMMISSION**

Vice-Mayor David said that the term of Pat Whalen expired on December 31, 2008, and City Council extended his term until April 1, 2009. On behalf of Council, he expressed their appreciation to Mr. Whalen's valuable work on the Commission.

At the March 10, 2009, meeting, it was the consensus of Council to ask the Downtown Commission what experience they needed on the board.

At the April 14, 2009, meeting, it was the consensus of Council to interview Mark Allison, Harry Weiss and Abigail Emison. Ms. Emison was interested, however, was unable to attend the interview.

After Council spoke highly of the candidates, Mark Allison received no votes; Harry Weiss received six votes; and Abigail Emison received one vote. Therefore, Mr. Weiss was appointed as a member of the Asheville Downtown Commission, to serve the remainder of Mr. Whalen's original 3-year term, term to expire December 31, 2011, or until his successor has been appointed.

#### **RESOLUTION BOOK NO. 32 – PAGE 33**

#### **G. RESOLUTION NO. 09-83 - RESOLUTION APPOINTING A MEMBER TO THE URTV INC. BOARD OF DIRECTORS**

Vice-Mayor Davis said that Mr. Mark Wilson resigned from the URTV Inc. Board of Directors, thus leaving an unexpired term until June 30, 2009.

At the March 10, 2009, meeting, it was the consensus of Council to re-advertise for this vacancy.

At the April 14, 2009, meeting, it was the consensus of Council to interview Rachael Bliss, Milton Simpson, John Calligan and Matthew Howard. Mr. Simpson was interested; however, he was unable to attend the interview. Mr. Calligan was unable to attend the interview.

After Council spoke highly of the candidates, Rachael Bliss received one vote; John Calligan received no votes; Matthew Howard received six votes and Milton Simpson received no votes. Therefore, Mr. Howard was appointed as a member of the URTV Inc. Board of Directors to serve the unexpired term of Mr. Wilson, term to expire June 30, 2009, and then a full two-year term, term to expire June 30, 2011, or until his successor has been appointed.

**RESOLUTION BOOK NO. 32 – PAGE 34**

**VII. OTHER BUSINESS:**

**Planning & Zoning Commission Request**

Vice-Mayor Davis noted that the Planning & Zoning Commission has requested the use of the Council Chamber in the event of a large crowd in their regular meeting room of the First Floor Conference Room in City Hall. Because of technical concerns and the installation of City Council laptops on the Council dais, it was the consensus of Council to consider the request on a case-by-case basis.

**Claims**

The following claims were received by the City of Asheville during the period of April 3-16, 2009: AT&T (Water), Dakota Brewer (Sanitation), Doug Wagner (Sanitation), Keller Knight (Streets), David Douglas (Streets), Scotta Orr (Streets), Robbie Pittman (Streets), Brenda Mullen (Streets), AT&T (Water), PSNC (Water), Kayla J. Benfield (Streets) and Steve Kiraly (Water).

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

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

Mr. Gene Hampton, Founder of Asheville Citizens for Quality Government, spoke about how we can achieve quality government in Buncombe County.

**IX. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 10:27 p.m.

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CITY CLERK

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MAYOR