

Regular Meeting

Present: Vice-Mayor Jan B. Davis, Presiding; 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: Mayor Terry M. Bellamy

PLEDGE OF ALLEGIANCE

- Vice-Mayor Davis led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Davis gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 09-84 - RECOGNITION OF APPRECIATION TO FORMER ASHEVILLE FIRE & RESCUE CHIEF GREGORY H. GRAYSON

On behalf of City Council and the citizens of Asheville, Vice-Mayor Davis was pleased read the resolution of appreciation to former Asheville Fire & Rescue Chief Greg Grayson. He also presented Chief Grayson with his helmet and badge. He explained that Chief Grayson served as Chief of the Asheville Fire and Rescue Department since November, 2000, and has resigned from his position as Fire and Rescue Chief effective May 25, 2009. He noted that he will be continuing his career as Fire Chief for the City of Greensboro, North Carolina. On behalf of the citizens of Asheville, Vice-Mayor Davis thanked him for his many years of valuable service and highly commended him for the manner in which he has carried out his responsibilities and duties.

On behalf of the County Fire Chiefs Association, Association Vice President Richard Sales (Chief of the Reynolds Volunteer Fire Department), presented Chief Grayson with a Plaque of Appreciation.

Resolution No. 09-84 was adopted by acclamation.

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B. RECOGNITION OF THE CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY GRADUATES

Vice-Mayor Davis said that the City of Asheville Youth Leadership Academy (CAYLA) is committed to providing its students with (a) a meaningful summer work experience; (b) leadership development through seminars and community service; and (c) college preparatory activities, including yearlong academic support.

CAYLA is an integral part of the City's 'Grow Our Own' initiative, as envisioned by City of Asheville Mayor Terry Bellamy and the Asheville City Council. The City is committed to giving Asheville's young people the opportunity to stay and work in Asheville, as well as to have valuable work experiences that will advance their future careers wherever they go.

Now completing its second full year, the City of Asheville Youth Leadership Academy is committed to developing the next generation of civic leaders in Asheville. Each spring, Asheville High School students are selected for prestigious summer internships with the City and our participating partners. The students are also asked to commit to yearlong leadership opportunities through community service. The 2008-2009 Class of CAYLA has completed more than 400 hours of community service this year with organizations such as Kids Against Hunger, ABCCM, RiverLink, and the Asheville Housing Authority. Seven of the CAYLA students are graduating seniors, and all seven will be attending college this fall. The City commends them for their hard work and dedication. We are very proud of their accomplishments in the CAYLA program. These students are an amazing group of young people with even more amazing futures lying ahead.

He recognized the Class of 2008-09 Graduates: Keevon Baten, Keshawna Benjamin, Taurean "TJ" Davidson, Chelsea Finley, DJay Horton, Martel Jackson, Jordan Link, Tyrell Mauldin, Keva Miller, Sohna Njie, Nina Reynolds, Bianca Scott, Anice Smith, James Smith, Jill Smith, Sarah Smith, Jasmyne White, Jeanisha Williams, and Ciera Woods. He also thanked Ms. Erika Germer for her continued work with the CAYLA Program.

C. PROCLAMATION PROCLAIMING MAY, 2009, AS "FOSTER CARE MONTH"

Councilman Miller read the proclamation proclaiming May, 2009, as "Foster Care Month" in the City of Asheville. He presented the proclamation to Ms. Alisha Davis, with the Buncombe County Department of Social Services, who briefed City Council on some activities taking place during the month and thanked City Council for their support.

D. PROCLAMATION PROCLAIMING MAY 10-16, 2009, AS "POLICE APPRECIATION WEEK"

Councilman Newman read the proclamation proclaiming May 10-16, 2009, as "Police Appreciation Week" in the City of Asheville. He presented the proclamation to Police Chief Bill Hogan who briefed City Council on some activities taking place during the week and highlights of the Police Department.

E. PROCLAMATION PROCLAIMING MAY 17-23, 2009, AS "NATIONAL PUBLIC WORKS WEEK"

Councilman Mumpower read the proclamation proclaiming May 17-23, 2009, as "National Public Works Week" in the City of Asheville. He presented the proclamation to Mr. Chris Daniels from the Streets Division, Mr. Henry Glaze from the Sanitation Division and Mr. Kevin Haughinberry from the Fleet Management Division. Public Works Director Mark Combs who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "B" and "C" were removed from the Consent Agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 28, 2009

B. RESOLUTION OF THE ASHEVILLE CITY COUNCIL REGARDING THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES' CONSIDERATION OF CTS CORPORATION'S REQUEST TO IMPLEMENT A VOLUNTARY REMEDIAL ACTION PROGRAM FOR THE FORMER CTS OF ASHEVILLE SITE

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

C. RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO SOUTHEAST ENERGY ALLIANCE

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

D. RESOLUTION NO. 09-87 - RESOLUTION ESTABLISHING A POLICY FOR GRANTING APPROVAL OF ROADSIDE SOLICITATION REQUESTS

RESOLUTION NO. 09-88 - RESOLUTION AUTHORIZING THE ASHEVILLE PROFESSIONAL FIREFIGHTER ASSOCIATION LOCAL 865 TO COLLECT MONEY FOR THE MUSCULAR DYSTROPHY ASSOCIATION ON MAY 15, 2009 (RAIN DATE MAY 29, 2009) AND SEPTEMBER 18, 2009 (RAIN DATE SEPTEMBER 25, 2009) AT THE INTERSECTION OF LOUISIANA AND PATTON AVENUES

Summary: The consideration of a resolution (1) establishing a policy for granting approval of roadside solicitation requests; and (2) authorizing the Asheville Firefighter's Association Local 865 to collect money for the Muscular Dystrophy Association on May 15, 2009 (rain date May 29, 2009) and September 18, 2009 (rain date September 25, 2009), at the intersection of Louisiana and Patton Avenues.

The Asheville Firefighter's Association and the Muscular Dystrophy Association (MDA) made a presentation to the Public Safety Council Committee requesting authorization to conduct roadside solicitation to benefit the Muscular Dystrophy Association. The Association has conducted roadside solicitation in the past as part of a nationwide MDA "Fill the Boot" campaign. This campaign is a partnership between the MDA and the International Association of Firefighters. A high percentage of the MDA's funding is derived from the "Fill the Boot" campaign.

In 2002, Asheville City Council adopted an ordinance prohibiting roadside solicitation due to the large number of groups that were conducting this activity in Asheville. The ordinance was in response to safety concerns of the soliciting groups as well as the motoring public. In 2006, the North Carolina General Assembly adopted G.S. 20-175 authorizing roadside solicitation under certain circumstances. The new law requires a written application providing certain information and also requires the applicant to possess a

minimum of \$2 Million of liability insurance.

Regarding City Council's Strategic Operating Plan, by adopting a policy to address roadside solicitation requests under G.S. 20-175, this resolution assists in making Asheville a safer city based upon metrics of similarly sized cities, by establishing due process to address the safety of this activity.

The City Council Public Safety Committee unanimously recommended that this be forwarded to City Council for further consideration.

Pros:

- By establishing a due process to address the safety of this activity, approved roadside solicitation will be conducted with reduced risks to solicitors and the motoring public.

Cons:

- Council may see an increase in requests for roadside solicitation.

City staff recommends City Council (1) establish a policy for granting approval of roadside solicitation requests: (2) authorize the Asheville Firefighter's Association Local 865 to collect money for the Muscular Dystrophy Association on May 15, 2009 (rain date May 29, 2009) and September 18, 2009 (rain date September 25, 2009), at the intersection of Louisiana and Patton Avenue; and (3) review the roadside solicitation policy in six months.

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

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

Councilman Russell 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

B. RESOLUTION NO. 09-85 - RESOLUTION OF THE ASHEVILLE CITY COUNCIL IN OPPOSITION TO CTS CORPORATION'S REQUEST TO IMPLEMENT A VOLUNTARY REMEDIAL ACTION PROGRAM FOR THE FORMER CTS OF ASHEVILLE SITE, AS IS BEING CONSIDERED BY THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Summary: Pursuant to Council's direction at the April 14, 2009, City Council meeting, our office has prepared a resolution regarding NCDENR's consideration of CTS Corporation's request to implement a voluntary remedial action program for the former CTS of Asheville site.

In preparing this resolution, the City Attorney's staff met with Mr. Barry Durand, reviewed the information Mr. Durand provided to our office, and examined the relevant statutes.

At its May 5 meeting, the Buncombe County Board of Commissioners heard a presentation on this matter, and directed that a letter be prepared expressing the Board's concerns with the CTS site and the remediation efforts.

Mr. Barry Durand provided Council with a brief recap of the imminent hazard situation. He urged Council's support of the resolution prepared by City Attorney Oast discouraging a voluntary remedial action program for the CTS of Asheville site and asked that the resolution be amended to ask for a full, proper and timely remediation of the CTS Asheville site.

Mr. Tate McQueen expressed concerns over this imminent threat affecting our community.

A resident on Sweeten Creek Road, who has been involved with this since 1990, explained that representatives from the EPA, N.C. Dept. of Environment and Natural Resources and others knew CTS was dumping barrels as far back as in the 1960's or early 1970's. He also pointed out where the N.C. Dept. of Environment and Natural Resources has not followed their notification laws.

Councilman Mumpower moved to adopt Resolution No. 09-85 with the following amendments: (1) the resolution title be

amended to read "Resolution of the Asheville City Council in opposition to CTS Corporation's request to implement a voluntary remedial action program for the former CTS of Asheville site, as is being considered by the N.C. Dept. of Environment and Natural Resources;" (2) to amend item 2 (a) to reflect that the Dept. of Environment and Natural Resources give strong consideration to whether the conditions at the CTS of Asheville site constitute an imminent hazard pursuant to N.C. Gen. Stat. sec. 130A-310.5 (a); (3) amend item 2 (b) to delete the phrase "...before entering into a voluntary remedial agreement with CTS Corporation; and (4) amend item 2 to add a new 2 (c) "to deny the request of CTS Corporation to enter into a voluntary remediation agreement. This motion was seconded by Councilwoman Cape.

After discussion, Councilman Mumpower accepted other word-smithing amendments to the resolution as follows: (1) add the word timely into the phrase "a full and proper remediation of the CTS Asheville site is necessary ...;" (2) amend the second Whereas to read "substances are likely to migrate..."

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

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C. RESOLUTION NO. 09-86 - RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO SOUTHEAST ENERGY ALLIANCE

Summary: The consideration of a resolution authorizing submittal of a grant for \$500,000 from the Southeast Energy Alliance (SEEA).

The intention of this grant is to establish an operating company which serves as a "one-stop shop" clearinghouse for regional energy efficiency, energy conservation, and renewable energy projects in the community's existing building stock. The end goal of this grant is to reduce electricity and natural gas consumption city wide by 20-30% over the next five years. To achieve this goal, the \$500,000 foundation funded grant award would be used in three phases: 1) Planning: Hiring staff, solidifying board, fortifying partnerships; 2) Financing: Securing financial partnerships, leveraging grant funds with investors; and 3) Implementation: marketing, communication and energy improvement project implementation.

The primary role the City of Asheville will play in this program is to receive and reallocate the grant, provide leadership to the operating company, and support the outreach and communication phase by having the program be branded as a City of Asheville initiative.

The service this operating company will provide is to establish the necessary partnerships with financial institutions, energy auditors, and equipment installers. Through these back stage efforts, the operating company can then serve the customer as the primary point of contact to guide them through each step of the process to identify, finance and implement an energy project.

The Land of Sky Regional Council (LOSRC) has submitted a letter of intent committing to serve as the operating company and function as the clearinghouse. The Waste Reduction Partners program of LOSRC has existing frame work and capacity to solicit participation from the commercial and industrial sectors of the community. In addition, the Western North Carolina Green Building Council (WNCGBC) has the existing framework and capacity to work with the residential and small business sector. The WNCGBC has also submitted a letter of intent committing to act as subcontractors under LOSRC.

Furthermore, this effort requires participation and support from partnering organizations. The following entities have submitted letters of support for this grant application:

- The North Carolina State Energy Office
- Progress Energy Carolinas
- Asheville-Buncombe Technical Community College
- AT & T
- Sustainability Advisory Committee on Energy & the Environment
- Sundance Power Systems
- Warren Wilson College
- Governor Purdue (pending)
- Congressman Shuler of N.C. 11th District (pending)
- Buncombe County Commissioners (pending)
- N.C. Dept. of Natural Resources (pending)
- Self Help Credit Union (pending)
- Community Action Opportunities (pending)

This action complies with the following areas of the City Council Strategic Operating Plan (1) Support diversified job growth and small business development; (2) Work with regional partners to create incentives for green building, energy conservation and energy intendance; and (3) Expand community education programs to attract volunteers to initiatives, including climate awareness, water conservation, recycling, storm water and sustainability.

Pros:

- A local energy alliance would support citizens, businesses and industries through reducing upfront investments in energy efficiency projects while sustaining reduced expenses on energy
- Centralizing energy usage reduction efforts through a local energy alliance reduces duplication of efforts and centralizes resources who have substantial existing capacity in the Asheville area
- Funds, if awarded to the City, may be leveraged to gain access to competitive federal stimulus dollars
- Participation in this partnership model demonstrates energy efficiency and renewable energy leadership to a national audience

Cons:

- Achievement of the grant goals is determined through successfully leveraging funding during less than favorable economic climate.
- The long term funding source of this effort will not be determined until after the receipt of the award and staff has been hired to create a business model.

There is no fiscal impact. In the event the grant is awarded to the City of Asheville, it is anticipated that up to 1/5 of the Energy Coordinators time would be dedicated to steer program development to be recuperated through grant administrative expenses.

City staff recommends City Council authorize the submittal of the grant application to the Southeast Energy Alliance.

Councilman Mumpower felt that in view of our current economic conditions, this is not the proper time or investment of our energies.

Councilwoman Cape supported this item action as its money coming from someone other than a governmental organization. In addition, it's a great mechanism by which to create an energy efficiency clearinghouse for our community to find out how they can make their own homes and businesses much more energy efficient.

Councilwoman Cape moved for the adoption of Resolution No. 09-85. This motion was seconded by Councilman Miller and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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III. PRESENTATIONS & REPORTS:

A. CIVIL SERVICE BOARD BLUE RIBBON COMMISSION REPORT

Ms. Maria Roloff, Vice-President of Human Resources at Mission Hospitals, and member of the Blue Ribbon Commission, said that this is the consideration of the Blue Ribbon Commission recommendations in adopting proposed legislation to revise the Asheville Civil Service law.

On February 10, 2009, Council appointed a Blue Ribbon Commission to review the effectiveness of the Asheville Civil Service Board and Civil Service law. The Blue Ribbon Commission was chartered with offering advice on future policy direction and bringing forward any recommended changes. City Council appointed Gene Bell, Lou Bissette, Bill Cook, Linda McDaniel and Maria Roloff to the Commission. Civil Service Board members include Chairman John Miall, Sidney Bach, Virginia Robinson and Marv Rosen.

The Blue Ribbon Commission held four meetings. During these meetings, they reviewed the current Civil Service law, the 5 remaining Civil Service laws of other North Carolina cities, and grievance data and trends. They also met with the current members of the Civil Service Board.

The Blue Ribbon Commission focused on best practice, efficiency, consistency, fairness and equity, cost implications and clarification of existing language when considering recommendations.

On March 12, 2009, the City of Asheville received word that Senator Nesbitt had introduced SB 556 in the General Assembly. The General Assembly deadline for crossover bills is Thursday, May 14, 2009.

She then reviewed the following summary of recommendations from the Blue Ribbon Commission and proved Council with a draft of the Civil Service law incorporating the recommended changes:

1. Elimination of rule making authority except as to procedural matters (Delete Sections 4 and 5)

State Law grants the power to the City Manager general supervisory authority over all employees, and to direct and supervise the administration of all departments and agencies, subject to such general rules, regulations, and policies as the Council adopts. The Human Resource field has become increasingly complex and requires a high level of expertise in order to manage the City's human capital. No fiscal impact.

2. Judicial review in nature of certiorari instead of trial de novo (Section 8 f.)

Provides for a less burdensome and a less resource intense (time and money) process for each party. Similar to review for other administrative proceedings, including other civil service boards in NC. Empowers the Board with full quasi-judicial hearing and decision making authority. Decreases fiscal impact to employee and City.

3. Clarify Subpoena power to Board during grievance hearings (Section 8 c)

Best practice based upon review of other Civil Service laws in the State. No fiscal impact.

4. Assistant Directors added to those not covered by Civil Service (Section 2 b)

Assistant Directors are members of the City Manager's executive team and are frequently called upon to act as an extension of the Department Director. The City Manager, Department Directors and Assistant Directors are held to very high level of accountability to City Council on operational, budget and personnel matters. The City Manager needs the latitude to be held solely accountable to City Council for the actions and behavior of these personnel. No fiscal impact.

5. Council's right to control the City's finances (Section 1)

Common language in other existing Civil Service laws. Law should recognize Council's/Manager's legal authority to eliminate positions to address budget needs. No fiscal impact.

6. City Clerk acts as Secretary (Section 2 c)

Best Practice in other existing Civil Service Laws. The City Clerk can designate someone to fulfill these duties. The City Clerk already has duties in the grievance process under the current law and is designated under State laws as records custodian and proper person for service of process. Grievance hearings typically are recorded by Court reporters. May have fiscal impact.

7. HR Director ex officio non voting member of the Board (Section 2 d)

Patterned after Wilmington's Civil Service law. Maintains a role in the process for Human Resources and allows for a resource for the Civil Service Board regarding City policy and procedures during grievance hearings. Allows HR Director to be present in closed sessions. No fiscal impact.

8. Employees may wear uniforms (Section 3 b)

Employees may wear uniforms to meetings but are not considered on duty or compensated while at meetings unless required to be there by subpoena or the City Manager. No fiscal impact.

9. Outside Counsel for grievance hearings (Section 8 c)

Formalizes the current practice of providing a qualified outside attorney for grievance hearings. The City Attorney shall approve the qualifications and fees. No significant change in fiscal impact.

10. Membership requirements (Section 2 b)

Provides for a broader base of possible Board members by extending the membership to all qualified voters of Buncombe County. This article also restricts employees who have been employed within the previous 5 years from serving on the Board. No fiscal impact.

11. Board makes own rules of procedure (Section 10)

Formalizes the Board's ability to make their own rules of procedure including meeting frequency and times. No fiscal impact.

In summary, the Blue Ribbon Commission recommendations include: (1) Elimination of rule making authority; (2) Judicial review in nature of certiorari; (3) Clarify subpoena power of the Board; (4) Exempt Assistant Directors; (5) City Council's right to control finances; (6) City Clerk as Secretary and HR Director as ex officio non-voting member; (7) Employees can wear uniforms; (8) Outside Counsel for grievance hearings; (9) Board membership requirements; (10) Board Rules of Procedures; and (11) Law and Board should be reviewed every 2 to 3 years for effectiveness.

She said that most of the changes have no fiscal impact to the City. If the Council chooses to adopt some but not all of these changes, this may create additional fiscal impact.

City staff recommends City Council consider the Blue Ribbon Commission's recommendations in adopting proposed legislation to revise the Asheville Civil Service law.

There was a brief discussion, initiated by Councilman Mumpower, regarding the elimination of the rule making authority, except as to procedural matters, and if there is any oversight of the City Manager's authority by perhaps City Council. City Attorney Oast said that under general law in North Carolina, the city manager has the supervisory authority over personnel and the administration of the city, subject to such general rules and direction that council may approve. Under the Civil Service Law, the manager's role is taken by the civil service board. The Commission's recommendation is that the State law is the best practice and the manager may come to council which whatever rules that have been reviewed by the Human Resources professionals for general direction and approval. Councilman Mumpower suggested City Manager Jackson craft some language that provides him with rule-making authority along with some procedure to ensure inclusion and openness of the Civil Service Board and other employee organizations.

Councilman Mumpower spoke against extending the Board membership to qualified voters in Buncombe County; and in support of some periodic review of the Civil Service Board and Law.

City Attorney Oast said that the deadline for submitting local legislation has passed in the General Assembly. But, one of our legislators has introduced a bill that is currently pending to amend the Asheville Civil Service Law, not as comprehensively as this Commission has recommended. He has sent to our legislator copies of the Commission's recommendations letting him know Council will be considering the recommendations.

Councilman Mumpower moved to approve the Blue Ribbon Commission's recommendations with the following amendments: (1) instruct the City Manager to come up with a process or procedure to provide for input from the Civil Service Board, employee organizations, etc.; (2) keep the Civil Service Board membership to qualified voters of the City of Asheville; (3) the Civil Service Board provide City Council with an annual report on the Board's work that provides some opportunity for the Civil Service Board and Civil Service Law to be reviewed, as necessary. This motion was seconded by Councilman Russell.

Mr. Mike Marshall, representing the Asheville Firefighters Association, urged Council to review the recommendations closer. He noted that the first recommendation is to delete Sections 4 and 5. He felt that will basically take the authority of City Council out of any rule approvals.

City Attorney Oast explained that deleting Sections 4 and 5 does not mean that the City Manager can make rules that don't get reviewed by anyone. He would be subject to State law, which requires Council approval.

Mr. Rondell Lance, President of the Fraternal Order of Police in Buncombe County, spoke in opposition of the recommendations presented by the Commission. He felt the Civil Service Law has worked well for the employees and they like the law the way it is written. We had some concerns, which resulted in the appointment of this Blue Ribbon Commission. He felt many of these recommendations take away the power of the Civil Service Board and many of them take away a process that benefits the employees of the City of Asheville. They are asking that the rules of the Civil Service Law be followed and that the employees who have to come before the Civil Service Board receive a fair hearing. He felt the recommendations presented take that away from employees. He felt the recommendations deteriorate the confidence employees have in the Civil Service Board. He also noted that he was not contacted or interviewed, nor was Mr. Marshall or Mr. Dave Anders (who represent employees) by the Blue Ribbon Commission. He urged Council not to adopt the recommendations and let the employees review the recommendations first.

In response to Vice-Mayor Davis about being more specific in his concerns, Mr. Lance said that when the rule-making authority is taken away from the Civil Service Board, you are taking away the oversight for hiring, firing and promotion process.

Councilman Mumpower recalled the Boards & Commissions Committee suggesting the Blue Ribbon Commission interview appropriate staff organizations as part of their mission. He felt it was important to receive input from organized organizations.

Mr. Lou Bisette, member of the Blue Ribbon Commission, said that given the time restraints and mission, they did not interview employees. He explained that the Committee spent a great deal of time with Civil Service Board members, noting that Mr. Bach and Ms. Robinson are the City employee representatives on the Civil Service Board so they feel they did get the view from the employee organizations. He noted there are two parts of the Civil Service Law – (1) the rule making authority for hiring, firing and disciplining; and (2) the grievance procedure. He explained that with all the complicated human resource laws and policies in this day and time that a lay Civil Service Board was not the appropriate body to manage personnel. Regarding the grievance procedure, he explained how the Commission actually strengthened the role of the Civil Service Board and how it is now more streamline and efficient for employees. He noted that all meetings of the Commission were open to the public.

When Councilman Mumpower noted that the minutes of the Boards & Commissions Committee did not reflect language outlining specific groups the Blue Ribbon Commission should seek input from, he felt a step was missed by not talking to employee organizations and withdrew his motion.

Because Councilman Newman felt City Council should take a little more time to review the recommendations, he moved to table action on this matter until May 26, 2009, and give an ad hoc committee of Council (Vice-Mayor Davis, Councilman Mumpower and Mayor Bellamy) the opportunity to meet with employee organizations to hear their specific concerns and to report those back to the full Council on May 26. This motion was seconded by Councilman Mumpower and carried unanimously.

On behalf of City Council, Vice-Mayor Davis thanked the Commission members for their hard work on this issue.

Due to the fact that that the Civil Service Board Blue Ribbon Committee recommendations action was continued until after the cross-over deadline in the legislature, it was the consensus of Council to instruct the City Attorney to contact the legislators and ask them to take whatever action is necessary to allow for Council's recommendation to get full and fair consideration at the appropriate time.

B. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 09-89 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR THE 2009 BYRNE JUSTICE ASSISTANCE GRANT AND TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH BUNCOMBE COUNTY

RESOLUTION NO. 09-90 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FEDERAL TRANSIT ADMINISTRATION FUNDING FOR TRANSIT INVESTMENTS FOR GREENHOUSE GAS AND ENERGY REDUCTION GRANT APPLICATION

American Recovery & Reinvestment Project Manager Brenda Mills updated Council on the following applications for the economic stimulus package.

She said that staff is seeking City Council approval of (1) a resolution authorizing the City to apply for the 2009 Byrne Justice assistance grant and to enter into a Memorandum of Understanding (MOU) with Buncombe County; and (2) a resolution to apply for Federal Transit Administration funding for Transit Investments for Greenhouse Gas and Energy Reduction. In addition, Council will hear an update by David Nash of the Housing Authority's stimulus funding priorities.

Edward Byrne Justice Assistance Grant (JAG) – Local Solicitation

The Asheville Police Department is applying for the JAG – Local Solicitation Award. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. Asheville Police and Buncombe County Sheriff have been allocated \$372,630 with Asheville receiving \$265,466 and Buncombe receiving \$107,164. As part of this grant APD will adopt a MOU with Buncombe County that authorized APD to administer the Grant and disperse the appropriate funds to the Buncombe County Sheriff's Department.

Equipment:

The APD plans to purchase security enhancement equipment for the Municipal Building which will replace funding that was eliminated from the 2009-2010 Budget. The improvements will update the video security system within the Municipal Building, update and add key card access to doors as needed, and integrate an alarm system that makes internal notification of unauthorized entries to secure areas. It is estimated that this will cost approximated \$225,956.

Additionally APD plans to purchase a SPEX AFIS system that will enable APD to scan and enter fingerprints and palm prints into a local system that will analyze the prints and compare with previous sets. This will be a great improvement to the current system as it will use the increasing data compiled local for comparison. It will also be able to use palm prints which we currently do not process.

At its May 5, 2009, meeting, the City Council Finance Committee reviewed the proposed projects and authorized staff to submit the application and MOU for approval by City Council which is a requirement for funding.

Municipal Building Security:

Upgrade to camera system (32 cameras), key card access to critical office areas (50) and integrated alarm system to include associated computer hardware	\$225,956
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SPEX AFIS/APIS:

Computer, monitor, modem, scanner, etc.	\$30,500
Interface with SPEX central server	\$995
Yearly software support	\$1,895
Interface with CCID (Buncombe Detention)	\$995
Shipping, packing and handling	\$625
INDENTIX service contract *	<u>\$4,500</u>

Total:	\$265,466
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This is a 100% non-matching grant that will enable the APD to greatly improve the Municipal Building Security and improve the processing of fingerprints and palm prints to compare to those compiled locally.

There is no fiscal impact at this time for City Council to approve the resolution supporting this application and MOU. The funding is allocated as part of a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. Most of the equipment is replacement of older equipment and is accounted for in the budget.

Pros:

- Security enhancement equipment for the Municipal Building which will replace funding that was eliminated from the 2009-2010 Budget.
- Update to the video security system, add key card access to doors as needed, and integrate an alarm system that makes internal notification of unauthorized entries to secure areas.
- Added technology to scan and enter fingerprints and palm prints into a local system which is great improvement to the current system.

Con:

- None.

FTA Funding for Transit Investment for Greenhouse Gas and Energy Reduction Grant

An interagency team composed by the City of Asheville, Buncombe County and Henderson County transit agencies is proposing that the City of Asheville apply for the Federal Transit Administration (FTA) Funding for Transit Investment for Greenhouse Gas and Energy Reduction (TIGGER) Grant. This program is available to transit agencies for capital projects that either, reduce energy consumption, and greenhouse gas emissions of the transit agency, or both.

The FTA has issued a call for proposals via the American Recovery and Reinvestment Act 2009. The TIGGER program is dedicating \$100 Million in discretionary grants for public transportation projects that reduce a transit system's greenhouse gas emissions or result in a decrease in a transit system's energy use. The proposals must be in the range of \$2 million minimum to \$25 million maximum. FTA is allowing agencies to submit consolidated proposals from different transit agencies.

The interagency team is focusing in replacement vehicles to replace their existing fleet. City of Asheville's Transit System still needs funding to replace four of the 1996 diesel buses; these buses have already reached their life-cycle and though they are still operative, have begun presenting the problems attributable to age, engine repairs, transmissions and other parts. Since these buses are not manufactured anymore, parts are spare and difficult to find and maintenance costs have become burdensome and have increased the operational costs in at least thirty percent (30%). Staff is recommending acquiring four hybrid buses to replace the existing ones; this option offers reduction in greenhouse gas emissions and energy consumption.

Buncombe County and Henderson County are proposing replacing their vehicles (twelve vans and one LTV, respectively) with CNG technology. Henderson County is also applying for a new CNG pump station. Projects selected will be funded 100%. The proposals exclude fleet expansion.

Applications are due by May 22, 2009, and although the City is the primary applicant for this proposal, the projects are awarded to individual projects based on the merits of the proposal.

The City of Asheville's request is \$2,240,000. The total request including Buncombe and Henderson Counties is \$3,749,125. FTA will fund 100% of the project, therefore with no direct impact to the City.

Pros:

- Access to FTA funds will allow the entire fleet replacement which will traduce in savings in maintenance costs, and fuel consumption, as well as reduction in carbon footprint emissions.
- FTA will fund 100% of the project.

Con:

- None.

City staff recommends (1) Adoption of the resolution authorizing the City Manager to apply for the 2009 Byrne Justice assistance grant and to enter into a MOU with Buncombe County; and (2) Adoption of a resolution to apply for Federal Transit Administration funding for Transit Investments for Greenhouse Gas and Energy Reduction.

Councilman Mumpower did not support deficit spending by the federal government in this fashion. He spoke against purchasing hybrid bus and the viability of this new technology.

Director of Transportation and Engineering Cathy Ball said that we have recently learned that we can also request funding that would cover the gap that we needed between the appropriations that we received from Congressman Shuler's office. In 2008, we received \$294,000 for hybrid buses and in 2009 we received \$238,000. We are requesting an additional \$600,000 to purchase both of those hybrid buses.

Councilwoman Cape felt we can't get all this technology worked out until we have a willingness to put it on the street and try it.

Housing Authority Stimulus Funding Priorities

Mr. David Nash, representing the Housing Authority of the City of Asheville (HACA), said that the Housing Authority received a formula allocation of \$3,384,718 in Public Housing Capital Funds under the Recovery Act. Consistent with HUD requirements and with the expedited spending requirements of the Recovery Act, HACA is prioritizing projects that are already in the pipeline:

- Phase 4 of the Klondyke Homes (500 Montford Avenue) modernization and energy efficiency project is being expanded to cover more units and advanced to begin this year. This project is carried out primarily by force account labor, with some external contracting. Work is expected to begin in June or July.
- Roof replacements at Bartlett Arms (121 Bartlett Street) and Altamont Apartments (72 N. Market Street.) will be advanced to begin within the next 12 months. If determined feasible, those roof replacements will be combined with solar energy installations. These projects will be contracted to private sector companies. The Housing Authority is currently evaluating proposals from architect/engineering teams and has solicited proposals from solar energy companies. Design work should begin in June, so that a contractor can be selected in the fall.
- The Housing Authority is currently evaluating energy efficiency options in all developments with our energy performance contractor and may revise these plans or use some of our regular 2009 Capital Fund distribution for other opportunities determined to be feasible.

In our experience, at least 50% of our construction expenditures are for labor. Based on the Buncombe County average annual wage of \$32,968, we estimate that at least 45 jobs will be preserved or created as a result of these projects. This calculation does not include any estimate of the multiplier effect of those wages circulating in the community, or of the jobs created in

manufacturing the materials, appliances and equipment purchased for the jobs

In response to Councilwoman Cape, Mr. Nash said that regarding the Klondyke Homes renovation, the Housing Authority has already modernized approximately 50 units and this funding will add approximately 25 more.

When Vice-Mayor Davis asked for public comments, he received none.

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

Councilman Newman moved for the adoption of Resolution No. 09-89. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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Councilwoman Cape moved for the adoption of Resolution No. 09-90, with the additional \$600,000 request to purchase hybrid buses. This motion was seconded by Councilman Miller and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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At 6:56 p.m., Vice-Mayor Davis announced a short break.

C. PRESENTATION OF THE DOWNTOWN MASTER PLAN AND SETTING A PUBLIC HEARING ON SAID PLAN FOR MAY 26, 2009

Ms. Sasha Vrtunski, Project Manager for the Downtown Master Plan, said that the final version of the Downtown Master Plan is being presented by the consultant team. Public comments are not scheduled for this meeting. The public hearing on the master plan will be held at the Council meeting on May 26, with Council discussions to follow in subsequent meetings.

From the beginning of this process, the Downtown Commission stressed to the consultant team that our community is one of many opinions, and that they would have to work hard to find common ground, and to craft a plan that could meet the needs of many different perspectives. The plan strives to do just that. The recommendations are carefully balanced to help form our future downtown while allowing for creativity, flexibility and new initiatives, offering action on the elements that arose as most important to the greatest number of those who were a part of the process.

The master planning process provided numerous opportunities for citizen and stakeholder input. The turnout was very high - much higher than in any effort in recent years – an estimated 4,000 hours of citizens' time; and there was wide representation of many different perspectives. The consultant team turned that input into a set of design and plan principles and then a set of strategies. Some of these recommendations were initially controversial, and there were numerous discussions between stakeholders to find common ground. Reflecting that effort, some elements that began as recommended strategies evolved into recommendations for future consideration located in the Plan Appendix. As a result, there is a strong feeling among the majority of those who participated in the process that the plan now presents an important middle ground that will improve downtown development through predictability, rational standards and clarity.

Key Dates and Actions:

		Actions Taken
Planning & Zoning Commission	April 1, 2009	Voted 6-0 in support of the plan with two recommendations to Council.
Downtown Commission	April 3, 2009	Voted 8-0 in support of the plan
Downtown Master Plan Advisory Committee	April 9, 2009	Voted 13-0 in support of the plan.

* The Planning and Zoning Commission recommendations are noted in their April 1, 2009, minutes.

A public hearing will be scheduled for the May 26 Council meeting. At this meeting Council will hear from the public, providing a further opportunity for the Council to understand the process and hear varied points of view regarding the plan. The staff recommends that the Council discuss the plan at a meeting in June, at which time the Council can refine their thoughts about the plan, establish areas of general support, and direct staff to come back with any additional information they wish to see regarding

specific elements of the Plan.

Regarding City Council's Strategic Operating Plan, City Council has recently adopted the goal of completing the Downtown Master Plan and to begin implementation.

Staff recommends that City Council set a public hearing on May 26, 2009, to hear public comments on the final plan. Staff also recommends that City Council make the most of the consultants' presence through questions regarding the plan recommendations and strategies. The consultant team has a keen understanding of the complexities of cities, experience nationwide and a solid knowledge of downtown Asheville. This will be the consultants' last trip to Asheville and will complete their contract.

Mr. Pat Whalen, immediate past Chairman of the Downtown Commission, explained how the downtown matters to everyone and it is now a nationally recognized jewel. He thanked City Council for agreeing with the Downtown Commission that it was time to update the Master Plan. After two years of extensive interviews, public meetings and public input and discussion, we now have a new Master Plan.

Mr. David Dixon, representing Goody Clancy, said that the Downtown Master Plan represents the broad-based consensus of Asheville's whole community of downtown stakeholders.

The context for the Plan is (1) New era of growth and change demands better management to preserve downtown's essential character; (2) Economic conditions are fluctuating; (3) Downtown stakeholders have diverse perspectives; (4) ...hence management, resiliency and balance are essential themes; and (5) Plan has deliberate near- and long-term elements.

Community vision includes (1) Sustain Downtown Asheville's dynamic and diverse culture and economy; (2) Enhance Downtown Asheville's role as the larger community's "front porch;" (3) Strengthen Downtown Asheville's identity as a series of residential neighborhoods; (4) Preserve and enhance Downtown Asheville's diverse architecture, historic resources, walkable streets, view corridors; (5) Provide good, interconnected transportation choices for better access *and* better health; (6) Make Downtown Asheville a national model of sustainable planning, development and operations at every level; and (7) Establish creative strategies for managing this special place.

He explained the seven interdependent strategies under three primary themes: (1) Experiencing Downtown Asheville; (2) Shaping Downtown Asheville; and (3) Managing Downtown Asheville. There is also the overall policy under main strategy and details in the appendix.

Mr. Tom Gallaher, sub-consultant for Goody Clancy, explained the following strategies as follows:

One - Cultivate essential cultural and historic resources: (1) *Key issues*: (A) Support affordable housing, the arts and other elements central to downtown's success; and (B) Continue rich legacy of historic preservation. (2) *Response*: (A) Help diverse arts organizations and individuals work together; (B) Support ongoing projects: Art museum expansion, Performing Arts Center, Artists' Resource Center etc.; (C) Update downtown historic district with more landmarks; and (4) Keep historic properties economically viable.

Two – Expand convenient choices for access and mobility: (1) *Key issues*: (A) Ensure parking is available to support downtown businesses; and (B) Improve downtown walkability; and (2) *Response*: (A) Wayfinding, payment, lighting and other safety/convenience improvements for public parking; (B) Additional priority pedestrian streets with ped-friendly design guidelines; and (C) Downtown shuttle study.

Mr. Ben Carlson, with Goody Clancy, explained the following strategies:

Three – Inaugurate an urban design framework to extend downtown's sense of place and community: (1) *Key issues*: (A) Strengthen sense of place; (B) Encourage change where it will help; encourage preservation where it is merited; and (C) Expand the success of the traditional core to areas of untapped potential; and (2) *Response*: (A) Five unique districts – that quality new development will help shape; and (B) Attention to adjoining corridors and neighborhood transitions.

Four – Shape building form to promote quality of place: (1) *Key issues*: (A) Prevent inappropriate building height, mass; and (B) ...but don't curtail economic, cultural, aesthetic opportunity; and (2) *Response*: (A) Defined height zones; (B) Slender buildings with views and daylight between them, reflecting local 1920's precedent; (C) Attention to street scale, character; and (D) Before/after photomontages for evaluation.

Five – Update design guidelines to be current and clear, and to promote sustainable development: (1) *Key issues*: (A) Make guidelines clear and effective; (B) Address housing, scale, other new elements; and (C) Take leadership in green design; and (2)

Response: (A) Streamlined, updated design review checklist integrating *required* zoning requirements and *recommended* design guidelines; and (B) Green design incentives.

Mr. Dixon explained the following final strategies:

Six – Make project review transparent, predictable, and inclusive of public: (1) *Key issue:* (A) Fix broken review process; and (2) *Response:* (A) Early, ongoing public input opportunity; (B) New project review categories – reserving City Council input for the largest projects; (C) Political accountability preserved; (D) Limited use of Conditional Use Permit; (E) Enhanced roles for Downtown Commission (design review), Planning & Zoning Commission (site review); and (F) Defined review period time limits.

He reviewed a chart of the proposed review process for downtown projects with public comments accepted at all steps.

Seven – Nurture a sustainable and resilient economy through active management of downtown: (1) *Key issues:* (A) Keep downtown clean, safe and green; (B) Maintain downtown's remarkable mix of businesses; grow new businesses and jobs; and (C) Reinvest in downtown for continued success; and (2) *Response:* (A) Establish Community Improvement District (CID) to help manage downtown above and beyond city role, maintain healthy mix of businesses and uses; (B) create an economic development arm within CID; and (C) Phase in community benefits fund.

Downtown's stakeholders are ready to put the plan to work. Much of the plan can be implemented soon by City staff at little cost. Economic downtown presents a good opportunity to revise the policy.

Councilwoman Cape thanked the community for participating in this process. Our staff and consultants have done an amazing amount of work. She felt this is a plan that the City of Asheville can utilize as a backbone. She hoped that this Plan will serve a lot of other organizations as well as the City.

Councilman Newman supported delegating more of these decisions to the Planning & Zoning Commission and other bodies, but it appeared to him that the big controversial projects still come to City Council. He questioned how different this process is than what is currently being practiced. He understands the developers want certainty, but if the project is before Council, Council has an obligation to make a meaningful review.

Mr. Dixon said that the review thresholds have been raised by 75% and the Appendix contains a stronger foundation of standards.

Councilman Mumpower felt the primary job of City government is to keep it safe and clean. He didn't feel efforts to have control over others is the best use of our time and resources.

In response to Councilman Mumpower, Economic Development Director Sam Powers said that the contract with the consulting firm was \$170,000 for fees and associated expenses. The other costs (e.g., obtaining 5,000 hours of public input, 14 public meetings, etc.) is estimated at approximately \$37,000.

In response to Councilman Mumpower, Ms. Vrtunski explained the concept of the Community Improvement District and the community benefits fund.

Councilman Mumpower moved to set a public hearing on May 26, 2009, to hear public comments on the final Downtown Master Plan. This motion was seconded by Councilwoman Cape and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO SOLICIT COMMENTS ON A SUBSTANTIAL AMENDMENT TO THE CITY'S 2008-09 CONSOLIDATED ACTION PLAN, DETAILING THE CITY'S PLAN TO ESTABLISH THE FUNDING GUIDELINES AND ALLOCATION PROCESS FOR THE HOMELESS PREVENTION AND RAPID REHOUSING PROGRAM OF \$509,460

RESOLUTION NO. 09-91 - RESOLUTION AMENDING THE CITY'S 2008-09 CONSOLIDATED ACTION PLAN, DETAILING THE CITY'S PLAN TO ESTABLISH THE FUNDING GUIDELINES AND ALLOCATION PROCESS FOR THE HOMELESS PREVENTION AND RAPID REHOUSING PROGRAM OF \$509,460

Vice-Mayor Davis opened the public hearing at 7:59 p.m.

Ms. Amy Sawyer, the City's Homeless Coordinator, said that this is the consideration of a resolution amending the City's 2008-09 Consolidated Action Plan, detailing the City's plan to establish the funding guidelines and allocation process for the

Homeless Prevention and Rapid Rehousing Program of \$509,460. This public hearing was advertised on May 1 and 8, 2009.

The Community Development Division proposes that the City substantially amend its 2008-09 Consolidated Annual Action Plan to enable the City to receive funding under the Homelessness Prevention and Rapid Re-Housing Program (HPRP). The total amount of federal "Homeless Prevention Funds" funds, which have been made available to the City per Division A, Title XII of the American Recovery and Reinvestment Act of 2009, is \$509,460.

The City of Asheville is expected to receive \$509,460 in Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds. Eligible activities are financial assistance, housing relocation and stabilization services, data collection and administration, and administrative costs.

The City of Asheville Planning Department's Community Development Division proposes to competitively distribute HPRP funding to local agencies, which will use these funds to prevent homelessness and to rapidly re-house persons who have become homeless. The Division expects that up to 150 households will receive financial assistance and housing relocation and stabilization services with the HPRP funding.

A commitment to community input is evidenced by the plan's incorporation of the City of Asheville's public meetings policy, discussions with the Homeless Coalition, and discussions with the Homeless Initiative Advisory Committee.

A pre-application process will identify eligible agencies. Eligible agencies will be asked to submit an application for funding. Applications will be reviewed and funds will be committed before September 30, 2009. HPRP guidelines require that all funds be used within a thirty-six month period, or by September 30, 2012. Additionally, guidelines require that all program activities be recorded using the Carolina Homeless Information Network's Homeless Management Information System, or HMIS. The City and Sub-Grantee(s) will use five percent of the \$509,460 allocated to City of Asheville for administration of the grant. The program will be coordinated by the Community Development Division of the City of Asheville and subject to all associated US HUD regulations.

Partner agencies of the Homeless Initiative have already implemented elements found in the HPRP program guidelines in existing programs. The County, along with partner agencies of the Homeless Initiative, sees this as a strength and is hoping to apply to the State of North Carolina for an additional \$500,000-\$1,000,000 in HPRP funds to bolster the City's program.

The Substantial Amendment to the Consolidated Action Plan directly relates to the Council's Strategic Goal of *Affordable*, meeting the objective of implementing strategies in the 10-Year Plan to End Homelessness. Specifically, this amendment will allow funds to be directed to prevention and rapid re-housing, strategies that thus far have been drastically underfunded.

Pros:

- Approval of the Action Plan paves the way for the receipts of \$509,460 in HUD funding to the City, which will be used to prevent homelessness and rapidly re-house approximately 150 people.
- The City's application promotes a similar application by Buncombe County for North Carolina's HPRP funds, which could more than double the impact of HPRP funds in our community.

Cons:

- HPRP funding, like all funds from America's Reinvestment and Recovery Funds, have a very tight timeline and strict outcomes reporting, which requires staff time and community collaboration to successfully implement.
- HPRP funding will not renew, and must be spent within two-three years once the grant agreement is signed. When HPRP funding ends, other funding sources will be needed to sustain the program if it is deemed successful and vital to meeting the goals of the 10-Year Plan to End Homelessness.

By preventing homelessness and rapidly re-housing households that are in a housing crisis, we limit the probability that individuals will become chronically homeless. The 10-Year Plan estimates that it can cost up to \$12,000 in public funds to pay for someone who is experiencing chronic homelessness. The project increases the likelihood that individuals and families will maintain their employment, education, and community relationships.

Staff recommends approval of the resolution authorizing submission of a substantial amendment to the City's Consolidated Annual Action Plan for 2008-09 to the U.S. Dept. of Housing and Urban Development.

Vice-Mayor Davis closed the public hearing at 8:02 p.m.

In response to Councilwoman Cape, Ms. Sawyer said that to qualify for the program, people have to show that they will be

able to sustain their own housing after the financial assistance is over. The longest period of financial assistance someone could receive is 18 months.

When Councilman Mumpower asked if the faith based communities will have access to this funding option, Ms. Sawyer said this is just like any other grant that has come through the Community Development Division.

Councilman Mumpower said that he has a personal concern that the 10-Year Plan devotes a lot of revenue to what is arguably an unsustainable model, which basically follows the public housing model. He is concerned we will not find the funding for it going forward. He felt that public housing in this community has proven to be an incubator for drugs, crimes, etc. that put our children and elderly at risk. He felt that the faith based communities can achieve a better sustainability aspect regarding social services for providing permanent housing or transitional housing. He has requested Mayor Bellamy schedule a presentation from the faith based communities regarding where there might be better places to invest our dollars. He was also concerned that there is a never ending supply of homeless people in our community and that we are chasing an impossible effort. Not that we shouldn't continue to try, but to use our dollars wisely and we are not doing that. He was also concerned spending these borrowed federal dollars. He felt that the lack of accountability in a lot of our services is a missing part of the equation.

Councilwoman Cape said that the world has always had people that needed care and we are trying to find compassionate and healthy successful models. .

Councilman Miller was confident that with the help of private organizations and the faith based community we can strive to reduce homelessness.

Councilman Newman supported this action in that in our current economy there are thousands of people who are without a secure paycheck living paycheck to paycheck. This program will help them from becoming homeless.

Vice-Mayor Davis stated that there are a lot more people on the street, whether they are there by choice or situation. He would be amiss not to support funding to help curb that, however, the atmosphere in the western corridor of Asheville needs some accountability and we must continue to try to do something different.

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

Councilman Newman moved for the adoption of Resolution No. 09-91. This motion was seconded by Councilman Miller and carried on a 4-2 vote, with Councilman Russell and Councilman Mumpower voting "no."

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V. UNFINISHED BUSINESS:

A. QUARTERLY REPORTS

Planning & Economic Development Chair Report

Councilwoman Cape, Chair of the City Council Planning & Economic Development Committee, provided Council with an update of their activities during the last quarter. She thanked her other Committee members of Vice-Mayor Davis and Councilman Russell for their hard work on this Committee.

Strategic Operating Plan

Assistant City Manager Jeff Richardson reviewed with Council the 2008-09 Strategic Operating Plan.

In the affordable focus area (1) Preliminary HOPE VI feasibility study complete (funded by the City of Asheville); (2) Focusing on two properties, Aston Park Tower and Lee-Walker Heights; (3) Proposals for architectural and engineering services currently being evaluated; (4) Design teams selected by end of May to proceed with site planning, analysis and design work; (5) Community outreach meetings underway and will continue throughout design process; (6) Three new Housing Trust Fund loans were approved, totaling \$670,000; (7) The Asheville Regional Housing Consortium allocated \$1.5 million dollars of federal HOME for affordable housing in the four county consortium region; (8) The HOME and CDBG application process resulted in the preliminary approval for funding for the creation of 316 new units of affordable housing; and (9) 37 Asheville City homes owned by lower-income households will be improved using new CDBG funding.

In the green focus area (1) Public Works (a) Collected 17,958.81 tons of solid waste in Fiscal Year (FY) 2008-2009; (b) Collected 3,877.70 tons of recyclable material in FY 2008–09; (c) Completed 35 side walk maintenance work orders and installed

two ADA ramps; (d) Swept 1,341 miles of roadway and collected 1,010 tons of debris; and (e) Completed two energy conservation campaigns with Asheville Fire & Rescue Department (AFR) and Parks and Recreation; (2) Information Technology (a) Telework Program - Supports 5-10% of work force.; (b) Automatic PC Shutdowns - Estimated savings of \$12,000; and (c) Hardware Procurement - Achieved 100% of CRT to LCD monitor replacements (69% less energy consumed); and (3) Transportation and Engineering (a) Received grant money from Congressman Heath Shuler for Hybrid bus; and (b) Continued implementation of the Environmental Management Systems Training.

In the safe focus area of AFR (1) AFR's annual compliance report was approved by the Center for Public Safety Excellence. This approval allows AFR to remain an accredited fire and rescue department; and (2) AFR is working on a transitional agreement to service a portion of the current Haw Creek fire district for FY 2009-10.

In the safe focus area of the Asheville Police Department (APD) Downtown Initiatives (1) In 2008 APD conducted 6,469 business contacts made and 117 plainclothes/surveillance operations; (2) Improvements in 2008: (a) Violent Crime in the downtown reduced by 30%; and (b) Property Crime reduced by 13%; (3) As of April 2009 APD conducted (a) 3,760 business contacts; and (b) Over 69 plainclothes/surveillance operations; and (4) 2009 Initiatives (a) Downtown Task Force; and (b) South Central District to the Economic Development Office. In addition, 18 cadets from the APD Academy graduated in March of 2009.

In the sustainability focus area (1) City of Asheville Leadership Academy (CAYLA) (a) All CAYLA Seniors have been accepted and will attend college in fall; and (b) CAYLA class completed 402 hours of community service this academic year; (2) Building Safety First Quarter Reporting (a) 2007 avg. 246 Building Permit Applications; (b) 2008 avg. 320 Building Permit Applications; (c) 2009 avg. 220 Building Permit Applications; (d) % change from 2008 to 2009 - 31% decrease; and (e) % change from 2007 to 2009 - 10.5% decrease; (3) Water Bond Project (a) Water Bond projects are approximately 90% complete; (4) Partnership Expansion with UNC-Asheville (a) GIFT Program for Reid Center; (b) Health and Wellness; (c) Culture and Recreation; (d) Economic Development and Technology; and (e) Public Safety; and (5) Partnership expansion with A-B Tech (a) Oakley Police Sub-station.

Mr. Richardson said that Council has been provided with an economy report for Fiscal Year 2008-09 (3rd Quarter). He reviewed charts on (1) employment change by major industry; (2) unemployment rates; (3) monthly home sales - units; (4) monthly home sales - average price; (5) residential building permits - units; (6) residential building permits - value; (7) City business licenses; and (8) special focus of unemployment rate by Metro.

He said that Council has been provided with the Asheville Police Department's outreaches/actions for January-March 2009.

B. BUDGET

3rd Quarter Financial Report

Chief Financial Officer Ben Durant briefed Council on the following City's overall financial position for the fiscal year through March 2009.

In summary, regarding General Fund revenues, (1) Property Taxes: (a) 96% of budget collected to date; (b) Will exceed budget by \$150,000; (2) Sales Taxes: (a) 9 months collected to date; (b) Down 4.2% compared to prior year; and (c) Will come in under budget by \$1.7-1.8 million; (3) Intergovernmental: (a) Will exceed budget by \$400,000 (State Utility Taxes); and (4) Overall, revenues will fall short of budget by \$800-900,000.

In summary, regarding General Fund expenditures (1) Departments remain on track to achieve \$1.0 million targeted savings goal (a) Selective hiring program; (b) Delay vehicle & equipment purchases; (c) Civic Center capital project savings; and (d) Departmental line item reductions; and (2) Health care expenses are trending higher in recent months; (a) Possible budget amendment prior to June 30.

He then reviewed the bottom line of Fund Balance being the adopted budget was 20.3%, the current budget is 19.9% and the year-end estimate is 19.8%.

The following is more detailed information:

Amendments. During the 3rd quarter, the General Fund budget was amended two times, resulting in an overall increase in the budget of \$152,926. The amendment for the cleaning of the City Hall ventilation system included an appropriation from fund balance of \$119,013. Below is a summary of all of the General Fund budget amendments adopted since the start of the fiscal year.

<u>Amendment</u>	<u>Amount</u>
------------------	---------------

Bullet Proof Vest Grant	\$23,018
Energy Management Plan*	50,000
Unison Economic Development Incentive*	47,250
Grove Park Inn Fireworks Donation	40,000
City Hall Ventilation System Cleaning*	119,013
Biltmore Park Street Light Removal	<u>33,913</u>
Total Amendments	\$313,694

* Fund balance appropriations total \$216,263

Revenues. Through March 31, 2009, the City has collected \$72.9 million in General Fund revenue, which represents approximately 82% of the total General Fund revenue budget. At the end of the 1st quarter, staff projected that the economic recession would result in a \$1,000,000 revenue shortfall in the General Fund in the current year. In recent months, sales tax collections have continued to decline, however, other revenues have improved such that the overall revenue picture remains nearly unchanged. Staff now projects that FY 2008-09 year-end *revenue will fall short of budget by \$1,100,000.*

Expenditures. General Fund expenditures through March 31st, total \$64.6 million or 71% of the budget. Staff reported to Council in October that the management team had identified a set of budget savings strategies to address the current year budget shortfall, which at that point was projected to be \$1.0 million. These strategies included, among others, implementation of a selective hiring program and the delay of capital equipment purchases. These expenditure targets remain on track as of the end of the third quarter. Staff is currently monitoring health care expenses and may return to Council prior to June 30 to request an amendment to the health care budget.

Fund Balance. The City ended FY 2007-08 with available fund balance of \$19.67 million or 19.3% of year-end FY 2007-08 expenditures. Based on current year-end revenue and expenditure estimates, which include the \$1.0 million in budget savings mentioned above, staff is projecting that *unreserved fund balance will end FY 2008-09 at \$17,699,260, which will equate to 19.8% of estimated year-end expenditures.*

Formal Budget Presentation

Chief Financial Officer Ben Durant said that the objectives are to (1) provide an overview of the Fiscal Year (FY) 2009-10 General Fund budget; and (2) review the remaining budget schedule.

Budget themes for revenues include sales tax decline, property tax base growth/ annexation, no property tax increase, and user fee increases.

Budget themes for expenditures include significant cost increases; no service cuts; no market or merit pay adjustments; management streamlining and reorganization; and minimal capital funding.

Using charts he reviewed the recession impact regarding sales taxes and also property tax base growth.

Revenue adjustments include (1) No property tax rate increase; and (2) Revenue Enhancements: (a) Council-Approved fee adjustments - \$700,000 (i) Adjust household recycling to 100% cost recovery; and (ii) Increase Nature Center admission fees; and (b) Ridgefield/Airport Road Annexation Net Gain - \$325,000.

Cost increases total \$2,558,000. They are health insurance - \$870,000; Biltmore Town Center Economic Development Payment - \$450,000; Electricity - \$200,000; Street Lighting \$175,000; Election Costs - \$160,000; Technology Expenses - \$150,000; Fleet Maintenance - \$130,000; Fire Annexation Contracts - \$120,000; Joint City/County Programs - \$107,000; Recycling Program - \$76,000; Tipping Gees - \$65,000; and Emergency Notification System - \$55,000.

Personnel budget reductions include (1) Salary Freeze (a) Eliminate Market Adjustments - \$1,000,000; (b) Eliminate Merit Pay - \$750,000; (2) Re-Engineering & Management Streamlining (a) Eliminate 20 General Fund positions - \$1,000,000; (b) Reduce overtime requests by 7.5% - \$150,000; and (3) Early Retirement Incentive (a) 63 employees accepted; (b) Absorbed payouts with managed savings; and (c) Savings to be realized in subsequent budgets.

Operating reductions include (1) Transit Fund Subsidy - \$700,000; (2) Housing Trust Fund Contribution - \$300,000; (3) Fund Municipal Building Security w/ Grant - \$150,000; (4) Discontinue Ice at the Civic Center - \$50,000; and (4) Fund Sidewalks with ARRA Grant - \$140,000.

Strategic priorities include (1) downtown cleanliness - \$100,000; and (2) Pack Square Park maintenance (County will

reimburse the City \$150,000) - \$300,000.

Capital improvements for major funded projects include: Annexation Sewer Projects - \$1,870,000; Street & Sidewalk Maintenance - \$952,300; Vehicle Replacement - \$752,000; Golf Course Irrigation Phase II - \$300,000; Overlook Park Land Purchase - \$250,000; Civic Center Improvements - \$250,000; Walton Street Pool Improvements - \$200,000; and Building Security - \$125,000.

He then reviewed the General Fund revenue and expenditure summaries.

Finally, he outlined the recommended schedule of (1) May 26 – Budget worksession at 2:30 p.m.; (2) June 9 – public hearing; and (3) June 23 – budget adoption.

Councilman Russell moved to set a budget worksession on Tuesday, May 26, 2009, at 2:30 p.m. in the Council Chamber, located on the 2nd Floor of City Hall. This motion was seconded by Councilwoman Cape and carried unanimously.

Motion setting a public hearing on June 9, 2009, for adoption of the Fiscal Year 2009-10 Annual Operating Budget

Councilman Newman moved to set the public hearing for adoption of the Fiscal Year 2009-10 Annual Operating Budget on June 9, 2009. This motion was seconded by Councilwoman Cape and carried unanimously.

C. PARKING GARAGE AFTER-HOURS PARKING RATES

Director of Transportation and Engineering Cathy Ball said this is an opportunity for City Council to revisit after-hours parking rate increases adopted by Council as part of the Fiscal Year 2009 budget.

In April 2008, City Council approved increasing the after-hours parking rates as shown in below. After-hours refers to hours where the parking garages are not staffed. These hours are from 7:00 p.m. to 10:00 a.m. and weekends except for special event parking.

	Current	Approved FY 2009	
Wall Street	Flat \$2.00	\$0.75 per hour	Max. \$8.00
Rankin Avenue	Flat \$1.00	\$0.75 per hour	Max. \$8.00
Civic Center	Flat \$1.00	\$0.50 per hour	Max \$8.00

The rates above were scheduled to be implemented following the installation of parking control equipment capable of tracking these costs. Ninety-percent of the equipment was installed this winter, with only the prepaid acceptors remaining.

Using a chart, she showed the current rates along with the proposed rates for each of the three parking garages.

As Council is aware, our economic landscape has changed over the past year to the point that staff wanted to give City Council the opportunity to revisit this change prior to implementation.

The new parking garage located on College Street and operated by Buncombe County charges \$1.00 per hour and a maximum daily rate of \$8.00.

Staff presented this item to Downtown Association in April 2009. The comments from the group were mixed with some representatives requesting no change and others support the increase as a way to increase revenue for future parking infrastructure. The issue will be presented to the Downtown Commission on May 8, 2009. The Commission requested staff to review their recommendations of: (1) a volume discount for monthly parkers (a) currently 160 qualify; (b) proposal if > 10 spaces = 10% discount; and (c) \$15,000 cost; and (2) a volume discount for validation coupons (a) approximately 30,000 per year; (b) 10% discount > 100 coupons; and (c) maximum cost of \$3,000.

The Finance Committee of City Council reviewed this request and asked staff to bring this issue before the entire Council.

The approval of these fees complies with the City's plans and commitments to continue with a sustainable funding source for the parking enterprise fund for the purpose of providing public parking in downtown.

Pros:

- Additional revenue generated will offset the capital cost of the parking control equipment.

- Additional revenue will be used to fund future parking infrastructure in downtown.
- The increased rate may encourage people to purchase monthly parking spaces in the Civic Center Garage.
- Allows for consistency in applying the parking rates.

Con:

- The increased rate may discourage use of the parking garages.

Staff anticipates additional revenue of approximately \$30,000 per year as a result of the approved rate increase. The increase is not as high as originally expected because Council requested that the first hour free apply to after-hours rate. (The first hour is not free currently after-hours.)

Staff requests Council review and direct staff to implement the rate increase as approved by City Council in the Fiscal Year 2009 budget.

In response to Councilman Miller, Ms. Ball said that some benefits of the new equipment include easier use of dollar bills and debit and credit cards being accepted.

Ms. Ball responded to Councilman Mumpower's inquiry about enforcement of parking meters after 6:00 p.m. She said the Downtown Master Plan has a recommendation in it to increase the hours of enforcement. As a result of that we have been doing some evaluation of the cost and benefits associated with it. There are some challenges in that our current meters are not illuminated and an enforcement officer cannot easily be able to determine whether someone is parked illegally or not. During the summer months it may be possible to increase the time without having the meters changed out at a capital expense. She noted that it would be cheaper for people to park in the parking garages if they are parking for 3 hours or less. At this point, it is not staff's recommendation to increase the hours of enforcement.

Upon inquiry of Councilman Russell, Ms. Ball said that she would be happy to review the Downtown Commission's recommendations and report back to the City Council Finance Committee.

Vice-Mayor Davis felt the Downtown Commission would be looking for more than a 10% discount for monthly parkers, but the volume discount for validation coupons may have some merit.

In response to Councilwoman Cape, Ms. Ball said that if people had to pay this hourly rate (approved earlier by Council), the best they can determine is they would pay more than \$60 a month (opposed to \$40 a month currently). There is also the recommendation of a 10% discount for monthly parkers.

Councilman Miller encouraged staff to work with the Downtown Association to promote the benefits of using the parking garages vs. metered parking.

Councilman Newman said that since we have extra capacity at the Civic Center, he suggested we look at a more deeply discount at the Civic Center Parking Garage. Let's try to give people some less expensive option than parking at the metered spaces.

Councilwoman Cape felt that parking in our parking garages is a bargain compared to parking in other cities.

Ms. Ball said that staff has developed a 30-day communication plan so we do ask that the rates be effective July 1, 2009, opposed to being implemented immediately.

Councilman Mumpower suggested that any decisions made about rate increases should be part of a comprehensive effort, rather than an incremental effort. Therefore, he recommended the after-hour parking rate increase action be tabled and occur at the same time the volume discounts are discussed.

Councilman Russell said that this issue was discussed six months ago and supported moving forward.

In response to Councilwoman Cape, it was the consensus of Council to instruct City Attorney Oast to research the issue enforcement limitations for on-street handicap parking.

It was the consensus of Council to instruct City staff to review the recommendations of the Downtown Commission regarding volume discounts for monthly parkers and validation coupons and report back to Council with an analysis in approximately 4 weeks, so it can be adopted prior to the new fiscal year.

Councilman Russell moved to implement the after-hours parking rate increases as approved by City Council in Fiscal Year

2009 budget, effective July 1, 2009. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

D. RESOLUTION NO. 09-92 - RESOLUTION APPROVING THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-10 WHICH ALLOCATES COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM FUNDS TO SPECIFIC PROJECTS

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing submission of the City's Consolidated Action Plan for Fiscal Year (FY) 2009-2010 which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year.

The City expects to have available an estimated \$1,500,614 in CDBG funds and \$1,553,887 in HOME funds in the fiscal year beginning July 1, 2009. 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.

A public hearing was held at the Council meeting of April 28. No comments were received at the meeting, and none have been submitted in writing. The plan is due to be submitted to HUD by May 15.

This action complies with the City Council's Strategic Operating Plan in that it Plan directly relates to the Council's Strategic Goals of: Affordable: This plan directly supports the City's affordable housing plan, supports the city-owned land redevelopment process, and supports the development of new workforce housing in the City. It supports initiatives to end homelessness in Asheville; Green: All new housing units will, at a minimum, be Energy Star rated, and most will exceed that level of energy efficiency. A new weatherization program in the West Riverside Weed and Seed area will increase energy efficiency for at least 25 existing low income households there; Safe: Transit shelters and sidewalk improvement will improve the safety of our public infrastructure. Emergency home repairs will improve the health and safety of at least 37 Asheville households, primarily elderly households; and Sustainable: New apartments will be affordable for at least 30 years to households earning 50%-60% of median income. A new job training program for youth will focus on emerging jobs in "green" businesses.

Pros:

- Approval of the Action Plan paves the way for the receipts of over \$2,900,000 of HUD funding to the City, which will be used to create affordable housing, create jobs, and improve public infrastructure.
- HUD funding will leverage \$25,000,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. New assisted housing units to be constructed in Asheville will add at least \$10,600,000 to the City's tax base.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2009-10 to the U. S. Dept. of Housing and Urban Development.

When Vice-Mayor Davis asked for public comments, none were received.

Councilman Mumpower felt this money will be for nice, but not necessary projects. He did not think this is the appropriate expenditures of revenues.

Councilwoman Cape said that the amount of return is phenomenal on these projects. This money will be well spent stimulating our economy.

Vice-Mayor Davis 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. 09-92. This motion was seconded by Councilman Miller and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 45

Introduction

City Manager Jackson was pleased to recognize new Water Resources Director Steve Shoaf.

E. RESOLUTION NO. 09-93 - RESOLUTION TO ESTABLISH A PLAN FOR MULTIPLE PERMITTING FOR PACK SQUARE IN PACK SQUARE PARK

Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this is the consideration of a resolution to establish a plan for multiple permitting for Pack Square in Pack Square Park.

The use of Pack Square Park for outdoor special events has been limited due to park construction. Once complete, the park is destined to become one of the premier downtown event locations for organizations and event organizers. The first section of the park, the Pack Square area, will soon be complete and scheduled to open in late April or early May. The Pack Square area consists of 3 distinct sub areas, each of which may accommodate events without requiring the use of other sub areas. The sub lease plan would allow for separate events to be permitted within the Pack Square area of Pack Square Park.

The lawn area adjacent to the Biltmore Building (orange shaded area – Area A) would lease for the standard park usage fee of \$100 for the first three hour and \$25 for each additional hour. Per the Outdoor Special Event Guide, fees would be charged from the time of event set up to breakdown. Event organizers would have access to available electricity and water and would be required to obtain and additional required permits.

The streets within the Pack Square area (N. Pack Square and S. Pack Square – Area B) would not require the park usage fee. However, event organizers would still be required to obtain required permits such as outdoor special event permit, street closing permit, parking meter closings, building fire safety permit, etc. This would enable event organizers to obtain an Outdoor Special Event Permit for a street festival or event without use of the lawn. Should the event organizer require use of the lawn, the park usage fee would be applied.

The plaza area in front of Pack Place and Asheville Art Museum (Area C) would not require the park usage fee, would only be available for small programs and may be subject to additional permitting. Events proposed in that area will be reviewed individually with consultation of other City departments to determine the safety and appropriateness of the event.

This action complies with the Parks, Recreation, Cultural Arts and Greenway Master Plan in that it assures that administrative policies promote effective provision of community festivals and events.

Pros:

- Allows the community affordable use of the Pack Square area of Pack Square Park;
- Allows for multiple events within the proposed area;
- Allows for permitting of the space to begin in conjunction with park construction completion;
- Allows for better fee consistency across all City parks.

Cons:

- Fees will not recover all operating costs Pack Square Park rental;
- Heavy use of Pack Square area could have an impact of the infrastructure, which may drive operational expenses higher in the future;
- Multiple events in the Pack Square area may compete with each other and may require additional coordination with event organizers.

Park rental will generate revenue to offset operating cost.

Staff recommends City Council adopt a resolution to establish multiple permitting plan Pack Square.

When Vice-Mayor Davis asked for public comments, none were received.

Councilman Miller said that while construction is on-going, he suggested some permanent ties in specific areas for tenting.

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

Councilman Mumpower moved for the adoption of Resolution No. 09-93. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 48

VI. NEW BUSINESS:

A. RESOLUTION NO. 09-94 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THREE EASEMENT DONATIONS FROM 265 BROADWAY LLC FOR THE PURPOSE OF IMPLEMENTING PHASE IV OF THE REED CREEK GREENWAY

Ms. Nikki Reid, Real Estate Manager, said that this is the consideration of a resolution authorizing the Mayor to accept three (3) easement donations (portions of PIN# 9649-23-7361-00000, 9649-23-8213-00000, and 9649-23-8163-00000) from 265 Broadway, LLC for the purposes of implementing Phase IV of the Reed Creek Greenway.

The City is in need of easements through three (3) contiguous properties in an effort to obtain 100% of the right-of-way necessary to implement Phase IV of the Reed Creek Greenway. The owner of all three (3) properties, 265 Broadway, LLC, has offered to donate the easements to the City. Once accepted, the City will have a majority of the right-of-way required for the project.

The total size of the contiguous easements is 0.10 acres. The City has not commissioned a professional appraisal of the property. Based upon the latest Buncombe County tax appraisal, the total value of the land being donated to the City is estimated at \$45,150. The City will pay for all transaction costs associated with the easement.

This action complies with (1) City Council's Strategic Plan in the Green Focus Area in that it advances a multi-modal transportation plan, which includes greenways, and pursues opportunities to preserve open space; (2) the Asheville City Development Plan 2025 in that it implements the adopted Greenway Master Plan; and (3) the 2008 Parks, Recreation, Cultural Arts, and Greenways Master Plan in that it provides for further development of an existing greenway identified in the Master Plan.

The Greenway Commission unanimously approved of the acceptance of the easements during their regular meeting on April 9th, 2009.

Pros:

- The easement is being donated, allowing significant costs savings for the City.
- Acceptance of the easement will allow the project to be completed.
- Increases the City's inventory of park space.

Con:

- Added maintenance costs.

-

Cost savings estimated at \$45,150. City staff will prepare closing documents and perform final closing.

City staff recommends City Council adopt a resolution authorizing the Mayor to accept three (3) easement donations (PIN# 9649-23-7361-00000, 9649-23-8213-00000, and 9649-23-8163-00000) from 265 Broadway, LLC for the purposes of implementing Phase IV of the Reed Creek Greenway.

When Vice-Mayor Davis asked for public comments, none were received.

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

Councilman Mumpower moved for the adoption of Resolution No. 09-94. This motion was seconded by Councilwoman

Cape and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 50

B. RESOLUTION NO. 09-95 - RESOLUTION AUTHORIZING THE MAYOR TO ACQUIRE IN FEE SIMPLE A 0.214 +/- ACRE PARCEL LOCATED ON BROADWAY STREET FROM MIEGAN AND CHANDLER GORDON FOR THE PURPOSE OF IMPLEMENTING PHASE II OF THE REED CREEK GREENWAY

Ms. Nikki Reid, Real Estate Manager, said that this is the consideration of a resolution authorizing the Mayor to execute all necessary documents to perform the fee simple acquisition of a portion of PIN # 9649-14-5085-00000 located on Broadway Street, for the purposes of implementing Phase II of the Reed Creek Greenway, for the amount of \$20,000.

The subject property is located on Broadway Street about 400 feet west of the intersection of Ocala Street and Broadway. The property size totals 1.48 acres, however to accommodate for the Reed Creek Greenway, Phase II, the City is requesting authorization to purchase a 0.214 acre portion from owners Miegan and Chandler Gordon. A MSD sewer line runs the length of this 0.214 acre portion. The Gordons are requesting to retain a sewer easement on the property in order to maintain access to sewer line as part of this transaction, with the exact location of the easement to be determined prior to closing. The property was appraised Richard Smith of Dry Ridge Appraisal Services, LLC. Nikki Reid, Real Estate Manager, reviewed the appraisal and recommended a fair market value of \$20,000 based on the appraisal.

This action complies with (1) City Council's Strategic Plan in the Green Focus Area in that it advances a multi-modal transportation plan, which includes greenways, and pursues opportunities to preserve open space; (2) the Asheville City Development Plan 2025 in that it implements the adopted Greenway Master Plan; and (3) the 2008 Parks, Recreation, Cultural Arts, and Greenways Master Plan in that it provides for further development of an existing greenway identified in the Master Plan.

The Greenway Commission unanimously approved of the purchase of a 0.214 portion of PIN # 9649-14-5085-00000 on Broadway Street during their regular meeting on April 9th, 2009.

Pros:

- With the purchase of the property, the City will have acquired 100% of the right-of-way necessary to implement the Phase II of the Reed Creek Greenway, therefore allowing the implementation phase to begin.
- Increases the City's inventory of park space.

Con:

- Added maintenance costs.

The fiscal impact is the compensation for property to the Gordons in the amount of \$20,000. Funding for the stated purchase has been allocated by City Council via the Fiscal Year 2008/09 capital budget. City staff will prepare closing documents and perform final closing.

City staff recommends City Council adopt a resolution authorizing the Mayor to establish \$20,000 as the just compensation for the property and to execute all necessary documents to perform the fee simple acquisition of a 0.214 acre portion of PIN # 9649-14-5085-00000 on Broadway Street for the purposes of implementing Phase II of the Reed Creek Greenway.

When Vice-Mayor Davis asked for public comments, none were received.

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

Councilman Mumpower moved for the adoption of Resolution No. 09-95. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 51

C. RESOLUTION NO. 09-96 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL ON MAY 29-31, 2009

Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this is the consideration of a resolution authorizing the City Manager to make provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports

Festival on May 29-31, 2009.

Mountain Sports Festival, Inc. has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival event coordinated by the City of Asheville and allow for consumption at this event.

Mountain Sport Festival, Inc. has received the special one time permit from the North Carolina Alcoholic Beverage Control Commission (ABC) for each of the dates and event organizers are expected to complete the ABC Responsible Seller Training Program which is offered at no charge and can be done in person or on line.

The Mountain Sports Festival will be held on Friday, May 29, 2009 from 5:00 p.m. to 10:00 p.m., Saturday, May 30, 2009 from 10:00 a.m. to 10:00 p.m., and Sunday, May 31, 2009 from 12:00 p.m. to 6:00 p.m. within the boundaries of Carrier Park and will be free and open to the public.

This action does not comply with the City Council Strategic Operating Plan nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

- Allows fundraising opportunity for Mountain Sports Festival, Inc.

Con:

- Potential for public safety issues.

There is no fiscal impact to this decision.

- City staff recommends City Council adopt a resolution authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival on May 29 – May 31, 2009.

When Vice-Mayor Davis asked for public comments, none were received.

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

Councilman Newman moved for the adoption of Resolution No. 09-96. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting “no.”

RESOLUTION BOOK NO. 32 – PAGE 52

D. RESOLUTION NO. 09-97 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOWNTOWN AFTER 5 EVENTS ON MAY 15, JUNE 19, JULY 17, AUGUST 21 AND SEPTEMBER 18, 2009

Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this is the consideration of a resolution authorizing the City Manager to make provisions for the possession and consumption of malt beverages and/or unfortified wine at Downtown After Five on May 15, June 19, July 17, August 21, and September 18, 2009.

The Asheville Downtown Association, Inc. has requested through the Asheville Parks, Recreation and Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Downtown After Five event and allow for consumption at this event.

The Asheville Downtown Association has received the special one time permit from the North Carolina Alcoholic Beverage Control Commission (ABC) for each of the dates and event organizers are expected to complete the ABC Responsible Seller Training Program which is offered at no charge and can be done in person or on line.

Downtown After Five will be held on Friday, May 15, 2009 from 5:00 p.m. to 9:30 p.m., Friday, June 19, 2009 from 5:00 p.m. to 9:30 p.m., Friday, July 17, 2009 from 5:00 p.m. to 9:30 p.m., Friday, August 21, 2009 from 5:00 p.m. to 9:30 p.m., and Friday, September 18, 2009 from 5:00 p.m. to 9:30 p.m. within the boundaries of the 100 block of Lexington Avenue and will be free and open to the public.

This action does not comply with the City Council Strategic Operating Plan, nor does it comply with the Parks, Recreation and Cultural Arts Master Plan.

Pro:

- Allows fundraising opportunity for the Asheville Downtown Association.

Con:

- Potential for public safety issues.

The fiscal impact would be overtime pay for Asheville Police officers per City co-sponsorship agreement.

-
City staff recommends City Council adopt a resolution authorizing the City Manager to make provision for the possession and consumption of malt beverages and/or unfortified wine at Downtown After Five on May 15, June 19, July 17, August 21 and September 18, 2009.

When Vice-Mayor Davis asked for public comments, none were received.

Councilman Mumpower felt that the climate of activity changes with alcohol and we don't need to encourage that in our activities, especially since there are bars downtown that provide that service.

Councilwoman Cape would be open to hearing the conversation from the Downtown Association after they poll their merchants to see how they feel about the sale of alcohol at these events.

In response to Councilman Russell, City Attorney Oast said that there is a provision in the law that requires the City's approval to allow open containers on the streets. Councilman Russell noted that people cannot go into a restaurant or bar during Bele Chere to buy a drink and then drink it on the street.

Vice-Mayor Davis said that the groups (which are generally charitable and non-profits) that actually sell the wristbands are beneficiaries of the alcohol sales. The Downtown Association has difficulty funding these events without the sale of alcohol. He felt this does have a good economic effect and is well controlled.

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

Councilman Newman moved for the adoption of Resolution No. 09-97. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 55

E. RESOLUTION NO. 09-98 - RESOLUTION REQUESTING FEDERAL FUNDING FOR THE AUTOMATED VEHICLE LOCATION SYSTEM

Director of Transportation and Engineering Cathy Ball said that this is the consideration of requesting federal funding for an Automated Vehicle Location system (AVL) in the amount of \$416,000 for the transit fleet as part of the upcoming Highways and Transit Authorization bill. This reauthorization process takes place every 5 years, and offers an opportunity to include high priority transportation projects for funding.

In preparation for the upcoming Highways and Transit Authorization bill that will substitute the current SAFETEA-LU – Safe, Accountable, Flexible, Efficient Transportation Equity Act - , the House Committee on Transportation and Infrastructure has issued a request for projects to be included in the new bill.

The City of Asheville is requesting funding for an AVL system. The AVL system has two components: (1) A Global Positioning System (GPS) that enables transit operations to remotely track the location of its vehicle fleet in real-time; (2) A user interface that allows communications with the riders through cellular technology, internet and real-time information on main transit stops.

The use of AVL systems improves fleet management and customer service. In operational terms the system provides information to better scheduling the service and to identify problems (buses running hot, delays, accidents on the road, etc). In addition, this information is available to the riders in a website especially designed for the customers, indicating the location and arrival time of the next bus and is also available through text messages.

AVL is shown to increase ridership, capital savings (potential reductions in fleet size due to better utilization of vehicles), lower annual maintenance costs and generally a lower vehicle cost per mile. AVL systems improve schedule adherence, monitoring and transfer coordination. AVL allows for improved ability of dispatchers to control bus operations as well as better monitoring of driver performance. AVL provides the capability to inform passengers of predicted bus arrival times enhancing the quality of transit

service and allowing travelers to make better travel decisions. AVL provides more complete and accurate data for scheduling and planning of routes and bus stops.

The cost of the AVL system is \$502,000. The City is requesting funding for 80% of the cost and will contribute with the additional 20%. The City will seek for additional 10% through the N.C. Dept. of Transportation (NCDOT).

Applications are due by May 14, 2009.

From City Council's adopted 2008-09 Strategic Plan, the two goals most directly addressed are (1) Establish a multi-modal transportation plan including sidewalks, bike paths, signal preemption, transit and other system improvements; and (2) Achieve short term and long term energy goals and reduce city carbon emissions by 2% per year.

Pro:

- The AVL system will improve transit operations, safety response and customer service.

Con:

- The City has to contribute with 20% of the cost, though staff will seek for additional 10% funding through NCDOT.

The City of Asheville's request is \$416,000. If the City is successful in obtaining these funds, we would need to contribute \$86,000 as part of the local match and will seek for 10% of this amount through the NCDOT.

City staff recommends City Council support to request funding for the Automated Vehicle Location system in the amount of \$416,000.

When Vice-Mayor Davis asked for public comments, none were received.

Councilman Newman felt this technology will add value to our existing system.

In response to Councilman Russell, Ms. Ball said that this has been an unfunded project on the Stat's Transportation Improvement Plan. City Council and the Transit Study consultants have previously endorsed this project.

In response to Councilman Mumpower, Ms. Ball said that most riders have cell phones and the information can be sent or searched for in many different ways. People can even sign up for automatic messages.

In response to Councilman Mumpower, Ms. Ball said that she would be happy to provide Council with information on the progress to keep our buses on schedule.

Councilman Mumpower felt we need to fix the problem of making sure our buses are where they're supposed to be within reason. He felt this is a request for federal borrowed dollars and questioned if this is a legitimate expenditure.

Councilman Miller wanted to make sure that the interface is as user-friendly as possible.

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

Councilman Newman moved for the adoption of Resolution No. 09-98. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 58

F. BOARDS & COMMISSIONS

It was the consensus of Council to reappoint Brian Woods, Michael Burke and George Keller, and interview J.L. Thompson for a vacancy on the Civic Center Commission.

It was the consensus of Council to interview Larry Harris for a vacancy on the Civil Service Board.

It was the consensus of Council to reappoint Harry Harrison, and appoint Jenny Bowen and a board member from the Asheville Area Arts Council to the Public Art Board.

Due to the date and time conflict for a Council member to serve on the Pack Place Board of Directors, Vice-Mayor Davis

said that he would contact the Chair of the Pack Place Board to see if there is any flexibility in their meeting date or time.

Councilman Russell suggested that when there are board openings that the chair for that board contact the City Clerk to let her know if there are any board recommendations for appointment.

VII. OTHER BUSINESS:

E-Verify

Councilman Mumpower said that he spoke with Ms. Debora C. Fikes, CPA, Forensic Auditor for the Department of Homeland Security, who sent him the following e-mail "I understand that there are a number of contractors working on multiple projects in the Asheville area that could possibly be employing unauthorized workers. I would like to propose your city contracting and/or permit office to set up a time/place for my co-worker, Darren Vazquetelles and myself to come speak about correct preparation of the I-9 form and how E-Verify and IMAGE (ICE Mutual Agreement between Government and Employers) can assist the business owners/human resource managers in hiring only those authorized to work in the United States." He asked if Council would be interested in hosting an ICE informative seminar, possibly in cooperation with the Chamber of Commerce and some manufacturing organizations in the community. It was the consensus of Council to ask City staff proceed in making these arrangements.

Claims

The following claims were received by the City of Asheville during the period of April 17-30, 2009: 32 Broadway Association (Water), Keller Knight (Water), Mary Hagan (Streets), Michelle Denton (Water), Piedmont Paper (Streets), Paul Finder (Police), Louise Dixon (Police), Phil Ramsey (Water), Milton Honig (Police), Patricia Helms (Sanitation), Kacey Rawson (Transit), Jean Stephens (Water) and Michael Greene (Streets).

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

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

IX. ADJOURNMENT:

Vice-Mayor Davis adjourned the meeting at 10:02 p.m.

CITY CLERK

MAYOR